

TOPICAL AREAS

This enclosure to the Memorandum of Understanding (MOU) describes the infrastructure of the desired interactions between the U.S. Nuclear Regulatory Commission (NRC) and the departments. A series of annexes will be developed after approval of the MOU to establish the working arrangements between the NRC and the relevant component agencies within the signatory departments. Working arrangements will provide the details of these interactions.

- a. Risk Assessments. The Parties will inform the other agencies when assessments related to the transportation of radioactive materials are being planned, in an effort to coordinate such efforts, as appropriate.

The Parties agree to support the sharing, to the maximum extent practicable and as permitted under the law, of all relevant information collected in the course of respective risk assessments undertaken by them or their component agencies, and their respective Office of the Inspector General (OIG). Relevant information could include, but is not limited to, information collected in the course of security inspections and assessments, reviews of security plans, and oversight of the activities of transportation of carriers, shippers, and receivers.

The Parties agree to the coordination, to the maximum extent practicable and as permitted under the law of measures derived from safety inspections and assessments to evaluate whether they conflict with, or adversely affect, current or planned security requirements.

The parties agree to the coordination of implementation of any recommendations developed by them or their component agencies as a result of their respective inspections and assessments to ensure that those recommendations do not adversely impact the safe and secure transportation of radioactive materials.

- b. Strategic Planning. Strategic planning will be based on risk. The parties will strive for consensus concerning measures for the transportation of radioactive material that establish and maintain risk at acceptable levels and minimize the consequences of security events. The parties will support the sharing of initiatives and activities among themselves or their component agencies for achieving identified performance security goals, as appropriate.
- c. Standards, Regulations, Guidelines, Advisories, Orders, and Directives. To the maximum extent practicable, the parties will coordinate in the development of standards, regulations, guidelines, advisories, orders, and directives affecting the transportation of radioactive materials.
- d. Inspections and Enforcement. The parties will promote coordination among themselves and their component agencies regarding inspection and enforcement activities, with the objective of optimizing available resources and maximizing communications on areas of mutual interest. Nothing in this MOU shall limit any party from taking the appropriate response, inspection, or enforcement action within the scope of its regulatory authority and jurisdiction.

The parties will develop procedures for the referral of safety and security issues and will develop specific plans for closer coordination in the deployment and use of inspectors to facilities within the parties' respective jurisdictions. Under specific working arrangements, the NRC will act as the point of contact to facilitate communications between licensed facilities and the parties to this MOU to support inspection and enforcement efforts, and completion of any requirements associated with access to the facility (e.g., site access training).

- e. **Technical Support.** The parties recognize that exigent circumstances or other contingencies may tax available security resources. In these situations, any of the parties may seek to supplement its resources with those of its partners. When assistance is necessary to develop, support, staff, implement, or enforce transportation security regulations, orders, directives, plans, programs, or other measures, or to conduct security reviews (e.g., during a period of an elevated security threat), a party's request for assistance must be made in writing. If appropriate, the written request should be in accordance with Enclosure 1, h.3., herein.
- f. **Sharing Information During an Emergency Response.** The parties may participate in established emergency response procedures involving the transportation of radioactive materials. However, the parties acknowledge in this MOU that they require timely information during emergencies and commit to promptly sharing information about emergency situations that implicate the missions and interests of the other parties, as appropriate. Information in this context includes both the initial incident report and ongoing information about incident developments. The timely sharing of such information serves the public interest in the operation of a secure and safe national transportation system.
- g. **Legislative Matters.** To the maximum extent practicable, and in accordance with each agency's authorities and established policies, the parties agree to discuss legislative matters of mutual concern affecting the secure transport of radioactive materials.
- h. **Budget.**
 - 1. All activities pursuant to this MOU are subject to the availability of appropriated funds and each agency's budget priorities.
 - 2. This MOU is neither a fiscal nor a funds obligating document. Nothing in this MOU authorizes or is intended to obligate any party to expend, exchange, or reimburse funds, services or supplies, or to transfer or receive anything of value, or to enter into any contract, assistance agreement, interagency agreement or other financial obligation.
 - 3. Goods and services shall be provided under this MOU only after an appropriate Interagency Agreement (IA) has been negotiated and signed by an appropriate representative of each party authorized to execute the IA. Upon signature by each party's representative, the IA shall constitute a valid order under the Economy Act of 1932, as amended (31 USC § 1535), or other appropriate funding mechanism, as specified in the IA.
 - 4. This MOU shall not be construed to create any legal obligation on the part of any Party. This MOU shall not be construed to provide a private right of action for or by any entity or person.

5. Consistent with each Party's established policies, procedures, and budget requirements, the parties agree to consult throughout the budget development, planning, and execution process concerning funding for projects affecting the secure transportation of radioactive material, in order to minimize unnecessary duplication of effort and to provide an aligned position for the funding of such projects.
- i. Communication. The parties recognize the critical importance of regular, timely, and open communication, and commit to establishing strong lines of communication among the NRC and the appropriate component agencies of the Department of Transportation (DOT) and the Department of Homeland Security (DHS). In furtherance of this recognition (as deemed necessary by that party), each Party will designate appropriate officials to serve as points of contact for items of mutual concern and benefit. As appropriate, the parties will seek to leverage existing interagency forums and partnership frameworks that foster integrated, collaborative engagement and interactions. The Radiation Source Protection and Security Task Force, Government Coordinating Council, Critical Infrastructure Partnership Advisory Council, and the Federal Senior Leadership Council are among a few suggested bodies whose objective is to drive enhanced communications and coordination among Federal departments and agencies that have a role in the secure transportation of radioactive materials.
- j. Intelligence and Information Sharing
1. The parties will cooperate, to the extent permitted by law, in sharing intelligence, security, and threat information affecting the secure transport of radioactive materials. The parties will designate appropriate points of contact and methods and means to effect such communication in accordance with applicable statutes and executive orders to ensure the protection of classified and sensitive unclassified information.
 2. Consistent with their respective authorities and established policies, the parties will promptly report security events related to the transport of radioactive materials to all parties. These events shall include, but not be limited to, incidents of theft, diversion, or sabotage of radioactive material(s) in transport. The parties will develop protocols and designate appropriate points of contact for prompt reporting of security-related incidents to each other. Consistent with the National Response Framework, the parties will collaborate on response plans for security-related incidents involving theft, diversion, or sabotage of radioactive materials in transport, and will develop coordination plans for enforcement actions and investigations. The plans will identify roles and responsibilities and establish protocols for occasions where joint investigations are appropriate and necessary. These exchanges will include appropriate notifications to the OIG identified at Section III.f of the MOU.
- k. Background Investigations. Under existing statutory authorities, NRC and DHS can require fingerprinting identifications and perform background investigations of individuals with access or control over radioactive materials. Under certain conditions, DOT regulations require drivers of hazardous material to comply with the Transportation Security Administration access authorization requirements. In order to avoid duplicative requirements on individuals, each Party will consider background investigation reciprocity where appropriate and in accordance with applicable laws and regulations. The parties will review their respective individual background investigation and

fingerprinting programs, if applicable, to identify those areas where the program needs are essentially the same and reciprocity can be applied. This would only occur if the fingerprinting and background check is related to the transportation of radioactive materials.

- I. Cooperative Research Programs. The parties will conduct a review of their recently completed and ongoing safety- and security-related projects and programs to identify opportunities to collaborate on research designed to improve the safety and security of transportation of radioactive materials. The parties will establish protocols for ongoing information sharing and participation in their respective research programs.