

AGREEMENT FOR NUCLEAR SAFETY INFORMATION EXCHANGES BETWEEN THE U.S. NUCLEAR REGULATORY COMMISSION, OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS AND THE U.S. DEPARTMENT OF ENERGY, OFFICE OF ENVIRONMENT, HEALTH, SAFETY AND SECURITY

I. Background

The U.S. Department of Energy (DOE) has responsibility for establishing and overseeing implementation of requirements for safety of its nuclear facilities. These include research and test reactors, materials processing facilities, waste storage, handling, and treatment facilities, and research laboratories, covering a wide spectrum of chemical processes, and radioactive and nuclear material operations (DOE does not own or operate power reactors). DOE's Office of Environment, Health, Safety and Security has lead responsibility for developing and maintaining DOE nuclear safety requirements.

The U.S. Nuclear Regulatory Commission's (NRC) mission includes regulating the Nation's civilian use of radioactive materials in order to protect public health and safety, promote the common defense and security, and to protect the environment. NRC's Office of Material Safety and Safeguards has responsibility for regulating activities that provide for the safe and secure production of nuclear fuel used in commercial nuclear reactors; the safe storage, transportation and disposal of high-level radioactive waste and spent nuclear fuel; and the transportation of radioactive materials regulated by NRC under the Atomic Energy Act.

Both DOE and the NRC have acquired extensive knowledge and experience on the technical aspects of regulating nuclear materials. The proposed NRC-DOE Inter-Agency information sharing agreement provides a formal vehicle to exchange and share information between the two agencies.

II. Purpose and Scope

The purpose of this Agreement is to establish a framework for the two agencies to exchange information related to safety issues associated with non-reactor nuclear facilities that would be beneficial to both agencies in performance of their respective missions.

This Agreement is strictly for DOE's Office of Environment, Health, Safety and Security and NRC's Office of Nuclear Material Safety and Safeguards internal management purposes. This Agreement is not legally enforceable and shall not be construed to create any legal obligation on the part of either party.

Nothing in this Agreement shall be construed as requiring either agency to provide information, goods or services to the other agency. This Agreement applies solely to information sharing activities as mutually agreed to by the Office of Environment, Health, Safety and Security and the Office of Nuclear Material Safety and Safeguards.

Nothing in this Agreement applies to, or establishes a precedent for any other matter, or agreement, including any other existing or future agreements, between DOE and NRC.

Enclosure

Nothing in this Agreement shall be construed to provide a private right of action for or by any person or entity.

III. Information Sharing Process

The primary points of contact (POCs) for the implementation of this Agreement are the DOE Director, Office of Nuclear Safety within the Office of Environment, Health, Safety and Security and the NRC Director, Division of Fuel Cycle Safety and Safeguards, within the Office of Nuclear Material Safety and Safeguards.

These primary POCs will determine and mutually agree on the specific form and content of information exchanges that would be beneficial to the agencies.

The information exchanges can occur through meetings, sharing of documents, or reviewing of documents. The information exchanged can include operating experience, nuclear safety research and development results, or analysis of such information.

The primary POCs may each designate individuals within their respective organizations to facilitate specific exchanges.

The agencies shall prepare joint summaries which document each mutually agreed information exchange.

IV. Additional Terms of Agreement

DOE's and NRC's Regulatory Responsibilities

Nothing in this Agreement restricts or otherwise limits either NRC's or DOE's authority to exercise its respective regulatory role. This Agreement in no way restricts either agency from undertaking or participating in any activity within its normal scope of activities, including interactions with other public or private agencies, organizations, or individuals.

Protection of Shared Information

Both agencies recognize the need to protect any data or information exchanged between them that meet the definitions of classified information, trade secrets, privileged, confidential commercial or financial information or other information prohibited or exempt from public disclosure under the Atomic Energy Act (AEA) of 1954, as amended; the Privacy Act; Freedom of Information Act, as amended, and other applicable laws. Each POC will assure that such information is protected in accordance with applicable legal, regulatory and policy requirements. Additionally, each point of contact will assure that only persons with appropriate clearances and need to know will have access to classified information.

If one agency provides the other with non-public information, the information will be clearly marked as such, including the reason for non-disclosure. The receiving agency will not release the information outside the agency without the written consent of the agency providing the information. This provision will apply to information obtained from either agency or its contractors.

Freedom of Information Act requests, Congressional requests, or other requests for documents will be referred to the agency that provided the non-public information.

