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ENCLOSURE 1

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Transportation Physical Protection Requirements

<u>Draft Regulatory Basis Wording</u>	<u>Page</u>	<u>Comment/Recommendation</u>
<p>Attachments 10 - Category I: Transportation Physical Protection Requirements</p> <p>Attachment 11 - Category I - Moderately Dilute: Transportation Physical Protection Requirements</p> <p>Attachment 13 - Category II: Transportation Physical Protection Requirements</p>		<p>It is not clear from the Draft Regulatory Basis that use of the DOE Office of Secure Transport (OST) meets the requirements for shipping Non-dilute and Moderately Dilute Category I material and Category II (attachments 10, 11, and 13).</p> <p><u>Comment:</u> Does the NRC intend to include an option in the Firearms Guidelines rulemaking for licensees to obtain Pre-emption Authority for Category I and Category II shipments requiring armed escorts?</p>
<p>Attachments 10 - Category I: Transportation Physical Protection Requirements</p> <p>Attachment 11 - Category I - Moderately Dilute: Transportation Physical Protection Requirements</p>		<p>The draft Regulatory Basis does not include the current exemption found in 10 CFR 73.6(d).</p> <p><u>Comment:</u> The elimination of this exemption would be unnecessarily burdensome and costly to implement because the licensee would now incur the costs and administrative burdens associated with OST transit. If OST continues these transports, is it now the licensee's responsibility to monitor another Federal Agency for compliance with NRC regulations, as if it were a civilian transport company?</p>
<p>Attachment 14, <u>General Performance Objectives and Requirements</u> - "... to immediately detect attempts to remove SNM..."</p>	N-1	<p>Please define "immediately detect." How is this accomplished? Does this require the use of an Intrusion Detection System and/or escort vehicles? Depending what type of systems employed, this may create a significant cost burden on the licensee.</p> <p><u>Comment:</u> Use of an IDS or escort vehicle would be very costly for the licensees.</p>

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<p>Attachment 14, Transportation Security Plans - "Arrangements should be made with law enforcement authorities or other response forces along the route of shipments for their response to an emergency or a call for assistance."</p>	<p>N-2</p>	<p><u>Comment:</u> As written, the requirement for licensees to make arrangements with law enforcement authorities or other response forces along the route of shipment could be unnecessarily burdensome and costly to implement because there may be hundreds of LLEA the licensee would be required to contact and make agreements. Are these arrangements with local law enforcement authorities along the route the same as the requirements found in Attachment 7, specifically "...licensees should document and maintain current agreements with applicable law enforcement agencies to include estimated response times and capabilities..." (G-7). This would prove to be an excessive administrative burden on the licensees.</p>
<p>Attachment 14 - <u>Transportation Security Plan</u> - "The Transportation Security Plan should include shipment routing information, including location of SNM transfer areas and safe havens. Shipments should be scheduled to avoid areas of natural disaster, civil disorders, or other security threats. Shipments should be planned in order to minimize the number of material transfers and the storage time, and to assure that deliveries occur at a time when the receiver is present to accept the shipment."</p>	<p>N-2</p>	<p>Request clarification on the transportation security plan requirement. It is unclear if the NRC requires that the licensee create one transportation security plan, or if it is the intent of the NRC that the licensee provide a security plan for each transport of SNM.</p> <p><u>Comment:</u> To create a transportation plan for every shipment would be a costly and excessive administrative burden for the licensee.</p>
<p>Attachment 14, Access Control - "Licensees should implement a numbered photo identification badge program for all individuals who will have custody of a shipment. Badges should be clearly displayed by all individuals."</p>	<p>N -2</p>	<p>Is this requirement applicable when the material is in transport, hundreds of miles from the facility? Please clarify.</p> <p><u>Comment:</u> This requirement would be a significant burden on the licensees, as well as on the transport industry. Does the driver need to wear display a photo identification while in transit?</p>

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Attachment 14, <u>Access Control</u> - " Licensees should limit unescorted access to the controlled access areas, transports, aircraft, rail cars, to only individuals who require unescorted access to perform assigned duties and responsibilities."	N-2	<p>Clarification is needed. Is it the NRC expectations that licensees control access to railcars, aircraft, and transport when these modes of transportations are not located on the licensee's property?</p> <p><u>Comment:</u> It would be impossible for the licensee to control access to a rail yard, dock, or airport while the shipment is in transit.</p>
Attachment 14, <u>Access Control</u> - "Licensees should control all keys, locks, combination, passwords and related access control devices to reduce the probability of compromise."	N-2	<p>Please provide guidance on how is the driver is to comply with a DOT or law enforcement inspection if he does not have a key to the trailer door?</p>
Attachment 14, <u>Personnel Trustworthiness</u> - " The program should monitor the initial and continuing trustworthiness and reliability of individuals granted or retaining unescorted access authorization to SNM transport and SNM transfer areas...."	N-2	<p>Please provide guidance on this topic. Does this mean that a contracted truck driver is now subject to 10 CFR 26 and the Human Reliability Program as defined in the DBT? How does the licensee comply with this in a transfer area not located on the licensee's property (i.e., a rail yard or port of entry)?</p> <p><u>Comment:</u> This regulation would have a significant burden on the licensees because trustworthiness programs include substance abuse testing. If the NRC allows the licensee to comply by using current DOT programs, are licensees then required to audit the drug testing programs of contracted transportation entities?</p>
Attachment 14, <u>Maintenance and Testing</u> , - "Licensees should establish, maintain and implement a maintenance and testing program to ensure that security systems and equipment are tested for operability and performance at predetermined intervals, maintained in operable condition, and are capable of performing their intended functions."	N-4	<p>Will the NRC provide guidance on the types of "security systems and equipment" needed to fulfill this requirement? Does the use of "security systems and equipment" mean IDS?</p> <p><u>Comment:</u> Depending on NRC expectations, this could have a significant cost impact on the licensees.</p>



