



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2019-0068]

Memorandum of Understanding between the U.S. Nuclear Regulatory Commission and the Florida 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 Florida Department of Health (FDOH), an agency of the State of Florida. The MOU provides the basis for mutually agreeable procedures whereby the Florida 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 Florida.

DATES: The final MOU is available on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Please refer to Docket ID **NRC-2019-0068** 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-2019-0068**. Address questions about NRC dockets 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. ML18073A354.

- **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 FDOH 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 Florida 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 FDOH are entering into the MOU under the authority of Section 274i of the Atomic Energy Act of 1954, as amended. The State of Florida 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 Florida.

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 Florida Department of Health

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

I. Authority

The U.S. Nuclear Regulatory Commission (NRC) and the Florida Department of Health (FDOH), an agency of the State of Florida, 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 Florida 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 Florida.

In the State of Florida, FDOH, through its Bureau of Radiation Control (BRC), 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 Florida Division of Emergency Management (FDEM) administers emergency services and disaster preparedness programs in the State of Florida.

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 Florida fulfills, through FDOH, 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 sections 252.60 and 404.051, Florida Statutes.

III. Scope

- A. This MOU defines the way in which the NRC and FDOH 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 Florida.
- B. It is understood by the NRC and FDOH that ERDS data will only be transmitted to the State of Florida 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 Florida, FDOH, or FDEM, 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 Florida, FDOH, or FDEM, on matters not within the scope of this MOU.
- D. Nothing in this MOU confers upon the State of Florida, FDOH, or FDEM, 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 Florida up to 10 digital certificates for use by designated personnel within the BRC 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 Florida. The NRC reserves the right to revoke digital certificates at any time.

V.FDOH General Responsibilities

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

- B. FDOH will provide the NRC with an initial, and periodically updated, list of designated persons serving as holders of ERDS digital certificates.
- C. FDOH 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 Florida.
- D. For the purpose of minimizing the impact on plant operators, the State of Florida will seek clarification of ERDS data through the NRC.

VI. Implementation

- A. FDOH and the NRC agree to work in concert to assure that the following communications and information exchange protocol regarding ERDS are followed:
 - a. FDOH 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 FDOH 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. FDOH and its BRC will protect sensitive information to the extent permitted by Chapter 119, Florida Statutes, 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 FDOH through its BRC. The BRC 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 FDOH 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 Florida, and that are capable of transmitting exercise data to ERDS. For exercises in which the NRC is not participating, the FDOH, through its BRC, 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 Chief, Bureau of Radiation Control, for FDOH. 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 FDOH staff members, in particular those within the BRC, 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 FDOH will work together in good faith to resolve these differences.
- B. Differences between FDOH 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, and will remain in effect until terminated by either party.

X.Duration

A formal review, not less than 1 year after the effective date, will be performed by FDOH to evaluate implementation of the MOU. This MOU will be subject to periodic reviews every 3 years 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

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

Dated: November 14, 2018

Margaret M. Doane
Executive Director for Operations

Douglas Woodlief
Interim Division Director, Division of Emergency
Preparedness & Community Support

[FR Doc. 2019-05229 Filed: 3/19/2019 8:45 am; Publication Date: 3/20/2019]