



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2019-0069]

Memorandum of Understanding between the U.S. Nuclear Regulatory Commission and the Mississippi State Department of Health

AGENCY: Nuclear Regulatory Commission.

ACTION: Memorandum of understanding; issuance.

SUMMARY: This notice is to advise the public of the issuance of a Memorandum of Understanding (MOU) between the U.S. Nuclear Regulatory Commission (NRC) and the Mississippi State Department of Health (MSDH), an agency of the State of Mississippi. The MOU provides the basis for mutually agreeable procedures whereby the Mississippi State Department of Health may utilize the NRC Emergency Response Data System (ERDS) to receive data from a commercial nuclear power plant, for which any part of the plant's 10-mile Emergency Planning Zone lies within the State of Mississippi.

DATES: The final MOU is available on [Insert date of Publication in the *Federal Register*].

ADDRESSES: Please refer to Docket ID **NRC-2019-0069** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2019-0069**. Address questions about NRC docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail:

Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the

FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Document collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The Memorandum of Understanding is available under ADAMS Accession No. ML17334A203.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Bezakulu Alemu, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-287-3731, e-mail: Bezakulu.Alemu@nrc.gov.

SUPPLEMENTARY INFORMATION:

The MOU defines the way in which the NRC and MSDH intend to cooperate in planning and maintaining the capability to transfer reactor plant data via ERDS. The ERDS data will be transmitted to the State of Mississippi only during emergencies classified at the Alert level or above, during scheduled tests, or during plant exercises when the data is available.

The NRC and the MSDH are entering into the MOU under the authority of Section 274i of the Atomic Energy Act of 1954, as amended. The State of Mississippi recognizes the Federal government, primarily the NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities under the Atomic Energy Act of 1954, as amended, except for certain authority over air

emissions granted to States by the Clean Air Act. Nothing in the MOU is intended to restrict or expand the scope of regulatory authority of either the NRC or the State of Mississippi.

Dated at Rockville, Maryland this 15th day of March, 2019.

For the U.S. Nuclear Regulatory Commission.

Silas R. Kennedy, Chief,
Operations Branch,
Division of Preparedness and Response,
Office of Nuclear Security and Incident Response.

Attachment - Memorandum of Understanding Pertaining to the Emergency Response Data System Between the U. S. Nuclear Regulatory Commission and the Mississippi State Health Department

**Memorandum of Understanding Pertaining to the
Emergency Response Data System between the
U. S. Nuclear Regulatory Commission and the
Mississippi State Department of Health**

I. Authority

The U.S. Nuclear Regulatory Commission (NRC) and the Mississippi State Department of Health (MSDH), an agency of the State of Mississippi, enter into this Memorandum of Understanding (MOU) under the authority of Section 274i of the Atomic Energy Act of 1954, as amended.

The State of Mississippi recognizes the Federal government, primarily the NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities under the Atomic Energy Act of 1954, as amended, except for certain authority over air emissions granted to States by the Clean Air Act. Nothing in this MOU is intended to restrict or expand the scope of regulatory authority of either the NRC or the State of Mississippi.

In the State of Mississippi, MSDH, through its Division of Radiological Health (DRH), is the State radiation control agency and implements the program regulating sources of radiation, not otherwise regulated by the NRC, for the protection of public health and safety. The Mississippi Emergency Management Agency (MEMA) administers emergency services and disaster preparedness programs in the State of Mississippi.

II. Background

A. The Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, authorize the NRC to license and regulate, among other activities, the manufacture, construction, and operation of utilization facilities

(nuclear power plants) in order to assure common defense and security and to protect the public health and safety. Under these statutes, the NRC is the agency responsible for regulating nuclear power plant safety and security.

- B. The NRC's mission to protect public health and safety can be served by a policy of cooperation with State governments and has formally adopted a policy statement on "Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" (54 *Federal Register* 7530, February 25, 1992). The policy statement provides that the NRC will consider State proposals to enter into instruments of cooperation for certain programs when these programs have provisions to ensure close cooperation with the NRC. This MOU is intended to be consistent with, and implement the provisions of, the NRC's policy statement.
- C. The NRC fulfills its statutory mandate to regulate nuclear power plant safety by, among other things, monitoring the status of power reactor facilities and assessing the adequacy of licensees' responses to emergency situations.
- D. The State of Mississippi fulfills, through MEMA, its statutory mandate to provide for preparedness, response, mitigation, and recovery in the event of an accident at a nuclear power plant through its statutes located in Mississippi Code Ann. § 33-15 (1972).

III. Scope

- A. This MOU defines the way in which the NRC and MSDH intend to cooperate in planning and maintaining the capability to transfer reactor plant data via the Emergency Response Data System (ERDS) during emergencies at commercial nuclear power plants that have implemented an ERDS interface, and for which any portion of the plant's 10-mile emergency planning zone (EPZ) lies within the State of Mississippi.
- B. It is understood by the NRC and MSDH that ERDS data will only be transmitted to the State of Mississippi during emergencies classified at the Alert level or above, during scheduled tests, or during exercises when available.
- C. Nothing in this MOU is intended to restrict or expand the statutory authority of the NRC, the State of Mississippi, MSDH, or MEMA, or to affect or otherwise alter the terms of any agreement in effect under the authority of Section 274b of the Atomic Energy Act of 1954, as amended; nor is anything in this MOU intended to restrict or expand the authority of the State of Mississippi, MSDH, or MEMA, on matters not within the scope of this MOU.
- D. Nothing in this MOU confers upon the State of Mississippi, MSDH, or MEMA, the authority to (1) interpret or modify NRC regulations and NRC requirements imposed on the licensee; (2) take enforcement actions; (3) issue confirmatory letters; (4) amend, modify, or revoke a license issued by the NRC; or (5) direct or recommend nuclear power plant employees to take, or not take, any action. Authority for all such actions is reserved exclusively to the NRC.
- E. This MOU does not confer any binding obligation or right of action on either party. This MOU does not obligate any funds and is subject to the availability of appropriated funds.

