

NUCLEAR REGULATORY COMMISSION
FINAL MEMORANDUM OF UNDERSTANDING BETWEEN THE
U.S. NUCLEAR REGULATORY COMMISSION AND
THE STATE OF DELAWARE

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: 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 State of Delaware. The MOU provides the basis for mutually agreeable procedures whereby the State of Delaware may utilize the NRC Emergency Response Data System (ERDS) to receive data during an emergency at a commercial nuclear power plant in Delaware. Public comments were addressed in conjunction with the MOU with the State of Michigan published in the Federal Register Vol. 57, No. 28, February 11, 1992.

EFFECTIVE DATE: This MOU is effective December 29, 1995.

ADDRESSEES: Copies of all NRC documents are available for public inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, DC.

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FOR FURTHER INFORMATION CONTACT: John R. Jolicoeur or Eric D. Weinstein,
Office for Analysis and Evaluation of Operational Data, U.S. Nuclear
Regulatory Commission, Washington, DC 20555. Telephone (301) 415-6402 or
(301) 415-7559.

SUPPLEMENTARY INFORMATION: The attached MOU is intended to formalize and
define the manner in which the NRC will cooperate with the State of Delaware
to provide data related to plant conditions during emergencies at commercial
nuclear power plants in Delaware.

Dated at Rockville, Maryland, this 25th day of January, 1995.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

Original Signed by
E. L. Jordan
Edward L. Jordan, Director
Office for Analysis and Evaluation of
Operational Data

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AGREEMENT
PERTAINING TO THE EMERGENCY RESPONSE DATA SYSTEM
BETWEEN THE
STATE OF DELAWARE
AND THE
U.S. NUCLEAR REGULATORY COMMISSION

I. Authority

The U.S. Nuclear Regulatory Commission (NRC) and the State of Delaware enter into this Agreement under the authority of Section 2741 of the Atomic Energy Act of 1954, as amended.

Delaware Emergency Management Agency 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.

II. Background

- A. The Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, authorize the Nuclear Regulatory Commission (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 responsible agency regulating nuclear power plant safety.
- B. NRC believes that its mission to protect the 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 22, 1989). 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 agreement 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's facilities and monitoring the status and adequacy of the licensee's responses to emergency situations.
- D. Delaware Emergency Management Agency fulfills its statutory mandate to provide for preparedness, response, mitigation, and recovery in the event of an accident at a nuclear power plant through the Delaware Radiological Emergency Plan including all Attachments and Standard Operating Procedures, dated June 1994.

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III. Scope

- A. This Agreement defines the way in which the NRC and Delaware Emergency Management Agency will cooperate in planning and maintaining the capability to transfer reactor plant data via the Emergency Response Data System during emergencies at nuclear power plants in the State of Delaware.
- B. It is understood by the NRC and the State of Delaware that ERDS data will only be transmitted by a licensee during emergencies classified at the Alert level or above, during scheduled tests, or during exercises when available.
- C. Nothing in this Agreement is intended to restrict or expand the statutory authority of NRC, the State of Delaware, 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 Agreement intended to restrict or expand the authority of the State of Delaware on matters not within the scope of this Agreement.
- D. Nothing in this Agreement confers upon the State of Delaware 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 NRC; or (5) direct or recommend nuclear power plant employees to take or not to take any action. Authority for all such actions is reserved exclusively to the NRC.

IV. NRC's General Responsibilities

Under this agreement, NRC is responsible for maintaining the Emergency Response Data System (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 user access to ERDS data to one user terminal for the State of Delaware during emergencies at nuclear power plants which 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 Delaware. The NRC agrees to provide unique software already available to NRC (not commercially available) that was developed under NRC contract for configuring an ERDS workstation.

V. Delaware Emergency Management Agency's General Responsibilities

- A. Delaware Emergency Management Agency will, in cooperation with the NRC, establish a capability to receive ERDS data. To this end, Delaware Emergency Management Agency will provide the necessary computer hardware and commercially licensed software required for ERDS data transfer to users.
- B. Delaware Emergency Management Agency agrees not to use ERDS to access data from nuclear power plants for which a portion of the 10 mile Emergency Planning Zone does not fall within its State boundary.
- C. For the purpose of minimizing the impact on plant operators, clarification of ERDS data will be pursued through the NRC.

VI. Implementation

Delaware Emergency Management Agency and the NRC agree to work in concert to assure that the following communications and information exchange protocol regarding the NRC ERDS are followed.

- A. Delaware Emergency Management Agency and the NRC agree in good faith to make available to each other information within the intent and scope of this Agreement.
- B. NRC and Delaware Emergency Management Agency agree to meet as necessary to exchange information on matters of common concern pertinent to this Agreement. Unless otherwise agreed, such meetings will be held in the NRC Operations Center. The affected utilities will be kept informed of pertinent information covered by this Agreement.
- C. To preclude the premature public release of sensitive information, NRC and Delaware Emergency Management Agency will protect sensitive information to the extent permitted by the Federal Freedom of Information Act, the State Freedom of Information Act, 10 CFR 2.790, and other applicable authority.
- D. NRC will conduct periodic tests of licensee ERDS data links. A copy of the test schedule will be provided to Delaware Emergency Management Agency by the NRC. Delaware Emergency Management Agency 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, Delaware Emergency Management Agency will coordinate with 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 Agreement will be the Director, Incident Response Division, Office for Analysis and Evaluation of Operational Data, and the Director, Delaware Emergency Management Agency. These individuals may designate appropriate staff representatives for the purpose of administering this Agreement.
- B. Identification of these contacts is not intended to restrict communication between NRC and Delaware Emergency Management Agency staff members on technical and other day-to-day activities.

VIII. Resolution of Disagreements

- A. If disagreements arise about matters within the scope of this Agreement, NRC and Delaware Emergency Management Agency will work together to resolve these differences.
- B. Resolution of differences between the State and NRC staff over issues arising out of this Agreement will be the initial responsibility of the NRC Incident Response Division management.
- C. Differences which cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved the Director, Office for Analysis and Evaluation of Operational Data.
- D. The NRC's General Counsel has the final authority to provide legal interpretation of the Commission's regulations.

IX. Effective Date

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

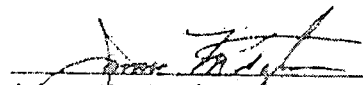
X. Duration

A formal review, not less than 1 year after the effective date, will be performed by the NRC to evaluate implementation of the Agreement and resolve any problems identified. This Agreement 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 Agreement, or the application of any provision(s) to any person or circumstances is held invalid, the remainder of this Agreement and the application of such provisions to other persons or circumstances will not be affected.

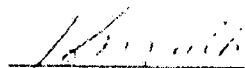
FOR THE U.S. NUCLEAR REGULATORY COMMISSION,



James A. Taylor
Executive Director for Operations

Date: 12/22/94

FOR THE STATE OF DELAWARE,



John P. Mulhern,
Director,
Delaware Emergency Management Agency

Date: 12/22/94