



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

REGION I ANNOUNCEMENT NO. 94-06
DATE: March 1, 1994

TO: ALL REGION I TECHNICAL PERSONNEL

SUBJECT: CHANGE IN MC 1007, INTERFACING ACTIVITIES
BETWEEN REGIONAL OFFICES OF NRC AND
OSHA

This announcement is to inform all Region I inspectors and technical managers that MC 1007, Interfacing Activities Between Regional Offices of NRC and OSHA, has been changed. The purpose of MC 1007 is to ensure that information concerning events, unsafe conditions, and other matters dealing with occupational safety and health are referred to facility management and to the proper agency. It also provides policy and interface guidelines for the exchange of information at NRC Program and Regional Office levels of NRC and OSHA. Finally, it provides for inspector involvement, during inspections of fuel and materials facilities and operating reactors, in the identification and disposition of safety concerns in the area of OSHA responsibility.

It is very important that NRC inspectors understand MC 1007 and follow its guidance in conducting their inspection activities. Enclosed is a copy of the revised MC 1007 and other supporting material. Please review the material and call me if there are questions or if clarifications are needed.

Thank you.

Walter J. Pasciak
OSHA Liaison Officer

Enclosures: As stated

B5

NRC INSPECTION MANUAL

CHAPTER 1007

INTERFACING ACTIVITIES BETWEEN REGIONAL OFFICES OF NRC AND OSHA

1007-01 PURPOSE

This manual chapter implements the Memorandum of Understanding (MOU), dated October 21, 1988, between the Nuclear Regulatory Commission (NRC) and the Occupational Safety and Health Administration (OSHA).

1007-02 OBJECTIVES

02.01 To ensure that information concerning events, unsafe conditions, and other matters dealing with occupational safety and health are referred to facility management and to the proper agency.

02.02 To provide policy and interface guidelines for the exchange of information at NRC Program and Regional Office levels of NRC and OSHA.

02.03 To provide for inspector involvement, during inspections of fuel and materials facilities and operating reactors, in the identification and disposition of safety concerns in the area of OSHA responsibility.

1007-03 BACKGROUND

There are four categories of hazards that may be associated with NRC-licensed nuclear facilities:

- Radiation risk produced by radioactive materials;
- Chemical risk produced by radioactive materials;
- Plant conditions that affect the safety of radioactive materials and thus present an increased radiation risk to workers. For example, these might produce a fire or an explosion, and thereby cause a release of radioactive materials or an unsafe reactor condition; and
- Plant conditions that result in an occupational risk, but do not affect the safety of licensed radioactive materials. For example, there might be exposure to toxic non-radioactive materials and other industrial hazards in the workplace.

Generally, the NRC has jurisdiction over the first three categories listed above and OSHA has jurisdiction over the fourth hazard. Although OSHA has authority and responsibilities regarding the last listed category, NRC is taking a leadership role in reporting any such conditions, of which it becomes

aware, to proper authorities, to instigate appropriate action. Likewise, OSHA will inform the appropriate NRC Regional Office of matters which are under NRC cognizance when they come to the attention of OSHA through complaints or their inspections. This will help eliminate gaps in worker protection in the area of safety and health, and help eliminate duplication of efforts.

1007-04 RESPONSIBILITIES AND AUTHORITIES

04.01 The Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations & Research coordinates the development and resolution of policy issues concerning agency jurisdiction and operational relations with the OSHA Director of Policy for NRC reactor licensees. The Deputy Executive Director for Nuclear Material Safety, Safeguards & Operations Support, coordinates the development and resolution of policy issues concerning agency jurisdiction and operational relations with the OSHA Director of Policy for NRC fuel cycle and materials licensees.

04.02 Director, Office of Enforcement. Coordinates the development and resolution of issues concerning enforcement activities involving both NRC and OSHA jurisdiction, at NRC-licensed facilities, with the OSHA Directorate of Compliance Programs.

04.03 NRC Regional Administrators

- a. Designate at least one staff member to serve as an NRC Regional Office OSHA Liaison Officer.
- b. Inform the Director, Office of Enforcement (OE), and Director, Nuclear Reactor Regulations (NRR), or Director, Nuclear Material Safety and Safeguards (NMSS), as appropriate, of any issues that raise questions concerning inspection or enforcement activities involving both NRC and OSHA jurisdiction at NRC-licensed facilities.
- c. Use the information provided by OSHA inspectors, as appropriate; this may include evaluation and analysis of the information and onsite followup.

