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12/22/92

1992/12/22

**Memorandum of Understanding Between the  
Environmental Protection Agency and Nuclear Regulatory Commission  
Concerning Clean Air Act Standards for Radionuclide Releases  
from Facilities other than Nuclear Power Reactors  
Licensed by NRC or its Agreement States**

**Subpart I, 40 CFR Part 61**

In accordance with Sections 112 (d)(9) and 122 (c)(2) of the Clean Air Act, as amended in 1990, and in order to minimize regulatory duplication and conserve resources in the control of radionuclide emissions to air from facilities other than nuclear power reactors, licensed by the Nuclear Regulatory Commission (NRC) or its Agreement States under the Atomic Energy Act of 1954, as amended, NRC and the Environmental Protection Agency (EPA) agree as follows:

General Goal of Agreement

EPA and NRC are entering into this MOU to ensure that facilities other than nuclear power reactors, licensed by the NRC, will continue to limit air emissions of radionuclides to levels that result in protection of the public health with an ample margin of safety. The guiding objective is that the actions under this MOU provide assurance that public health is being and will continue to be protected with an ample margin of safety.

NRC will ensure that facilities licensed by Agreement States will also continue to limit air emissions of radionuclides to levels that result in protection of the public health with an ample margin of safety. NRC will accomplish this through its established procedures for continuous oversight of Agreement States' radiation control programs. Under the Atomic Energy Act, as amended, NRC is required to periodically review Agreement State programs for adequacy and compatibility with NRC's programs. Routine reviews are complete, in-dept. examinations of Agreement State regulatory programs and are conducted every other calendar year. NRC review visits are usually conducted between routine reviews and maintain familiarity with the Agreement State program. Through this established process, NRC can provide adequate assurance that Agreement State-licensed facilities will continue to provide an ample margin of safety in protecting the public from air emissions of radionuclides.

NRC Lead Actions

1. NRC agrees to develop and issue a regulatory guide on designing and implementing a radiation protection program to ensure that doses resulting from effluents from licensed facilities will remain as low as is reasonably achievable (ALARA). The guide will establish a specific goal of 10 millirem per year total effective dose equivalent to the maximally exposed individual from radionuclide air emissions from licensed facilities and operations. The guide will also describe the types of administrative programs and objectives for environmental

radiation protection programs that the NRC staff finds to be acceptable in satisfying the requirement in 10 CFR 20.1101(b).

The regulatory guide will be published for public comment and will be revised in response to comments, as appropriate, prior to finalization. NRC will publish a draft of the regulatory guide in October 1992, and after public comments have been incorporated, issue a final guide by April 1993. Once compliance with the revised 10 CFR Part 20 is mandatory, and the final guide is available, NRC will review licensee compliance with the revised 10 CFR Part 20 radiation protection program requirement through license renewals and ongoing inspection efforts. If any licensee fails to comply with the ALARA requirements of the revised 10 CFR Part 20 and license conditions, NRC will take enforcement action in accordance with NRC's Enforcement Policy in Appendix C of 10 CFR Part 2.

2. NRC agrees to develop inspection guidance on ALARA considerations for effluents and incorporate ALARA considerations in Standard Review Plans. Thus, license reviewers and inspectors will have comprehensive guidance and review criteria for assessments of ALARA at various licensed facilities. NRC will develop these documents based on the ALARA Regulatory Guide, which will be prepared with the benefit of public comment. NRC intends to complete the inspection guidance and Standard Review Plan shortly after completing the Regulatory Guide on ALARA for environmental effluents of radionuclides.
3. Pursuant to NRC's existing oversight authority for Agreement State programs described in the general goal of this MOU, NRC will work with Agreement States to adopt and implement regulations compatible with NRC's regulations in the revised 10 CFR Part 20. These efforts will include maintenance of effluents, including air emissions, at ALARA levels.
4. Five years from the execution of the MOU, NRC will undertake a survey of a subset of NRC-licensees to verify that the NRC regulatory program is continuing to provide an ample margin of safety.

#### EPA Lead Actions

1. By November 15, 1992, EPA will develop and publish in the *Federal Register* a Notice of Proposed Rulemaking, pursuant to its authority under Clean Air Act Section 112(d)(9), to rescind its existing regulations in 40 CFR Part 61, Subpart I, as applied to licensed facilities other than nuclear power reactors. This proposal, which will occur only if the purposes and provisions of this MOU are proceeding effectively, requires that the Administrator find that the regulatory program implemented by NRC will protect public health with an ample margin of safety. It is expected, subject to public notice and comment, that the basis for this finding will ultimately be provided through the final report of EPA's survey of NRC and Agreement State licensees and through implementation of the commitments of this MOU. Final action on the rulemaking will be taken as soon as practicable after completion of

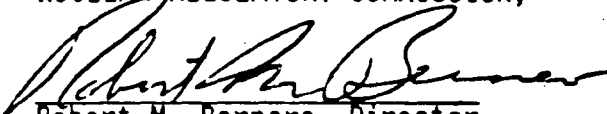
the Notice of Proposed Rulemaking to rescind Subpart I, as described in this paragraph.

2. In anticipation of issuance of the proposed rescission of 40 CFR Part 61, Subpart I for licensed facilities other than nuclear power reactors, EPA will propose a rule to further stay the effectiveness of Subpart I for these facilities during the pendency of the rulemaking on rescission. The final rule staying the effectiveness of Subpart I will be issued on or before the date EPA proposes rescission and is contingent upon the provisions of this MOU proceeding effectively.

Effective Date, Revision, and Termination


This memorandum shall be effective immediately and shall continue in effect until revised by mutual agreement, unless terminated by any party after 120 days notice in writing.

NUCLEAR REGULATORY COMMISSION,

  
Robert M. Bernero, Director  
Office of Nuclear Material  
Safety and Safeguards

Aug 28, 1992

ENVIRONMENTAL PROTECTION AGENCY,

  
William G. Rosenberg, Assistant Administrator  
For Air and Radiation

9/4, 1992

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