



OFFICE OF THE
SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

December 7, 1983

COMJA-83-8

MEMORANDUM FOR: Commissioner Asselstine
FROM: Samuel J. Chilk, Secretary
SUBJECT: URANIUM MILL TAILINGS REGULATIONS

A majority of the Commission (Chairman Palladino, Commissioners Gilinsky, and Bernthal) concur in your suggestion that staff prepare a rulemaking package for Commission consideration which assures that NRC's mill tailings regulations are in conformance with EPA's final standards. Commissioner Roberts disagreed with the memorandum.

The attached memorandum to the EDO completes SECY action on COMJA-83-8.

Attachment:
As Stated

cc: Chairman Palladino
Commissioner Gilinsky
Commissioner Roberts
Commissioner Bernthal
OGC
OPE
OIA

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12-1-83

ENCLOSURES

- ENCLOSURE 1: EPA Regulatory Agenda, Federal Register, April 19, 1984.
- ENCLOSURE 2: Notes of April 13, 1984 EPA/NRC meeting.
- ENCLOSURE 3: Statutory Overlap Paper
- ENCLOSURE 4: NRC/EPA MOU's.
- ENCLOSURE 5: DOE/NRC MOU.
- ENCLOSURE 6: Conceptual Interagency Programmatic Agreement.
- ENCLOSURE 7: Memo to respective staffs to develop Procedural Agreement.
- ENCLOSURE 8: Minimum exemption requirements of NRC, NRC actions of enforcing remaining EPA standards, resources required to undertake activities.
- ENCLOSURE 9: Draft letter for signature between Chairman and Administrator.

DRAFT

R-5

EPA-AEA

25. RESIDUAL RADIOACTIVITY

Priority: Major

Legal Authority: 42 USC 2201 / AEA, 42 USC 2021 / AEA

CFR Citation: 40 CFR 193

Abstract: The Agency is determining whether to develop standards or guidance to control radiation exposure levels to the public from residual radioactivity after cleanup of sites and facilities where radionuclides were used and where unrestricted use will be allowed. This action will also control radiation exposure levels to the general public from materials contaminated with radionuclides which will be recycled into general commerce.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/84	
NPRM	07/00/86	
Final Action	12/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2073

FTS 8-557-8977

Analysis: B-A

Agency Contact: William Guster, Environmental Protection Agency, ANR-460, Washington, DC 20460, 703 557-8977

RIN: 2060-4801

126. GUIDANCE FOR OCCUPATIONAL RADIATION EXPOSURE (REVISION)

Legal Authority: AEA 274(h), 42 USC 2021(h) Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Abstract: This guidance would update existing 1960 radiation occupational exposure limits for all workers except radiation exposure to uranium miners. It would lower allowable exposure per year and incorporate selected current recommendations of national and international radiation protection advisory bodies.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/79	44 FR 53785
NPRM	01/23/81	46 FR 7836
Final Action	06/00/84	

Small Entity: No

Additional Information: SAR No. 1161

Docket No. A-79-48

FTS 8-557-8927

Agency Contact: Allan Richardson, Environmental Protection Agency, (ANR 460), Washington, DC 20460, 703 557-8927

RIN: 2060-AA00

127. TRANSURANIC ELEMENTS

Legal Authority: AEA 274(h), 42 USC 2021(h) Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Abstract: This guidance to Federal Agencies will establish dose rate limits for people exposed to transuranic elements in the general environment. This dose rate limit can be associated with an estimated maximum risk of one additional death per million persons continuously exposed at this rate per year. Guidance is undergoing interagency review.