04.04 NRC Regional Office OSHA Liaison Officer

- a. Serves as the principal point of contact between the NRC Regional Office and the appropriate OSHA Regional Office.
- b. Provides advice and guidance to resident inspectors and to NRC Regional Office staff on potential non-radiological hazards observed during an inspection.
- c. Determines whether events and conditions having industrial safety significance, at NRC-licensed facilities, are to be reported to the OSHA Regional Office.
- d. Ensures events or conditions having industrial or chemical safety

significance at NRC-licensed material or fuel cycle facilities that are reported to OSHA, are also reported to the NMSS OSHA Liaison Officer.

- e. Ensures records are maintained of the interface activities with OSHA Regional Offices.

04.05 NMSS OSHA Liaison Officer

- a. Serves as the principal point of contact between NMSS and the appropriate OSHA Regional Office for chemical safety issues identified at fuel cycle licensees.
- b. Provides advice and guidance to resident inspectors, NRC Regional Office Staff, and NMSS staff on potential chemical safety hazards observed during an inspection.
- c. Determines whether events and conditions having chemical safety significance, at fuel cycle licensees, are to be reported to OSHA Regional Office.
- d. Ensures events or conditions having chemical safety significance at NRC-licensed fuel cycle facilities that are reported to OSHA, are also reported to the appropriate NRC Regional Office OSHA Liaison Officer.

04.06 Inspectors

- a. Notify licensee management and, as appropriate, the NRC Regional Office OSHA Liaison Officer or NMSS OSHA Liaison Officer for fuel cycle facilities, of non-radiological hazards brought to their attention by licensee employees, or personally observed during an inspection.
- b. Monitor licensees' corrective actions, at the next scheduled inspection, regarding non-radiological hazards NRC has brought to the attention of licensee management.

1007-05 REQUIREMENTS - GENERAL

05.01 Coordination of interface activities is to be handled at the Regional Office level, or Program Office level for fuel cycle facilities, of NRC and OSHA.

05.02 When non-radiological safety concerns are observed during an inspection, the inspector is to orally inform licensee management of such concerns and document the observation on the attached data sheet. (See Appendix A.)

05.03 If a licensee employee provides information to an inspector regarding non-radiological safety hazards, the inspector shall inform licensee management of the employee's concern, withholding the employee's identity from licensee management, and shall document the information on the data sheet in Appendix A.

05.04 Inspectors shall monitor, as appropriate, a licensee's corrective action regarding those matters described in 05.02 and 05.03 above. If significant safety concerns are identified or if the licensee demonstrates a pattern of unresponsiveness to identified concerns, this matter should be discussed with licensee management, and relevant information should be provided to the NRC Regional Office (or for fuel cycle, NMSS) OSHA Liaison Officer, who will inform the appropriate OSHA Regional Office. For nuclear power plants, the Resident Inspector normally follows the licensee's corrective action. For all licensees, it is intended that NRC Region-based inspectors need not make a special followup inspection solely on the basis of an OSHA issue, unless it affects radiological health and safety.

05.05 For an accident involving a fatality or multiple hospitalizations, the Resident Inspector, the NRC Regional Office (or for fuel cycle, NMSS) OSHA Liaison Officer, or Regional Office management will encourage the licensee to report the matter to OSHA.

05.06 When OSHA informs the NRC Regional Office OSHA Liaison Officer of matters that are in NRC's purview, the NRC Regional Officer OSHA Liaison Officer shall notify the Regional Administrator, who shall arrange for prompt evaluation of the matter, such as Regional or Resident Inspectors performing onsite followup, as appropriate, to verify the information or the licensee's corrective action. Report significant findings in an inspection report.

05.07 In order to enhance the ability of NRC and OSHA personnel to identify safety matters under each others purview, OSHA will provide NRC Regional personnel with basic chemical and industrial safety training, while the NRC will provide training in basic radiation safety requirements to OSHA personnel. For details of the mutual training agreement, contact the Technical Training Center.

1007-06 ADDITIONAL REQUIREMENTS - NUCLEAR POWER PLANTS

OSHA may provide the NRC Regional Office with information about a nuclear power plant or site where increased licensee management attention to worker safety is needed. Such information is normally based on reports of injury or complaints at the particular location. The NRC Regional or Resident Inspector will inform licensee management of the information and will monitor the licensee's corrective actions, as provided in 05.04 above

1007-07 ADDITIONAL REQUIREMENTS - FUEL AND MATERIALS FACILITIES-

07.01 NRC and OSHA have agreed to conduct joint assessments of the chemical and nuclear operational safety hazards at certain NRC-licensed fuel and materials facilities. It is anticipated that approximately 20 facilities will be evaluated every 5 years. The Division of Industrial and Medical Nuclear Safety (IMNS), or the Division of Fuel Cycle Safety and Safeguards (FCSS), NMSS, in consultation with the Regional Administrators, will select the facilities to be evaluated. IMNS or FCSS also develop and issue assessment requirements and schedules. See IMC-2600 and IMC-2800 for details.

