

NUCLEAR REGULATORY COMMISSION

Memorandum of Understanding Between
the U.S. Environmental Protection Agency and
the U.S. Nuclear Regulatory Commission

Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Notice of Issuance

SUMMARY: The Nuclear Regulatory Commission signed a Memorandum of Understanding (MOU) with the Environmental Protection Agency on the radiological decommissioning and decontamination of NRC-licensed sites. The MOU signed by NRC and EPA provides that EPA will defer exercise of authority under the Comprehensive Environmental Response, Compensation and Liability Act (Superfund) for the majority of facilities decommissioned under NRC authority. The MOU includes provisions for NRC and EPA consultation for certain sites when, at the time of license termination, (1) groundwater contamination exceeds EPA-permitted levels; (2) NRC contemplates restricted release or alternate criteria for release of the site; and/or (3) residual radioactive soil concentrations exceed levels defined in the MOU.

SUPPLEMENTARY INFORMATION:

The MOU responds to a 1999 report from the House Committee on Appropriations that stated: "In the interest of ensuring that sites do not face dual regulation, the Committee strongly encourages both agencies to enter into an MOU which clarifies the circumstances for EPA's involvement at NRC sites when requested by the NRC." The MOU also is responsive to a Government Accounting Office report issued in 2000. The MOU does not fully meet the intent of the Appropriations Committee because the threat of dual regulation remains for certain licensees. Thus, although the MOU reduces dual jurisdiction, the NRC will continue efforts to

seek legislation that would eliminate the possibility of dual regulation of all NRC decommissioning licensees.

The MOU does not impose any new requirements on NRC licensees and will reduce the involvement of EPA with NRC licensees who are decommissioning. Most sites are expected to meet the NRC criteria for unrestricted use, and NRC believes that only a few sites will have groundwater or soil contamination in excess of the levels specified in the MOU which trigger consultation with EPA. If there are other hazardous materials on the site, EPA may be involved in cleanup.

FOR FURTHER INFORMATION, CONTACT: Patricia A. Santiago at (301) 415-7269, e-mail: pas2@nrc.gov, or Eric Pogue at (301) 415-6064, e-mail: erp@nrc.gov, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or Stuart Walker, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, Washington, DC 20555, telephone (703) 603-8748, e-mail: walker.stuart@epa.gov.

The MOU between the EPA and the NRC is entitled "Consultation and Finality on Decommissioning and Decontamination of Contaminated Sites" and is attached to this notice. The MOU was signed by the Administrator of the U.S. Environmental Protection Agency on September 30, 2002, and by the Chairman of the U.S. Nuclear Regulatory Commission on October 9, 2002.

Dated at Rockville, Maryland this 17th day of October 2002.

For the Nuclear Regulatory Commission

/RA/

Annette L. Vietti-Cook
Secretary of the Commission