Timetable:

Action	Date	FR Cite
ANPRM	11/30/77	42 FR 60958
Final Action	09/00/84	

Small Entity: No

Additional Information: SAR No. 1162

FTS 8-557-0740

Agency Contact: Gordon Burley, Environmental Protection Agency, (ANR-460), Washington, DC 20460, 703 557-9710

RIN: 2060-AA01

128. RADIOFREQUENCY RADIATION GUIDANCE

Legal Authority: AEA 274(h), 42 USC 2021(h) Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Abstract: This guidance will serve to limit exposure of the general public to radiofrequency radiation, which poses a potential health risk.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/82	47 FR 57358
NPRM	06/00/84	

Small Entity: Undetermined

Additional Information: SAR No. 1525

FTS 8-557-7390

Analysis: Background information documents

Agency Contact: Norbert Hankin, Environmental Protection Agency, (ANR-461), Washington, DC 20460, 703 557-7398

RIN: 2060-AA02

129. ENVIRONMENTAL PROTECTION STANDARDS FOR HIGH-LEVEL RADIOACTIVE WASTE

Priority: Major

Legal Authority: 42 USC 2021 / AEA 274

CFR Citation: 40 CFR 191

Abstract: EPA is developing environmental standards which state the public health and environmental requirements to be met for disposal of high-level radioactive waste. These consist of general design and site selection principles as well as numeric performance requirements for high-level waste repositories. DOE and NRC will use EPA's regulation to set their standards to govern the licensing, design and operation of permanent high-level radioactive waste disposal facilities.

Timetable:

Action	Date	FR Cite
ANPRM	12/06/78	41 FR 53363
NPRM	12/29/82	47 FR 58196
Final Action	04/00/84	

Small Entity: No

Additional Information: SAR No. 1163

FTS 8-557-8810

Agency Contact: Dan Egan, Environmental Protection Agency, (ANR-460), Washington, DC 20460, 703 557-8810

RIN: 2060-AA03

130. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Legal Authority: AEA 274(h), 42 USC 2021(h) Reorganization Plan No. 3 of 1970

CFR Citation: 40 CFR 193

Abstract: The National Radioactive Waste Management Program requires the development of a standard for disposal of low-level radioactive wastes. These include all radioactive wastes except high-level radioactive wastes, high-activity transuranic-contaminated wastes, uranium mill tailings, and wastes regulated under the Resource Conservation and Recovery Act of 1976.

CPA—AEA

Small Entity: No

Additional Information: SAR No. 1727.

FTS 8-557-8610

Agency Contact: G. Lewis Meyer,
Environmental Protection Agency,
(ANR-460), Washington, DC 20460. 783
557-8610

RIN: 2060-AA04

Amendment:	Date	FR Cite
Action		
ANPRM	06 01 83	48 FR 29563
NPRM	06 06 84	
Final Action	06 06 85	

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Atomic Energy Act (AEA)

Completed Actions

COMPLETED RULEMAKINGS
131. ENVIRONMENTAL STANDARDS
FOR ACTIVE URANIUM MILL
PROCESSING

CFR Citation: 40 CFR 192

Completed

Reason	Date	FR Cite
Final Action	09 30 82	48 FR 41924

Small Entity: No

Agency Contact: John Russell 703 557-
8224

RIN: 2060-AA06

COMPLETED REVIEWS
132. REVIEW OF URANIUM MILL
TAILINGS STANDARDS

CFR Citation: 40 CFR 192

Completed:

Reason	Date	FR Cite
End Review	09/30/83	

Small Entity: No

Agency Contact: Stan Lichtman 703
557-8927

RIN: 2060-AB16

FR Cite: 54-2042 Filed 04-14-84; 548 pp.

BILLING CODE 5499-05-7

UNITED STATES NUCLEAR REGULATORY COMMISSION
RULES and REGULATIONS
TITLE 10, CHAPTER 1, CODE OF FEDERAL REGULATIONS - ENERGY

COMMISSION NOTICES

MEMORANDA OF UNDERSTANDING

20 FR 24924
Published 3/11/74

AEC-LICENSED FACILITIES

Memorandum of Understanding

Both the Environmental Protection Agency (EPA) and the Atomic Energy Commission (AEC) have complementary responsibilities in areas of environmental protection and the control of radiation effects. In order to fit an appropriate interface of the respective functions of the two agencies, to further facilitate their useful cooperation, and to avoid unnecessary duplication of regulatory effort, EPA and the AEC have executed a memorandum of understanding with regard to AEC-licensed facilities. The text of the memorandum is set forth below.