1007-08 GUIDANCE

08.01 A copy of the NRC - OSHA MOU dated October 21, 1988, is attached as Appendix B.

08.02 Except for certain NRC-licensed fuel and materials facilities described in 1007-07 and delineated in IMC-2600 and IMC-2800, no changes are required in inspection practices. Although NRC does not conduct inspections of industrial safety in the course of inspections of radiological and nuclear safety, NRC personnel may identify safety concerns within the area of OSHA responsibility or may receive complaints from an employee about OSHA-covered working conditions.

08.03 It is important that all NRC personnel recognize and understand that they are not to make decisions regarding activities under the purview of OSHA. Thus, in discussing non-radiological safety concerns with the licensee, inspectors are cautioned not to judge whether a given condition is a violation of OSHA rules or regulations, but are to point out concerns of apparent unsafe conditions, to heighten licensee awareness.

08.04 For accidents involving a fatality or multiple hospitalizations, the MOU does not require NRC to report such matters to OSHA. But in keeping with established practices, if the licensee refuses to report these events to OSHA, the NRC Regional Office (or for fuel cycle, NMSS) OSHA Liaison Officer will inform the OSHA Regional Office.

08.05 Communication with OSHA Regional Offices should be done orally, unless OSHA requests a written notification in a particular case.

08.06 To minimize the recordkeeping and tracking burden, the requirement described in 1007-05.04, regarding monitoring of a licensee's corrective action, shall be performed at the time of normal review or inspection routines.

08.07 Time spent on meeting the requirements of this instruction should be charged to IP 93001, "OSHA Interface Activities."

1007-09 REPORTING REQUIREMENTS

09.01 The NRC inspector is to inform licensee management orally of:

- a. identified safety concerns;
- b. employee complaints of OSHA-covered working conditions;
- c. reporting requirements to OSHA of accidents resulting in fatalities or multiple hospitalizations, if the licensee has not already done so.

09.02 The NRC inspector is to generate a written Non-Radiological Hazards Data Sheet for the inspection file, and to generate a copy of it to the NRC Regional Office (or for fuel cycle, NMSS) OSHA Liaison Officer, for the

following occurrences:

- a. for all occurrences of 09.01 a., b., or c. above;
- b. for significant recurring unsafe conditions, or patterns of unresponsiveness to previously identified concerns.

09.03 The NRC Regional Office (or for fuel cycle, NMSS) OSHA Liaison Officer shall contact the OSHA Regional Office orally or in writing on all items that are identified by inspectors and that have generated a Non-Radiological Hazards Data Sheet.

09.04 The NRC Regional Office (or for fuel cycle, NMSS) OSHA Liaison Officer shall generate the following correspondence:

- a. written notification to the OSHA Regional Office if one is requested after initial oral notification;
- b. copies of all written correspondence, associated with OSHA-related issues, should be sent to the Chief, Radiation Protection Branch, NRR; to the Chief, Inspection and Licensing Program Branch, NRR; and to the Chief, Operations Branch, IMNS or FCSS, NMSS, as appropriate; and to the NMSS OSHA Liaison Officer.

09.05 Allegations that fall within the purview of OSHA are to be handled in accordance with this section, and, in accordance with Management Directive 8.8, are not to be entered in the Allegation Management System (AMS).

END

Appendices A and B

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Issue Date:

NON-RADIOLOGICAL HAZARDS DATA SHEET

PART I -ISSUE

NRC Licensee: Name
Address
License or Docket #

Description of Issue:

How issue was identified

Licensee representative informed

_____	_____	_____
Name	Title	Date

Licensee Comments

Other persons informed

_____	_____
Inspector's signature	Date

Part II - Followup

Description of Corrective Action

_____	_____
Inspector's signature	Date

OSHA informed ____ Yes ____ No
Date informed
Person contacted

NRC OSHA Liaison Officer

See MC 1007-09 for distribution of copies

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Issue Date:

MEMORANDA OF UNDERSTANDING

consultants opportunity to accompany NRC personnel on such visits.

B. EPA Responsibilities

1. EPA will provide formalized review, consultation and comment throughout the entire project.

2. EPA will review and provide comments on the site reclamation plan, and other associated deliverables, within timeframes as agreed to between NRC and EPA. In the event that EPA determines that the implementation of the site reclamation plan has not resulted in, or may not result in, cleanup conditions that meet applicable or relevant and appropriate requirements under CERCLA, then EPA may take whatever action it deems appropriate.

