



SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 7, 2017

COMMISSION VOTING RECORD

DECISION ITEM: SECY-17-0026

TITLE: POLICY CONSIDERATIONS AND RECOMMENDATIONS FOR
REMEDiation OF NON-MILITARY, UNLICENSED HISTORIC
RADIUM SITES IN NON-AGREEMENT STATES

The Commission acted on the subject paper as recorded in the Staff Requirements Memorandum (SRM) of September 7, 2017.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

A handwritten signature in blue ink that reads "Rochelle C. Bavol".

Rochelle C. Bavol
Acting Secretary of the Commission

Enclosures:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Svinicki
Commissioner Baran
Commissioner Burns
OGC
EDO
PDR

VOTING SUMMARY – SECY-17-0026

RECORDED VOTES

	<u>APPROVED</u>	<u>DISAPPROVED</u>	<u>ABSTAIN</u>	<u>NOT PARTICIPATING</u>	<u>COMMENTS</u>	<u>DATE</u>
Chrm. Svinicki	X				X	08/16/17
Cmr. Baran	X				X	05/19/17
Cmr. Burns	X				X	03/09/17

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: CHAIRMAN SVINICKI
SUBJECT: SECY-17-0026: POLICY CONSIDERATIONS AND
RECOMMENDATIONS FOR REMEDIATION OF
NON-MILITARY, UNLICENSED HISTORIC RADIUM SITES IN
NON-AGREEMENT STATES

Approved XX Disapproved ____ Abstain ____ Not Participating ____

COMMENTS: Below ____ Attached XX None ____



SIGNATURE

08/16/17

DATE

Entered on "STARS" Yes No ____

Chairman Svinicki's Comments on SECY-17-0026
**Policy Considerations and Recommendations for Remediation of Non-Military, Unlicensed
Historic Radium Sites in Non-Agreement States**

I approve the staff's three recommendations related to the NRC's oversight of the remediation of non-military sites contaminated with radium-226 and ancillary fee matters.

- 1) I approve the development and use of a Memorandum of Understanding with EPA (should an MOU become necessary) and separate site-specific agreements, as appropriate, at sites undergoing remediation through relevant, existing, State and Federal programs, under which the NRC would assume a monitoring role. A similar approach was approved by the Commission for military radium sites and the agency's experience with this approach has proved constructive.
- 2) I approve the use of a risk-informed, graded approach to inform agency decisions on whether to license, to work cooperatively with site owners using a letter of forbearance, or not to pursue further action. This seems prudent in light of the diversity of conditions and sites, and is consistent with the agency's safety paradigm as encompassed under reasonable assurance of adequate protection.
- 3) I approve the establishment of a new NRC fee-relief category for non-military sites contaminated due to historic uses of radium, as reasonable and just.

I commend the staff on the extensive outreach conducted to date with both Agreement and non-Agreement State authorities, property owners, building occupants, and local communities. As a result of these efforts, as described in the status updates the staff has provided to the Commission, the NRC activities to address non-military sites have gone more smoothly than they otherwise might have and voluntary cooperation has likely been enhanced.

I support Commissioner Burns's proposal that the staff provide semiannual status reports on these activities, in order to maintain the Commission's awareness of the program's progress. The NRC is utilizing contractor support for both analysis and fieldwork and has entered into a contract, valued up to \$5.2 million, for this work. The staff's current estimate for work scope in Fiscal Years 2017 and 2018, comprising the bulk of the sites with probable contamination at any level, is only \$1.2 million. Despite the contract controls instituted by the staff, the nature of this undertaking and the contract value provide a financial incentive for the contractor to continue to propose additional sites to be surveyed. In light of this, the staff should also provide in the semi-annual updates a report on expenditures and on the development of criteria, which, if met, would trigger an evaluation of the appropriate winding down of activities under the contract and of any staff activities beyond a de minimis monitoring of long-term remediation.



Kristine L. Svinicki 08/16/2017

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Commissioner Baran

SUBJECT: SECY-17-0026: POLICY CONSIDERATIONS AND
RECOMMENDATIONS FOR REMEDIATION OF
NON-MILITARY, UNLICENSED HISTORIC RADIUM
SITES IN NON-AGREEMENT STATES

Approved Disapproved Abstain Not Participating

COMMENTS: Below Attached None

Entered in "STARS"

Yes

No



SIGNATURE

5/19/17

DATE

**Commissioner Baran's Comments on SECY-17-0026,
"Policy Considerations and Recommendations for Remediation of Non-Military,
Unlicensed Historic Radium Sites in Non-Agreement States"**

The Energy Policy Act of 2005 expanded the Atomic Energy Act's definition of "byproduct material" to include certain types of radium that were used in the past to manufacture commercial products, such as watches, clocks, and medical devices. As a result of this legislative change, NRC now has jurisdiction over some radioactive sources that have historically been regulated by the states. Working with Oak Ridge National Laboratory, the NRC staff identified 29 non-military sites in non-Agreement States that were potentially contaminated with radium. Over time, some of these sites have been divided into multiple properties. In order to ensure that any contamination did not present an immediate threat to public health and safety, the NRC staff began conducting initial radiological surveys of the properties to assess site conditions. The staff has completed initial assessments of approximately half of the properties. To date, the staff identified radium contamination above background levels at ten properties, four of which have contamination levels that likely exceed NRC's public dose limit of 100 millirem per year.