AEC-EPA MEMORANDUM OF UNDERSTANDING WITH REGARD TO AEC-LICENSED FACILITIES

Both the Atomic Energy Commission (AEC) and the Environmental Protection Agency (EPA) have complementary responsibilities in areas of environmental protection and the control of radiation effects. Pursuant to Reorganization Plan No. 3 of 1970, "The functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, administered through its Division of Radiation Protection Standards is the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material" and all functions of the Federal Radiation Council were transferred to the Administrator of EPA. The President's message to the Congress upon transmitting Reorganization Plan No. 3 established EPA and NOAA stated that "AEC would retain responsibility for the implementation and enforcement of radiation standards through its licensing authority." In order to fit an appropriate interface of the re-

spective functions of the two agencies, to further facilitate their useful cooperation, and to avoid unnecessary duplication with regard to AEC-licensed facilities, the AEC and EPA agree as follows:

1. AEC-licensed facilities are subject through AEC licensing authority and requirements to EPA's generally applicable environmental radiation standards as defined in Reorganization Plan No. 3 of 1970. AEC will take appropriate action to assure that AEC-licensed facilities are operated in such a manner that routine radioactive discharges therefrom do not exceed generally applicable environmental standards established by EPA, outside the site boundary, for the protection of the general environment from radioactive material.

2. The AEC and the EPA will jointly undertake and carry out arrangements for special studies for the purpose of obtaining necessary information for establishing generally applicable environmental standards for the protection of the general environment from radioactive material discharged from AEC-licensed facilities. For example, the AEC will supply to EPA AEC data and will use its best efforts to supply reasonably obtainable licensee data relevant to radioactive effluents and the generation of pathway models. The AEC will also participate and will take appropriate action to arrange for its licensee to participate, as may be necessary, in providing data on releases and concurrent meteorological data in support of EPA field measurements and special studies such as pathway model verification at typical licensed facilities. The EPA will endeavor to minimize the number of separate typical facilities on which field measurements will be needed in establishing pathway models.

3. It is agreed that EPA may accompany AEC inspectors on AEC inspections of AEC-licensed facilities for the purpose of becoming informed on how licensee conform with generally applicable environmental standards. Such accompaniment may, at the discretion of EPA, be on either announced or unannounced AEC inspections. It is anticipated that up to 2 such accompaniments may be made in FY 1974. EPA will determine those inspections on which it wishes to accompany AEC. The first step will be for AEC to facilitate the EPA with the scope of AEC inspections.

4. EPA will advise and obtain AEC comments prior to the publication of data relating to discharges from AEC-licensed facilities and the results of these programs.

5. EPA will furnish technical advice and assistance to AEC upon request on discharges to the environment from AEC-licensed facilities.

6. Nothing in this Memorandum of Understanding, or any activities conducted hereunder, shall be construed as precedent for, or be recognized, nor authority of EPA to duplicate or replicate inspection activities of the AEC.

For the United States Atomic Energy Commission,

WILLIAM O. DOWE,
Commissioner.

August 27, 1973.

For the United States Environmental Protection Agency,

CHARLES ELSTER,
Acting Assistant Administrator
for Hazardous Materials Control

August 31, 1974.

20 FR 2124
Published 1/17/74

AEC-LICENSED FACILITIES

Memorandum of Understanding

The United States Coast Guard (USCG) and the Atomic Energy Commission (AEC) both have responsibilities for the regulation of safety and protection of the environment from effects of construction and operation of floating nuclear power plants. To avoid the duplication of effort implicit in this co-operation, responsibility, and to take best advantage of the capabilities of both agencies, USCG and AEC have executed a Memorandum of Understanding for Regulation of Floating Nuclear Power Plants. The text of the memorandum is set forth below.

Memorandum of Understanding Between the United States Coast Guard and the United States Atomic Energy Commission for Regulation of Floating Nuclear Power Plants

1. Purpose. For the purpose of coordinating and establishing consistent and

"The word 'radiation' as used herein has the same meaning as in Reorganization Plan No. 3 of 1970, as follows: 'radiation' as used in radiation reports or areas, concentrations or quantities of radioactive material, in the general environment outside the boundaries of facilities under the control of the Commission or under radioactive material."