3. EPA intends to pursue and complete a Remedial Investigation and Feasibility Study, public comment and agency response process, and Record of Decision (ROD) directed at off-site groundwater contamination, with the intention of completing this process by October 1, 1988. EPA intends to implement, or require UNC or other potentially responsible parties to implement, any EPA selected remedial actions set forth in a ROD. Any remedial actions conducted by UNC or other potentially responsible parties to implement an EPA selected remedy will be done under EPA oversight and in accordance with the terms of any Consent Decree entered into with EPA. EPA intends that any such Consent Decree would cover actions outside the byproduct material disposal site needed to implement the ROD remedy.

VI. Dispute Resolution

In the event of dispute between EPA and the NRC concerning site activities, the persons designated by each Agency as primary or, in their absence, alternate contact points will attempt to promptly resolve such disputes. If disputes cannot be resolved at this level, the problem will be referred to the supervisors of these persons for further consultation. The supervisory referral and resolution process will continue, if necessary to resolve the dispute, to the level of the Regional Administrators of the NRC and EPA.

Both Parties shall continue to maintain their respective rights or responsibilities under the MOU during the dispute resolution process.

VII. Execution and Modification

This agreement shall take effect upon execution by EPA and the NRC. It shall remain in effect for the duration of the program addressed herein unless terminated by mutual agreement by the two Agencies; or, the MOU may be terminated unilaterally if any of the conditions set forth below are present.

1. The planning or conduct of groundwater cleanup actions fail to

meet standards set forth in the Basis for Agreement (Section II) of this MOU.

2. The site is deleted from the NPL.

3. The site is turned over to the Department of Energy or other responsible State or Federal authority for long term care.

4. Regulatory, Statutory, or other events occur which make this MOU unnecessary, illegal, or otherwise inappropriate.

VIII. Modification

The Parties may modify this MOU from time to time in order to simplify and/or define the procedures contained herein. Each Party shall keep the other informed of any relevant proposed modifications to its basic statutory or regulatory authority, forms, procedures, or priorities. This MOU shall be revised, as necessary, by the adoption of such modifications. The MOU should be reviewed on an annual basis by both the Director-URFO, Region IV, NRC, and the Director-Hazardous Waste Management Division, Region VI, EPA or their designated representatives.

IX. Reservation of Rights

The Parties reserve any and all rights or authority that they may have, including but not limited to legal, equitable, or administrative rights. This specifically includes EPA's and NRC's authority to conduct, direct, oversee, and/or require environmental response in connection with the site, as well as the authority to enter the site and require the production of information, within each of their own areas of responsibility.

Executed and agreed to:

Dated: August 28, 1988.

Robert D. Martin,

Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, Arlington, Texas.

Dated: August 28, 1988.

Robert E. Layton, Jr., P.E.,

Regional Administrator, U.S. Environmental Protection Agency, Region VI, Dallas, Texas.

53 FR 43930

Published 10/31/88

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

NUCLEAR REGULATORY COMMISSION

Memorandum of Understanding Between The Nuclear Regulatory Commission and the Occupational Safety and Health Administration; Worker Protection at NRC-Licensed Facilities

The Nuclear Regulatory Commission (NRC) and the Occupational Safety and Health Administration (OSHA) have

entered into a Memorandum of Understanding (MOU) to provide general guidelines for interface activities between the two agencies. The MOU is designed to ensure that there will be no gaps in the protection of workers at NRC-licensed facilities where the OSHA also has health and safety jurisdiction. At the same time, the MOU is designed to avoid duplication of effort on the part of the two agencies in those cases where it is not always practical to sharply identify boundaries between the NRC's responsibilities for nuclear safety and the OSHA's responsibilities for industrial safety.

The MOU, which replaces an existing procedure for interagency activities, defines the general areas of responsibilities of both agencies, describes generally the efforts of each to achieve worker protection at NRC-licensed facilities, and provides general procedures for the coordination of interface activities and exchange of information between the NRC and OSHA. The text of the MOU is set out below.

Purpose and Background

1. The purpose of this Memorandum of Understanding between the U.S. Nuclear Regulatory Commission (NRC) and the Occupational Safety and Health Administration (OSHA) is to define the general areas of responsibility of each agency; to describe generally the efforts of the agencies to achieve worker protection at facilities licensed by the NRC; and to provide guidelines for coordination of interface activities between the two agencies. If NRC licenses observe OSHA's standards and regulations, this will help minimize workplace hazards.

2. Both NRC and OSHA have jurisdiction over occupational safety and health at NRC-licensed facilities. Because it is not always practical to sharply identify boundaries between the nuclear and radiological safety NRC regulates and the industrial safety OSHA regulates, a coordinated interagency effort can ensure against gaps in the protection of workers and at the same time, avoid duplication of effort. This memorandum replaces an existing procedure for interagency activities, "General Guidelines for Interface Activities between the NRC Regional Offices and the OSHA."

