

of this follow-up assessment will be factored into the TVA Corrective Action Program. TVA agrees to complete the assessment of the effectiveness of the corrective actions and enhancements no later than June 30, 2010.

h. Upon completion of the terms of the Confirmatory Order, TVA will provide the NRC with a letter discussing its basis for concluding that the Order has been satisfied.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by TVA of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

If a person other than TVA requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309 (d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which became effective on October 15, 2007. The NRC E-filing Final Rule was issued on August 28, 2007 (72 FR 49,139) and was codified in pertinent part at 10 CFR Part 2, Subpart B. The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal

server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to

submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

VII

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this order.

Dated this 5th day of January 2009.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Deputy Regional Administrator.

[FR Doc. E9-823 Filed 1-15-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2009-0008]

Final Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the Virginia Department of Health

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT:

Robert Stransky, Senior Emergency Response Coordinator, Operations Branch, Division of Preparedness and Response, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415-6411; fax number: (301) 415-6382; e-mail: Robert.Stransky@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

This notice is to advise the public of the issuance of a Final Memorandum of Understanding (MOU) between the U.S. Nuclear Regulatory Commission (NRC) and the Virginia Department of Health, an agency of the Commonwealth of Virginia. The MOU provides the basis for mutually agreeable procedures whereby the Virginia Department of Health may utilize the NRC Emergency Response Data System (ERDS) to receive data during an emergency at a commercial nuclear power plant whose 10-mile Emergency Planning Zone lies within the Commonwealth of Virginia.

II. Effective Date

This MOU is effective November 26, 2008.

III. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the document related to this notice is: Memorandum of Understanding Between NRC and the VA Department of Health ML 08337043. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to pdr@nrc.gov.

These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 8th day of January, 2009.

For the Nuclear Regulatory Commission.

William A. Gott,

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

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

I. Authority

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

The Commonwealth of Virginia 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, 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 Commonwealth of Virginia.

In the Commonwealth of Virginia, the VDH, through its Division of Radiological Health and Safety Regulation (a division within VDH's Office of Epidemiology), 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 Virginia Department of Emergency Management (VDEM) administers emergency services and disaster preparedness programs in the Commonwealth of Virginia.

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.

B. NRC believes that its 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 FR 7530, February 25, 1992). The policy statement provides that NRC will consider State proposals to enter into instruments of cooperation for certain programs when these programs have provisions to ensure close cooperation with NRC. This MOU is intended to be consistent with, and implement the provisions of, the NRC's policy statement.

C. NRC fulfills its statutory mandate to regulate nuclear power plant safety by, among other things, responding to emergencies at licensee facilities and monitoring the status and adequacy of licensees' responses to emergency situations.

D. The Commonwealth of Virginia fulfills, through the VDH and VDEM, 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 Titles 32.1 and 44 of the Code of Virginia.

III. Scope

A. This MOU defines the way in which NRC and VDH 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 in the Commonwealth of Virginia that have implemented an ERDS interface, and for which any portion of the plant's 10-mile Emergency Planning Zone (EPZ) lies within the Commonwealth of Virginia.

B. It is understood by the NRC and the VDH that ERDS data will only be transmitted to the Commonwealth of Virginia 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 Commonwealth of Virginia, VDH, or VDEM, 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

Commonwealth of Virginia, VDH, or VDEM, on matters not within the scope of this MOU.

D. Nothing in this MOU confers upon the Commonwealth of Virginia, VDH, or VDEM, 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 Commonwealth of Virginia, up to 10 digital certificates for use by designated personnel within the VDH and VDEM in accessing ERDS data during emergencies at nuclear power plants which have implemented an ERDS interface, and for which any portion of the plant's 10-mile EPZ lies within the Commonwealth of Virginia. The NRC reserves the right to revoke digital certificates at any time.

V. VDH General Responsibilities

A. VDH, through its lead radiological agency, will, in cooperation with the NRC, establish a capability to receive ERDS data. To this end, VDH will provide the necessary computer hardware and commercially licensed software required for ERDS data transfer to users.

B. VDH will provide the NRC with an initial, and periodically updated, list of designated persons serving as holders of ERDS digital certificates.

C. VDH 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 Commonwealth of Virginia.

D. For the purpose of minimizing the impact on plant operators, the Commonwealth of Virginia will seek clarification of ERDS data through the NRC.

VI. Implementation

A. VDH and the NRC agree to work in concert to assure that the following

communications and information exchange protocol regarding ERDS are followed:

a. VDH and the NRC agree in good faith to make available to each other information within the intent and scope of this MOU.

b. NRC and VDH 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. To preclude the premature release of sensitive information, 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, Part 2.790, and all other applicable authority. VDH and its Division of Radiological Health and Safety Regulation will protect sensitive information to the extent permitted by the Virginia Freedom of Information Act (Va-Code Ann. 2.2-3700 through 2.2-3715), and all other applicable authority.

d. NRC will conduct periodic tests of licensee ERDS data links. A copy of the test schedule will be provided to the VDH, through its Division of Radiological Health and Safety Regulation (Virginia's lead radiological agency) by the NRC. The VDH Division of Radiological Health and Safety Regulation 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. NRC will provide access to ERDS for emergency exercises with reactor units capable of transmitting exercise data to ERDS. For exercises in which the NRC is not participating, the VDH, through its Division of Radiological Health and Safety Regulation will coordinate with the NRC in advance to ensure ERDS availability. 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 Director, Division of Preparedness and Response, Office of Nuclear Security and Incident Response for the NRC, and the Director, Division of Radiological Health and Safety Regulation for the VDH. 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 NRC and VDH staff members, in particular those within the Division of Radiological Health and Safety Regulation, on technical and other day-to-day activities.

VIII. Resolution of Disagreements

A. If disagreements arise about matters within the scope of this MOU, NRC and the VDH will work together to resolve these differences.

B. Differences between the VDH and 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 Division of Preparedness and Response, Office of Nuclear Security and Incident Response.

C. Differences which cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved by the NRC's Director, Office of Nuclear Security and Incident Response.

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

A formal review, not less than 1 year after the effective date, will be performed by the NRC to evaluate implementation of the MOU and resolve any problems identified. 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.

Martin Virgilio for R. William Borchardt,
Executive Director for Operations.

For the Commonwealth of Virginia,
Virginia Department of Health.

Dated: July 9, 2008.

Dr. Carl Armstrong,
Director, Office of Epidemiology, Virginia Department of Health.

[FR Doc. E9-966 Filed 1-15-09; 8:45 am]

BILLING CODE 7590-01-P