MEMORANDA OF UNDERSTANDING

when, because of the sensitive nature of certain matters, it may be necessary for the parties to conduct interviews privately and separately.

4. The ODOE is invited to all NRC exit interviews. In the same way, to the extent possible the NRC inspector may attend ODOE exit interviews. PGZ will advise the ODOE and NRC inspectors of the time, date and location of all exit interviews.

G. Contacts

The principal NRC contact under this sub-agreement shall be the Director of NRC's Region V Office. The principal State contact shall be the Administrator of Licensing and Regulation, Oregon Department of Energy.

H. Effective Date

This sub-agreement shall take effect immediately upon signing by the Director of the Oregon Department of Energy and the Director of the Office of Inspection and Enforcement of the Nuclear Regulatory Commission, and may be terminated upon 30 days written notice by either party.

For the Oregon Department of Energy,
Lynn Frank,
Director.

Dated at Salem, Oregon this — day of
January 1980.
of the United States Nuclear Regulatory
Commission,
Vickie Steele,
Director, Office of Inspection and
Enforcement.

Dated at Bethesda, Maryland this 4th day
of January, 1980.

49 FR 72980
Published 11/2/80

ENVIRONMENTAL PROTECTION AGENCY

NUCLEAR REGULATORY COMMISSION

(RHL-FRL-1853-2)

Regulation of Radionuclide Emissions Memorandum of Understanding

AGENCY: Environmental Protection
Agency, Nuclear Regulatory
Commission.

ACTION: Notice of a Memorandum of
Understanding

SUMMARY: The Environmental Protection
Agency (EPA) and the Nuclear
Regulatory Commission (NRC) have
entered into a Memorandum of

Understanding as required by section
122(c)(2) of the Clean Air Act, as
amended in 1977, with respect to the
regulation of radionuclide emissions into
air from sources and facilities licensed
by NRC. This Memorandum defines in
general terms the respective roles of the
two agencies and establishes a
framework of cooperation for avoiding
unnecessary duplication of effort and for
conserving resources in establishing,
implementing, and enforcing standards
for airborne radionuclide emissions from
sources and facilities licensed by NRC.
This Memorandum may be revised in
the future as EPA develops Clean Air
Act radionuclide standards applicable
to NRC licensees.

ADDRESS: Docket No. A-78-11,
containing material relevant to this
action, is located in the U.S.
Environmental Protection Agency,
Central Docket Section, Waterside Mall,
West Tower Lobby, Gallery One, 401 M
Street, SW, Washington, DC. The
Docket may be inspected between 9 a.m.
and 4 p.m. on weekdays, and a
reasonable fee may be charged for
copying.

FOR FURTHER INFORMATION CONTACT:
Paul J. Magno, Office of Radionuclide
Programs (ANR-480), U.S.
Environmental Protection Agency,
Washington, DC 20460, telephone (703)
357-7380, or John W. N. Hickory, Office
of Standards Development, U.S. Nuclear
Regulatory Commission, Washington,
DC 20555, telephone (301) 443-6986.

SUPPLEMENTARY INFORMATION: Under
various statutes both EPA and NRC
have the authority to regulate
radioactive emissions of source
material, byproduct material, and
special nuclear material into the air.
Under the Atomic Energy Act of 1954
and Title II of the Energy Reorganization
Act of 1974, NRC is authorized to license
and regulate the manufacture,
production, receipt, acquisition,
possession, ownership, use, and transfer
of source material, byproduct material,
and special nuclear material. Under the
Clean Air Act, as amended in 1977, EPA
was also given the authority to regulate
air emissions of source material,
byproduct material, and special nuclear
material.¹

Section 122(a) of the Clean Air Act, as
amended in 1977, directed the

¹ Source material, byproduct material, and special
nuclear material are radioactive materials as
defined in the Atomic Energy Act of 1954 as
amended.