Hazards Associated With Nuclear Facilities

3. There are four kinds of hazards that may be associated with NRC-licensed nuclear facilities:

- a. Radiation risk produced by radioactive materials;
- b. Chemical risk produced by radioactive materials;

MEMORANDA OF UNDERSTANDING

c. Plant conditions which affect the safety of radioactive materials and thus present an increased radiation risk to workers. For example, these might produce a fire or an explosion, and thereby cause a release of radioactive materials or an unsafe reactor condition; and

d. Plant conditions which result in an occupational risk, but do not affect the safety of licensed radioactive materials. For example, there might be exposure to toxic nonradioactive materials and other industrial hazards in the workplace.

Generally, NRC covers the first three hazards listed in paragraph 3 (a, b, and c), and OSHA covers the fourth hazard described in paragraph 3 (d). NRC and OSHA responsibilities and actions are described more fully in paragraphs 4 and 5 below.

NRC Responsibilities

4. NRC is responsible for licensing and regulating nuclear facilities and materials and for conducting research in support of the licensing and regulatory process, as mandated by the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and the Nuclear Nonproliferation Act of 1978; and in accordance with the National Environmental Policy Act of 1969, as amended, and other applicable statutes. These NRC responsibilities cover the first three nuclear facility hazards identified in paragraph 3 (a, b, c). NRC does not have statutory authority for the fourth hazard described in paragraph 3 (d).

NRC responsibilities include protecting public health and safety; protecting the environment; protecting and safeguarding materials and plants in the interest of national security; and assuring conformity with antitrust laws for certain types of facilities, e.g., nuclear power reactors. Agency functions are performed through: Standards-setting and rulemaking; technical reviews and studies; conduct of public hearings; issuance of authorizations, permits and licenses; inspection, investigation and enforcement; evaluation of operating experience, and confirmatory research.

OSHA Responsibilities

5. OSHA is responsible for administering the requirements established under the Occupational Safety and Health Act (OSHA Act) (29 U.S.C. 651 *et seq.*), which was enacted in 1970. OSHA's authority to engage in the kinds of activities described below does not apply to those workplace safety and health conditions for which other Federal agencies exercise statutory authority to prescribe and enforce standards, rules or regulations.

Under the OSH Act, every employer has a general duty to furnish each employee with a place of employment that is free from recognized hazards that can cause death or serious physical harm and to comply with all OSHA standards, rules, and regulations.

OSHA standards contain requirements designed to protect employees against workplace hazards. In general, safety standards are intended to protect against traumatic injury, while health standards are designed to address potential overexposure to toxic substances and harmful physical agents, and protect against illnesses which do not manifest themselves for many years after initial exposure.

OSHA standards cover employee exposures from all radiation sources not regulated by NRC. Examples include x-ray equipment, accelerators, accelerator-produced materials, electron microscopes and betatrons, and naturally occurring radioactive materials such as radium.

It is estimated that the Act covers nearly 6 million workplaces employing more than 40 million workers. Federal OSHA covers approximately three-fifths, or four million, of these workplaces. States which operate OSHA-approved job safety and health programs or "Plans," cover the remainder.

OSHA State Plan States are encouraged, but not required, to delineate their authority for occupational safety and health at NRC-licensed facilities in the same manner as Federal OSHA.

The OSHA areas of responsibility described in this memorandum are subject to all applicable requirements and authorities of the OSH Act. However, the industrial safety record at NRC-licensed nuclear power plants is such that OSHA inspections at these facilities are conducted normally as a result of accidents, fatalities, referrals, or worker complaints.

Interface Procedures

6. In recognition of the agencies' authorities and responsibilities enumerated above, the following procedures will be followed:

Although NRC does not conduct inspections of industrial safety, in the course of inspections of radiological and nuclear safety, NRC personnel may identify safety concerns within the area of OSHA responsibility or may receive complaints from an employee about OSHA-covered working conditions. In such instances, NRC will bring the matter to the attention of licensee management. NRC inspectors are not to perform the role of OSHA inspectors; however, they are to elevate OSHA safety issues to the attention of NRC

Regional management when appropriate. If significant safety concerns are identified or if the licensee demonstrates a pattern of unresponsiveness to identified concerns, the NRC Regional Office will inform the appropriate OSHA Regional Office. In the case of complaints, NRC will withhold, from the licensee, the identity of the employee. In addition, when known to NRC, NRC will encourage licensees to report to OSHA accidents resulting in a fatality or multiple hospitalizations.

When such instances occur within OSHA State Plan States' jurisdiction, the OSHA Regional Office will refer the matter to the State for appropriate action.