IV. NRC's General Responsibilities

Under this MOU, the NRC will maintain ERDS. ERDS is a system designed to receive, store, and retransmit data from in-plant data systems at nuclear power plants during emergencies. The NRC will provide the State of Mississippi up to 10 digital certificates for use by designated personnel within the MSDH and MEMA in accessing ERDS data during emergencies at nuclear power plants that have implemented an ERDS interface and for which any portion of a plant's 10-mile EPZ lies within the State of Mississippi. The NRC reserves the right to revoke digital certificates at any time.

V. MSDH General Responsibilities

- A. MSDH, through its DRH, will, in cooperation with the NRC, establish a capability to receive ERDS data. To this end, MSDH will provide the necessary computer hardware and commercially licensed software required for ERDS data transfer to users.
- B. MSDH will provide the NRC with an initial, and periodically updated, list of designated persons serving as holders of ERDS digital certificates.
- C. MSDH will use ERDS only to access data, at the Alert level or higher, from nuclear power plants for which all or a portion of the 10-mile EPZ falls within the boundaries of the State of Mississippi.
- D. For the purpose of minimizing the impact on plant operators, the State of Mississippi will seek clarification of ERDS data through the NRC.

VI. Implementation

- A. MSDH and the NRC agree to work in concert to assure that the following communications and information exchange protocol regarding ERDS are followed:
 - a. MSDH and the NRC agree in good faith to make available to each other information within the intent and scope of this MOU.

- b. The NRC and MSDH agree to meet as necessary to exchange information on matters of common concern pertinent to this MOU. Unless otherwise agreed, such meetings will be held in the NRC Headquarters Operations Center. The affected utilities will be kept informed of pertinent information covered by this MOU.
- c. The NRC will protect sensitive information to the extent permitted by the Freedom of Information Act, 5 U.S.C. 552, Title 10 of the *Code of Federal Regulations*, Section 2.390, and all other applicable authority. MSDH and its DRH will protect sensitive information to the extent permitted by the Mississippi Freedom of Information Act Mississippi Code Ann. § 25-61, and all other applicable authority.
- d. The NRC will conduct periodic tests of licensee ERDS data links. The NRC will provide a copy of the test schedule to the MSDH through its DRH. The DRH may test its ability to access ERDS data during these scheduled tests, or may schedule independent tests of the State link with the NRC.
- e. The NRC will provide MSDH with access to ERDS for emergency exercises at nuclear power plants that have implemented an ERDS interface, for which any portion of a plant's 10-mile EPZ lies within the State of Mississippi, and that are capable of transmitting exercise data to ERDS. For exercises in which the NRC is not participating, the MSDH, through its DRH, will coordinate with the NRC in advance to ensure ERDS availability. The NRC reserves the right to preempt ERDS use for any exercise in progress in the event of an actual event at any licensed nuclear power plant.

VII. Contacts

- A. The principal senior management contacts for this MOU will be the Director, Division of Preparedness and Response (DPR), Office of Nuclear Security and

Incident Response (NSIR) for the NRC, and the Director, Division of Radiological Health, for MSDH. These individuals may designate appropriate staff representatives for the purpose of administering this MOU.

- B. Identification of these contacts is not intended to restrict communication between the NRC and MSDH staff members, in particular those within the DRH, on technical and other day-to-day activities.

VIII. Resolution of Disagreements

- A. If disagreements arise about matters within the scope of this MOU, the NRC and MSDH will work together to resolve these differences.
- B. Differences between MSDH and the NRC staff over issues arising out of this MOU will, if they cannot be resolved in accordance with Section VIII.A, be resolved by the Director of the NRC's DPR, NSIR.
- C. Differences which cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved by the Director of NRC's NSIR.
- D. The NRC's General Counsel has the final authority to provide legal interpretation of the Commission's regulations.

IX. Effective Date

This MOU will take effect after it has been signed by both parties.

X.Duration

This MOU will be subject to periodic reviews and may be amended or modified upon written agreement by both parties, and may be terminated upon 30 days written notice by either party.

XI. Separability

If any provision(s) of this MOU, or the application of any provision(s) to any person or circumstances is held invalid, the remainder of this MOU and the application of such provisions to other persons or circumstances will not be affected.

**FOR THE U.S. NUCLEAR REGULATORY
COMMISSION**

Dated: November 2, 2018

Margaret M. Doane
Executive Director for Operations

[FR Doc. 2019-05230 Filed: 3/19/2019 8:45 am; Publication Date: 3/20/2019]

**FOR THE STATE OF MISSISSIPPI,
MISSISSIPPI STATE DEPARTMENT OF HEALTH**

Dated: January 11, 2019

Thomas E. Dobbs III, MD, MPH
State Health Officer