² Under the Atomic Energy Act of 1954 and
Reorganization Plan No. 3 of 1970, EPA also is
authorized to establish generally applicable
environmental standards for protection of the
general environment from radioactive substances.
These standards, which apply outside the
boundaries of NRC-licensed facilities, are
established by NRC through its licensing authority.

Administrator of EPA to determine
whether emissions of radioactive
pollutants (including source material,
byproduct material, and special nuclear
material) into ambient air will cause or
contribute to air pollution which may
reasonably be anticipated to endanger
public health. If the Administrator made
an affirmative finding, he was required
to list radioactive pollutants as
substances to be regulated under the
Clean Air Act.

On December 27, 1978, the
Administrator of EPA made an
affirmative finding and listed
"radionuclides" as hazardous air
pollutants under Section 112 of the
Clean Air Act (44 FR 78738, December
27, 1979). The term "hazardous air
pollutant" as defined by Section 112,
means an air pollutant to which no
ambient air quality standard is
applicable and which causes or
contributes to air pollution which may
reasonably be anticipated to result in an
increase in mortality or an increase in
serious irreversible, or incapacitating
reversible illness. After listing
radionuclides as hazardous air
pollutants under Section 112 of the
Clean Air Act, the Administrator must
promulgate regulations establishing
standards for these pollutants, and
where applicable, all sources and
facilities emitting these pollutants,
including NRC-licensed sources and
facilities, must comply with these
standards.

NRC-licensed sources and facilities
include nuclear power plant operations
and other activities in the nuclear fuel
cycle, research and development
laboratories, universities, research and
test reactors, hospitals,
radioisotope production facilities, industrial
users and various miscellaneous users
of source material, byproduct material,
and special nuclear material.
Radionuclide air emissions from these
licensed sources and facilities are
already limited or controlled by a
number of existing regulations and
standards, including:

1. 10 CFR Part 22, "Standards for
Protection Against Radiation," which
among other things specifies limits for
radionuclide releases into air from all
NRC licensees and includes the
provision that these releases should be
"as low as reasonably achievable"
(ALARA);
2. Appendix I of 10 CFR Part 50.

³ This standard was issued by EPA under the
Atomic Energy Act authority to establish generally
applicable environmental radioactive standards.
Under this Act, EPA is authorized to establish
standards for radionuclides under 40 CFR 159
and regulated by NRC under various other
regulations. EPA's standard for radionuclides
applies to all sources of radionuclides, including
NRC-licensed sources, and other sources (not
necessarily NRC-licensed) under 40 CFR 159.10
(F.R. 2296, January 12, 1977).

MEMORANDA OF UNDERSTANDING

"Domestic Licenses of Production and Utilization Facilities," which specifies technical design objectives to insure radionuclide releases from light water nuclear power reactors are kept "as low as reasonably achievable" (this regulation is implemented by NRC through technical specifications on individual licenses which specify release limits) and

2. 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations," which establishes generally applicable standards for radionuclide emissions from uranium fuel cycle facilities.¹

Recognizing the overlapping jurisdictional authorities resulting from the Clean Air Act Amendments of 1977, Congress, under Section 122(c)(2) of the Clean Air Act as amended in 1977, directed EPA and NRC, no later than six months after EPA lists any source material, byproduct material, or special nuclear material as a substance to be regulated under the Act, to enter into an interagency agreement with respect to those sources or facilities which are under NRC's jurisdiction. The Act states that this agreement shall minimize duplication of effort and conserve resources in establishing, implementing, and enforcing Clean Air Act radionuclide standards for sources or facilities licensed by NRC.

1. EPA and NRC have entered into such an agreement. Under this agreement EPA shall promulgate standards for airborne radionuclide emissions under its Clean Air Act authority and NRC shall have the primary role in implementing and enforcing these standards where applicable for sources and facilities licensed by NRC. EPA shall inform NRC of proposed actions for the development of Clean Air Act radionuclide standards for sources and facilities licensed by NRC and shall consult regularly with NRC during the standard development process. NRC shall assist EPA in standards development by: (a) providing information and recommendations; (b) participating in studies; and (c) reviewing and commenting on proposed standards.