7. OSHA Regional Offices will inform the appropriate NRC Regional Office of matters which are in the purview of NRC, when these come to their attention during Federal or State safety and health inspections or through complaints. The following are examples of matters that would be reported to the NRC:

- a. Lax security control or work practices that would affect nuclear or radiological health and safety.
- b. Improper posting of radiation areas.
- c. Licensee employee allegations of NRC license or regulation violations.

8. The NRC and OSHA need not normally conduct joint inspections at NRC-licensed facilities. However, under certain conditions, such as investigations or inspections following accidents or resulting from reported activities as discussed in items 6 and 7 above, it may be mutually agreed on a case-by-case basis that joint investigations are in the public interest.

9. The chemical processing of nuclear materials at some NRC-licensed fuel and materials facilities presents chemical and nuclear operational safety hazards which can best be evaluated by joint NRC-OSHA team assessments. Each agency will make its best efforts to support such assessments at about 20 facilities once every five years. Of these facilities, about one-third are in the OSHA Plan States. OSHA will also assist in promoting such participation by State personnel in OSHA Plan States.

10. Based upon reports of injury or complaints at nuclear power plant sites, OSHA will provide NRC with information on those sites where increased management attention to worker safety is needed. The NRC will bring such information indicating significant breakdown in worker safety to the attention of licensee management and monitor corrective actions. This will not interfere with OSHA authority and responsibility to investigate industrial accidents and worker complaints.

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11. Power reactor sites are inspected by NRC Region-based and Resident Inspectors. Personnel from NRC Regional Offices routinely conduct inspections at most fuel and materials licensed facilities. In order to enhance the ability of NRC personnel to identify safety matters under OSHA purview during nuclear and radiological safety inspections, OSHA will provide NRC Regional personnel with basic chemical and industrial safety training and indoctrination in OSHA safety standards, consistent with ongoing OSHA training programs. To enhance the ability of OSHA and State Plan personnel to effectively participate in the Operational Safety Team Assessments, NRC will provide training in basic radiation safety requirements, consistent with ongoing NRC training programs. Details of such training will be mutually agreed by the NRC Technical Training Center and the OSHA National Training Institute.

12. Resolution of policy issues concerning agency jurisdiction and operational relations will be coordinated by the NRC Deputy Executive Director for Operations, and by the OSHA Director of Policy. Appropriate Headquarters points of contact will be established.

13. Resolution of issues concerning inspection and enforcement activities involving both NRC and OSHA jurisdiction at NRC-licensed facilities will be handled between NRC's Office of Enforcement and OSHA's Directorate of Compliance Programs. Each NRC and OSHA Regional Office will designate points of contact for carrying out interface activities.

For the Nuclear Regulatory Commission,
Victor Stello, Jr.,
Executive Director for Operations.

October 21, 1988.

For the Occupational Safety and Health Administration.

John A. Pendergrass,
Assistant Secretary.

53 FR 47279
Published 11/22/88
Comment period expires 12/22/88.

Memorandum of Understanding (MOU)
Between the NRC and the Illinois
Department of Nuclear Safety

AGENCY: Nuclear Regulatory
Commission.

ACTION: Publication of Draft
Subagreement No. 2 between NRC and
the Illinois Department of Nuclear
Safety for public comment.

SUMMARY: Section 274i of the Atomic
Energy Act of 1954, as amended, allows
the Nuclear Regulatory Commission
(Commission or NRC) to enter into an

agreement with a State "to perform
inspections or other functions on a
cooperative basis as the Commission
deems appropriate." This section 274i
agreement, typically in the form of a
Memorandum of Understanding (MOU),
differs from an agreement between NRC
and State under the "Agreement
State" program: the latter is
accomplished only by entering into an
agreement under section 274b of the
Atomic Energy Act. A State can enter
into a section 274i MOU whether or not
it has a section 274b agreement.

In April of 1984, NRC and the State of
Illinois signed an "umbrella" MOU,
providing principles of cooperation
between the State and NRC in areas of
concern to both.

In June of 1984, NRC and the State of
Illinois signed Subagreement No. 1
which provided the basis for mutually
agreeable procedures whereby the State
may perform inspection functions for
and on behalf of the Commission at
certain reactor and materials licensee's
facilities which generate low-level
radioactive waste.

Draft Subagreement No. 2 under this
MOU provides the basis for mutually
agreeable procedures whereby the
Illinois Department of Nuclear Safety
(IDNS) may perform inspection, audit,
and similar functions for nuclear power
plants together with and for and on
behalf of the Commission under a
program created pursuant to the
American Society of Mechanical
Engineers Boiler and Pressure Vessel
Code (ASME Code) and accepted by
NRC and IDNS. The Commission is in
the process of finalizing the Policy
Statement on NRC cooperation with
States and the Subagreement may
require revisions, in order to conform to
the final Policy Statement.

