

MOU Between the NRC and DOL

This document reflects the Memorandum of Understanding (MOU) between the U.S. Nuclear Regulatory Commission (NRC) and the Department of Labor (DOL) that was published in the Federal Register on December 3, 1982 and the procedures for implementing the MOU between the NRC and the DOL.

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1. PURPOSE

The U.S. Nuclear Regulatory Commission (NRC) and the Department of Labor (DOL) enter into this agreement to facilitate coordination and cooperation concerning the employee protection provisions of Section 210 of the Energy Reorganization Act of 1974 (Reorganization Act), as amended, 42 U.S.C. 5851.

2. BACKGROUND

Section 210 of the Reorganization Act prohibits any employer, including a Nuclear Regulatory Commission licensee, applicant or a contractor or subcontractor of Commission licensee or applicant, from discriminating against any employee with respect to his or her compensation, terms, conditions or privileges of employment because the employee assisted or participated, or is about to assist or participate in any manner in any action to carry out the purposes of either the Reorganization Act or the Atomic Energy Act of 1954 (Atomic Energy Act), as amended, 42 U.S.C 2011 et seq.

The NRC and DOL have complementary responsibilities in the area of employee protection; DOL has the responsibility under Section 210 of the Reorganization Act to investigate employee complaints of discrimination and may, after an investigation and hearing, order a violator to take affirmative action to abate the violation, reinstate the complainant to his or her former position with backpay, and award compensatory damages, including attorney fees. NRC, though without direct authority to provide a remedy to an employee, has independent authority under the Atomic Energy Act to take appropriate enforcement action against Commission licensees that violate the Atomic Energy Act, the Reorganization Act, or Commission requirements. Enforcement action may include license denial, suspension or revocation or the imposition of civil penalties.

Although each agency will carry out its statutory responsibilities independently the agencies agree that administrative efficiency and sound enforcement policies will be maximized by cooperation and the timely exchange of information in areas of mutual interest.

3. AREAS OF COOPERATION

- a. DOL agrees to promptly notify NRC of any complaint filed with DOL alleging discrimination within the meaning of Section 210 of the Energy Reorganization Act. DOL will promptly provide NRC a copy of the complaint, decisions, and orders

associated with the investigation and any hearing on the complaint. DOL will also keep NRC currently informed on the status of any judicial proceedings seeking review of an order of the Secretary of Labor issued pursuant to Section 210 of the Reorganization Act.

- b. NRC and DOL agree to cooperate with each other to the fullest extent possible in every case of alleged discrimination involving employees of Commission licensees, applicants, or contractors or subcontractors of Commission licensees or applicants. NRC will take all reasonable steps to assist DOL in obtaining access to licensed facilities and any necessary security clearances. Each agency agrees to share and promote access to all information it obtains concerning a particular allegation and, to the extent permitted by law, will protect the confidentiality of information identified as sensitive that has been supplied to it by the other agency.

4. IMPLEMENTATION

The NRC official responsible for implementation of this agreement is the Executive Director for Operations; the DOL official responsible for implementation of this agreement is the Administrator, Wage and Hour Division. Working level point of contacts shall be established and identified within 10 days after the effective date of this agreement for both headquarters and field operations.

5. AMENDMENT AND TERMINATION

This Agreement may be amended or modified upon written agreement by both parties to the Agreement. The Agreement may be terminated upon ninety (90) days written notice by either party.

6. EFFECTIVE DATE

This agreement is effective when signed by both parties.

William J. Dircks
Executive Director for Operations
Nuclear Regulatory Commission

Dated: July 29, 1982

William M. Otter, Administrator
Wage and Hour Division
Department of Labor

Dated: October 25, 1982

PROCEDURES FOR IMPLEMENTING MOU BETWEEN NRC AND DOL

I. BACKGROUND AND PURPOSE

On July 29, 1982, the Executive Director for Operations for the Nuclear Regulatory Commission signed the "Memorandum of Understanding Between NRC and Department of Labor." The Administrator of the Wage and Hour Division of the Department of Labor signed the document on October 25, 1982. The MOU set forth the responsibilities of the NRC and DOL in protecting the rights of employees as specified in Section 210(a) of the Energy Reorganization Act of 1974, as amended. Section 3 of the MOU provides that the two agencies will "...cooperate with each other to the fullest extent possible in every case of alleged discrimination involving employees of Commission licensees, applicants, or contractors or subcontractors of Commission licensees or applicants.

These working arrangements between the NRC and DOL have been developed to ensure prompt notification, investigation, and followup of complaints involving alleged discrimination against employees who have contacted, or have attempted to contact, the NRC.

II. INVESTIGATION AND PROCESSING OF COMPLAINTS

- A. If the NRC receives a complaint concerning a possible a violation of Section 210(a), it will refer the complainant to DOL and will promptly notify DOL to ensure that DOL is aware of the complaint and to determine if DOL is investigating the incident. The NRC will not normally initiate an investigation of a complaint if DOL is conducting, or has completed, an investigation and found no violations. (If DOL concludes that a violation occurred, NRC may initiate an investigation where necessary to develop additional information for its enforcement action). DOL will notify the NRC of the decision of the Administrator, Wage and House Division, at the conclusion of the investigation and of the results of the Secretary of Labor's review of that decision.
- B. If DOL receives a complaint concerning a possible violation of Section 210(a), it will promptly notify the NRC and inform the NRC of whether DOL intends to conduct an investigation into the matter. If DOL does not intend to conduct an investigation, the NRC will consider whether to initiate its own investigation. In cases where the individual and his employer reach an agreement, DOL will notify the NRC of such a settlement even though DOL will not conduct an investigation.
- C. The NRC will facilitate DOL's investigations by taking all reasonable steps to assist DOL in obtaining access to licensed facilities and any necessary security clearances.

- D. Each agency shall designate, and maintain as current, points of contact within its headquarters and regional offices for purposes of implementation of the MOU. Matters affecting program and policy issues will be handled by the headquarters offices of the agencies.

III. ENFORCEMENT

- A. DOL's enforcement actions are primarily directed at restoring benefits or employment status unfairly denied an employee. If DOL finds that no violations of Section 210(a) occurred, NRC normally will not initiate enforcement action. If, however, DOL finds that a violation has occurred, the NRC may take enforcement action under its Enforcement Policy, 10 CFR Part 2, Appendix C, including issuance of a Notice of Violation, imposition of civil penalties or issuance of order suspending, modifying, or revoking licenses, but will normally consider the effect of the action taken by DOL before deciding on its action.
- B. The area or regional offices of each agency will normally develop the initial recommendations on enforcement action for their agency and will forward them to headquarters for review. If a violation does not involve an escalated enforcement action, an NRC regional office may issue a Notice of Violation without Headquarters concurrence.