As EPA standards are developed for NRC licensed sources and facilities, EPA and NRC will work together in developing mutually agreeable procedures for implementing and enforcing these standards. These efforts are expected to lead to a revision of this agreement defining the specific roles of each agency in implementing and enforcing these standards. This revision is to be completed before EPA promulgates its first standards applicable to licensed sources and facilities.

The text of the Memorandum of Understanding is set forth below.

Memorandum of Understanding Between EPA and NRC Concerning the Clean Air Act as Amended in 1977

In accordance with Section 122(c)(2) of the Clean Air Act as amended in 1977, to minimize duplication of effort and conserve resources in the regulation of radionuclide emissions to air from sources or facilities licensed by NRC, EPA and NRC agree to the following:

I. Establishment of Standards

1. EPA shall promulgate standards for airborne radionuclide emissions under its Clean Air Act authority.

2. EPA shall inform NRC of proposed actions for the development of Clean Air Act radionuclide standards for sources and facilities licensed by NRC and shall consult regularly with NRC during standards development.

3. NRC shall assist EPA in standards development by:

a. Providing EPA with available data and information on NRC-licensed sources and facilities as needed, including information on radionuclide air emissions, the environmental impact of these emissions, and control technology for reducing these emissions;

b. Participating with EPA in carrying out any necessary special studies at NRC licensed sources and facilities; and

c. Providing recommendations and reviewing and commenting on EPA's proposed standards.

II. Implementation and Enforcement of Standards

1. NRC, using its own regulatory program and statutory and regulatory authorities, shall have the primary role in implementing and enforcing EPA's Clean Air Act radionuclide standards for sources and facilities licensed by NRC.

2. During the development of Clean Air Act radionuclide standards for NRC licensed sources and facilities, EPA and NRC shall work together to establish mutually agreeable procedures for implementing and enforcing these standards. These procedures will be consistent with the provisions of the Clean Air Act and will allow both EPA and NRC to fulfill their statutory responsibilities with a minimum of duplication of effort. These procedures and the specific roles of each agency in carrying out these procedures will be defined in a revision to this agreement which should be completed before EPA promulgates its first standards applicable to sources and facilities licensed by NRC.

III. Effective Date, Revision, and Termination

This Memorandum shall be effective immediately, and shall continue in effect

until revised by mutual agreement, unless terminated by either party upon 120 days notice in writing.

Dated: October 17, 1980

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation, U.S. Environmental Protection Agency.

Dated: October 24, 1980

William J. Dwyer,

Executive Director for Operations, U.S. Nuclear Regulatory Commission.

46 FR 79333

Published 11/13/80

Nuclear Safety Information and Activities: Memorandum of Understanding Between the Nuclear Safety Oversight Committee and the Federal Emergency Management Agency with Respect to the Acquisition of Information and the Monitoring of Activities

1. The Nuclear Safety Oversight Committee (NSOC) was established pursuant to Executive Order 12000 (March 18, 1980) to advise "on the progress of Federal and State authorities and the nuclear power industry in improving the safety of nuclear power and in implementing the approved recommendations of the President's Commission on the Accident at Three Mile Island (Kerneny Commission)" set forth in the President's announcement and White House Fact Sheet of December 7, 1979 (copy attached to this memorandum). On September 25, 1980 the President issued Executive Order 12240, which extended the life of NSOC to September 30, 1981.

NSOC is responsible for the preparation and periodic submission of reports to the President, the Secretary of Energy, and the Secretary of Health and Human Services on the progress being made in each area. In addition, NSOC is specifically responsible to advise on the progress and activities of the Federal Emergency Management Agency (FEMA) in a variety of substantive and procedural areas identified in the Executive Order, Sec. 1-2. These include, but are not limited to, the following:

- The Federal program in safety research (Sec. 1-204);
- A coordinated program to improve worker and public health and safety (Sec. 1-205);
- A review of state and local off-site emergency planning and preparedness.