DATE: Submit comments by December 22
1988. Comments received after this date
will be considered if it is practical to do
so, but assurance of consideration
cannot be given except as to comments
received on or before this date.

ADDRESSEE: Mail written comments to:
Regulatory Publications Branch,
Division of Freedom of Information and
Publications Services, Office of
Administration and Resources
Management, U.S. Nuclear Regulatory
Commission, Washington, DC 20555.
Deliver comments to 7920 Norfolk
Avenue, Bethesda, Maryland between
7:45 a.m. and 4:15 p.m. weekdays except
Federal holidays. Copies of comments
received may be examined at the NRC
Public Document Room at 2120 L Street,
NW., Washington, DC lower level.

FOR FURTHER INFORMATION CONTACT:
Roland Lickus, Chief, State and
Government Affairs, U.S. Nuclear
Regulatory Commission, Region III, 799
Roosevelt Road, Building #4, Glen Ellyn,
Illinois, 60137, (312) 790-5666.

SUPPLEMENTARY INFORMATION: NRC
regulation (10 CFR 50.55a) requires the
application of the Boiler and Pressure
Vessel Code of the American Society
Mechanical Engineers (ASME) Code to
certain pressure vessels, piping, pumps
and valves of nuclear power reactors.
As discussed more fully in the text of
the Subagreement which follows, a State
role is contemplated in the ASME
system as it pertains to certain nuclear
power plant components. This
Subagreement is intended to formalize
and define the manner in which the NRC
and the Illinois Department of Nuclear
Safety (IDNS) will cooperate in the
planning and conducting of ASME Code
related inspections at nuclear power
plants in Illinois to ensure compliance
with NRC regulations. The objective of
the Subagreement is to provide a
framework for IDNS to assist NRC in
performing safety inspections under 10
CFR § 50.55a. The NRC will take
appropriate enforcement actions for
joint inspections conducted under this
Subagreement. Key features of the
Subagreement include provisions for (1)
ensuring IDNS's activities supplement
but do not duplicate the NRC's
activities; (2) joint team inspections of
ASME related matters led by NRC; (3)
documentation by IDNS of its inspection
efforts for inclusion into the final NRC
inspection report; (4) availability of NRC
training for IDNS inspectors; and (5)
timely exchange of information between
NRC and IDNS.

Dated at Rockville, Maryland, this 11th
of November 1988.

For the Nuclear Regulatory Commission,
Victor Stello, Jr.,
Executive Director for Operations.

Subagreement 2 Between the Nuclear
Regulatory Commission and the Illinois
Department of Nuclear Safety

I. Authority

The Nuclear Regulatory Commission
(NRC) and the Illinois Department of
Safety (IDNS) entered into this
Subagreement under the authority of the
Memorandum of Understanding (MOU)
of April 1984, between Illinois and NRC
(49 FR 20586; 5/15/1984) and under
section 274i of the Atomic Energy Act of
1954, as amended.

II. Background

A. NRC and ASME Code

1. The Atomic Energy Act of 1954, as
amended, and the Energy
Reorganization Act of 1974, as amended,
require the Nuclear Regulatory
Commission (NRC) (previously the
Atomic Energy Commission (AEC)) to
license and regulate, among other
activities, the manufacture, construction
and operation of utilization facilities
(nuclear power plants) in order to assure
the common defense and security and to

Response to Comments Received on Draft Manual Chapter 1007

REGION I COMMENTS

Section 09.01

1. It would seem beneficial to include guidance in the handling of allegations. Many OSHA allegations that are received are of low safety significance and will not be followed up by OSHA if passed on to them. It seems appropriate to use a Hazards Data Sheet to pass the concern on to the licensee in order to get the issue addressed. Also, guidance regarding how to handle allegations received by an NRC inspector during the course of an inspection should be provided.

Response: Management Directive 8.8 Management of Allegations (formerly Manual Chapter 0517) indicate that allegations that fall within the purview of OSHA are to be handled in accordance with NRC Inspection Manual, Chapter 1007, and are not to be entered in the AMS (Allegation Management System). Although the suggestion for non-radiological hazard allegation guidance is appropriate because of the lack elsewhere of clear procedural methods to handle them, it is felt that this Manual Chapter is not the proper place for such delineation. At present, OSHA will be handling the non-radiological hazards in their allegation system similar to this Agency's system for radiological hazard allegation. NRC responsibility is to report to OSHA any non-radiological hazards or allegation via the methods of this chapter.

Section 09.03

1. Further clarification would be helpful in defining the term "significant" relative to a safety hazard. Also, repetitive items of lower safety significance should be included; if OSHA were called every time a safety hazard was identified, there would be more calls to OSHA than we are prepared to make or they are able to handle. Limit calls to OSHA in the cases 1) where injury has occurred, 2) where problem reoccur, 3) where expertise is lacking on the part of NRC, 4) where there is clear major significance.