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Attachments 14 and 15, <u>Heightened Security</u> - "...diverting a shipment to a safe haven location."	N-3 O-3	Please define safe haven location and NRC expectations, specifically if the safe haven is to have the same requirements as a fixed site. <u>Comment:</u> Depending on expectations, this will have a significant cost and administrative burden on licensees.
Attachment 14, <u>Transportation Security Measures</u> - "The integrity of locks and seals should be checked before departure, during intermodal transfers, and upon arrival."	N-5	How does the licensee ensure compliance with intermodal transfers and upon arrival, other than obtaining an agreement with the shipper and receiver? Will an agreement of this sort suffice? What records are needed to document compliance?
Attachment 14, <u>Transportation Security Measures</u> - "The conveyance and escort vehicles should be searched for explosives, incendiary devices or other items or conditions that have the potential of compromising the shipment."	N-6	Please provide guidance and expectations on "...other items or conditions...." This is subject to a wide range of interpretation. Is the inclusion of escort vehicle in this section meant to mean that all shipments of Category II Moderately Dilute require an escort vehicle while in transit?
Attachment 14, <u>Transportation Security Measures</u> (carrier requirements) - "Ensure coordination with law enforcement agencies along the route of the shipment."	N-6	Define what is meant by "coordination." Is the licensee to contact each local law enforcement agency on the expected route or is this the responsibility of the carrier? What records are required for compliance?
Attachment 15, <u>General Performance Objectives and Requirements</u> - The transportation security program should provide defense-in-depth through the integration of systems, technologies, programs, equipment, supporting processes, and implementing procedures as needed to ensure its effectiveness. The program should address the security of the material from the custody transfer time at the point of departure and until the custody transfer time at destination	O-1	Use of terms such as systems, technologies, and equipment imply the use of Intrusion Detection Systems. Please clarify if this is the NRC's intent for conveyances. <u>Comment:</u> The use of an IDS on Cat III shipments will have significant cost impacts on the licensees.
Attachment 15, <u>Transportation Security Plans</u> - "Licensees should establish, maintain, and implement an access authorization program and should describe the program in the Transportation Security Plan."	O-2	What is the scope of this requirement? Is it applicable to a truck driver while en route to the receiver? Is this an AA program as currently implemented at reactor sites and FCFs?

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Attachment 15, <u>Access Control</u> - "Licensees should implement a numbered photo identification badge program for all individuals who will have custody of a shipment. Badges should be clearly displayed by all individuals."	O-2	Does the numbered photo identification badge program have access authorization applications? What are the requirements for a numbered photo identification badge program? Background checks? Finger printing? Subject 10 CFR 26? <u>Comment:</u> A numbered photo identification badge with access authorization criteria as currently implemented at NOG-L will have significant costs associated with it. If the rule applies to truck drivers, then the licensee would need to maintain a pool of AA drivers in the event that a driver is sick or unable to continue on a long haul shipment.
Attachment 15, <u>Access Control</u> - "Licensees should control all keys, locks, combination, passwords and related access control devices to reduce the probability of compromise."	O-2	Is this to mean that all CAT III shipments located in a truck trailer are to be locked or will a tamper indicating device (TIP) suffice? Does this conflict with search requirements for Federal and State DOT organizations? Does the licensee give a key or combination (how does this maintain control) to a driver for DOT compliance purposes? Is it the intent of this statement to mean that locks and seals must be applied to all shipments? <u>Comment:</u> What records are needed to show compliance? Is it the licensee's responsibility to check the locks and seals during intermodal transfers? How is this accomplished other than with the use of an escort?
Attachment 15, <u>Transportation Security Measures</u> - "The integrity of locks and seals should be checked before departure, during intermodal transfers, and upon arrival."	O-4	Please clarify the intent of "...procedures for search of conveyance prior departure from the point of origin or transfer." What is the licensee searching for prior to departure? <u>Comment:</u> All conveyances are search prior to loading; what is the security benefit to search a conveyance prior to departure?
Attachment 15, <u>Transportation Security Measures</u> - "Develop and implement procedures for search of conveyance prior departure from the point of origin or transfer. Following the search, the conveyance must remain inside a controlled access area or under continuous surveillance."	O-5	

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<p>Attachment 15, <u>Transportation Security Measures</u> - "Each licensee who receives Category III SNM should:</p> <ul style="list-style-type: none"> • Immediately accept the shipment upon arrival." 	O-5	<p>Please define immediately in "immediately accept the shipment upon arrival" statement. Is this as soon as the shipment arrives on the site? Is the shipment allowed to remain in the OCA until personnel are available to accept it?</p>
<p>Attachment 15, <u>Transportation Security Measures</u> - "Arrange for two-way communications between the transport and the licensee or its designee: (A) To periodically confirm the status of the shipment...."</p>	O-5	<p>Please define two-way communication. Is this a cellular phone? Is the licensee out of compliance if the phone is in a dead area? Please define "periodically confirm." Is two-way communication with the transit dispatcher or with the driver who has custody of the shipment?</p>