In this paper, the NRC staff makes three policy recommendations related to the remediation of radium contamination at non-military sites in non-Agreement States. First, for sites being remediated under EPA's Brownfields Program, the staff recommends a monitoring approach. Under this approach, the staff would enter into an overall memorandum of understanding (MOU) with EPA and separate site-specific agreements with the state or local government entities involved in overseeing the particular Brownfields projects. The staff envisions that NRC's role would include document reviews, site observations, independent dose assessments, and confirmatory surveys to ensure that the regulatory dose limits for workers and members of the public are not exceeded. According to the NRC staff, the EPA staff is open to entering into such a MOU. I agree with the staff that this is a reasonable way to meet NRC's responsibilities without disrupting ongoing remediation work. In the event that a site completes remediation under the Brownfields Program but does not meet NRC's unrestricted use criterion dose limit, the NRC staff should apply the risk-informed, graded regulatory approach discussed below.

Second, for sites that are not addressed by the EPA Brownfields Program, the staff proposes a risk-informed, graded regulatory approach based on dose levels and the extent to which property owners are cooperating with NRC to resolve any health and safety concerns. Based on these factors, NRC actions at a given site could range from determining that no controls or remediation are necessary to requiring an owner of a contaminated property to obtain a NRC license that would establish controls and remediation obligations. Intermediate options could include an agreement with a property owner to implement specific controls or remediation steps without the need to obtain a license. The staff would tailor the level of NRC oversight to each property based on the safety significance of the contamination present. I approve this recommended approach, which should provide the staff with the "flexibility to address the diversity of sites that may need remediation, while limiting the use of licensing to sites for which the dose due to the radium contamination is above the public dose limit, or where the owners are unwilling to take necessary steps to protect public health and safety."

Third, the staff recommends that NRC establish a new decommissioning fee relief category for these sites so that the current property owners, who often did not engage in the past activities that resulted in the contamination, are not charged fees for NRC oversight

activities. I approve the staff's proposal, which will help focus available funds on site remediation.

In the paper, the staff notes that "NRC does not have the authority to require [past property owners] to pay for remediation." If the staff identifies a site that requires remediation but sufficient funds are not available for the cleanup, the staff should consult with other federal agencies about the legal tools they may have to obtain additional funding for remediation activities. For example, under CERCLA, EPA has the ability to seek funding for remediation from any past owners of a contaminated site. Although pursuing liability for potentially responsible parties under CERCLA may not be necessary for any of the sites assessed to date, the NRC staff should explore this option with EPA and DOJ in the future, if warranted by the circumstances.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Commissioner Burns

SUBJECT: SECY-17-0026: POLICY CONSIDERATIONS AND
RECOMMENDATIONS FOR REMEDIATION OF
NON-MILITARY, UNLICENSED HISTORIC RADIUM
SITES IN NON-AGREEMENT STATES

Approved Disapproved Abstain Not Participating

COMMENTS: Below Attached None

Entered in "STARS"

Yes

No



SIGNATURE

March 2017


DATE

**Commissioner Burns's Comments on SECY-17-0026
Policy Considerations and Recommendations for Remediation of Non-military, Unlicensed
Historic Radium Sites in Non-Agreement States.**

I approve the staff's three recommendations associated with the remediation of the non-military, unlicensed historic radium sites in non-Agreement States. Specifically:

1. NRC monitoring under a memorandum of understanding and a separate site-specific agreement at sites undergoing remediation through the U.S. Environmental Protection Agency Brownfields Program that includes radium clean up.
2. Use of a risk-informed, graded approach to either license, work cooperatively with site owners using a letter of forbearance, or not pursue any further action.
3. Establishment of a new NRC fee-relief category for non-military sites contaminated due to historic uses of radium.

I encourage staff to continue its outreach and coordination efforts and to immediately engage the Commission should issues develop that impact our statutory mandate to ensure reasonable assurance of adequate protection. Staff should also provide semiannual status reports on NRC and Agreement State historic radium site activities for the Commission's awareness through either Commission Assistant Notes or Commission Assistant Briefings.



Stephen G. Burns
March 2017