Response: The term "significant" in terms of OSHA standards is a judgement on the part of the inspector and is left to his/her professional discretion. The oral or written contact with OSHA on all items that are identified to or by the inspector will elicit the assistance needed to determine the significance of an issue. Therefore, it is felt that the present requirements in the proposed Manual Chapter changes are adequate.

REGION III COMMENTS

Section 07

1. Suggest revision of this section to include the training requirement described in the Interface Procedures, 53 FR 47279 and the Memorandum of Understanding (MOU), Page MU-49 dated April 30, 1992, for training of NRC personnel by OSHA personnel, and vice versa.

Response: The information contained in the MOU for providing OSHA training to enhance the ability of NRC personnel to identify safety matters under OSHA has been incorporated in paragraph 05.07 of the Manual Chapter. Since contents of training curriculums are dynamic over time, details for the training requirements can be obtained by contacting the TTC.

Section 09

1. Recommend that there be allowance for option by the Regional Office OSHA Liaison Officer to provide either oral or written contact with OSHA Regional Office on all items. The OSHA Regional Office will pass this information to a local office, and written correspondence is easier to transmit error-free to multiple parties possibly involve.

Response: The option for either oral or written contact between the NRC Regional Office OSHA Liaison Officer and the OSHA Regional Office has been incorporated into Paragraph 09.03.

2. It appears that the Region will no longer be sending NRR and NMSS copies of the Non-radiological Hazards Data Sheet, as the cc's have been deleted.

Response: The sending of copies of the Non-radiological Hazards Data Sheets is no longer required to be sent to NRR and NMSS. However, Paragraph 09.04 requires copies be sent to NRR and NMSS of any correspondence that is generated to and from OSHA concerning a non-radiological hazard.

Section 09.03

1. There is no guidance on determining the significance of OSHA issues. Section 08.03 cautions NRC personnel that they are not to make OSHA decisions or judgement whether a condition is an OSHA violation or not. Recommend that "found to be significant" be taken out and that any item identified on the Non-radiological Hazards Data Sheet be transmitted to OSHA, with OSHA determining the significance of the matter.

Response: This suggestion has been incorporated in 09.02, 09.03, and 09.04. Paragraph 09.02 requires a written Data Sheet on identified safety concerns, employee complaint, or fatal accidents, at least for the inspection file, while paragraph 09.03 require oral or written notification to OSHA. This contact with OSHA will be instrumental in determining the severity of, and proper response to, the issue.

Section 02.01

1. Revise to read "... are referred to facility management and the proper agency."

Response: Incorporated.

Section 02.04

1. Delete this paragraph. The revisions do specifically address the coordination of joint NRC-OSHA team assessments Or alternatively, a section could be included to address the topic.

Response: Manual Chapter 2601 addresses Team Assessment and joint agency inspections. The paragraph is deleted.

Section 03

1. Delete "just" in the first sentence of the last paragraph. Paragraph seems to imply that only the NRC staff is reporting unsafe conditions to the proper authorities. Rewrite to indicate reciprocal nature of MOU.

Response: Paragraph rewritten to reflect reciprocal nature of MOU.

Section 04.03

1. Revise section b to read "... (NMSS), as appropriate, of any issues that raise questions..."

Response: Incorporated.

Section 05.05

1. This section requires NRC inspectors to encourage facility management to report accidents to OSHA only when multiple hospitalizations, or fatalities occur. The rationale for restricting this action to multiple hospitalizations is unclear. If this requirement reflects OSHA regulations, it should be clarified whether the "multiple hospitalizations" are the result of a single accident or of separate accidents caused by the same unsafe condition.

Response: This topic is too complicated to be address here in this manual chapter. If there is indecision with the requirement to report or not, a report of the accident should be made.

Section 08.03

1. Revise the first sentence to "It is important that NRC personnel recognize, understand and acknowledge that they are not to make decisions regarding activities under the purview of OSHA." Also, it may be appropriate to include language to inform the licensee of the MOU and that the inspector will be making the unsafe condition know to OSHA.

Response: The section has been rewritten.

facilities; and

b. as a point of collection of events and conditions having industrial and chemical safety significance at NRC materials and fuel cycle facilities.

Response: In most cases where the NRC Regional OSHA Liaison Office is indicated, an NMSS OSHA Liaison Officer is also indicated for events or conditions that occur at a fuel cycle facility.

Response: In Section 1007-09 REPORTING REQUIREMENTS, the NMSS OSHA Liaison Officer is added to the distribution list for copies of written correspondence generated by an inspector, or by a NRC Regional Office Liaison Officer to OSHA Regional Office