



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2017-0312

1

RESPONSE TYPE

INTERIM

FINAL

REQUESTER:

Julian Tarver

DATE:

FEB 15 2017

DESCRIPTION OF REQUESTED RECORDS:

NRC & FBI MOU, May 29, 1991.

PART I. -- INFORMATION RELEASED

- Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A -- FEES

AMOUNT*

\$

*See Comments for details

You will be billed by NRC for the amount listed.

None. Minimum fee threshold not met.

You will receive a refund for the amount listed.

Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note: Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.*
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

The requested document is publicly available. However, we are providing you with a copy as a courtesy.

In conformance with the FOIA Improvement Act of 2016, the NRC is informing you that you have the right to seek assistance from the NRC's FOIA Public Liaison.

SIGNATURE - FREEDOM OF INFORMATION ACT OFFICER

Stephanie Blaney

LEGAL STATUS

LEGAL STATUS

Memorandum of Understanding Between the Federal Bureau of Investigation and the Nuclear Regulatory Commission Regarding Nuclear Threat Incidents Involving NRC Licensed Facilities, Materials, or Activities

A Notice by the Nuclear Regulatory Commission on 05/16/2000

DOCUMENT DETAILS

Printed version:

PDF (<https://www.gpo.gov/fdsys/pkg/FR-2000-05-16/pdf/00-12300.pdf>)

Publication Date:

05/16/2000 (/documents/2000/05/16)

Agency:

Nuclear Regulatory Commission (<https://www.federalregister.gov/agencies/nuclear-regulatory-commission>)

Document Type:

Notice

Document Citation:

65 FR 31197

Page:

31197-31198 (2 pages)

Document Number:

00-12300

DOCUMENT DETAILS

PUBLISHED DOCUMENT

AGENCY:

Nuclear Regulatory Commission.

ACTION:

Memorandum of Understanding Between the Federal Bureau of Investigation and the Nuclear Regulatory Commission.

SUMMARY:

The Nuclear Regulatory Commission (NRC) entered into a Memorandum of Understanding (MOU) with the Federal Bureau of Investigation (FBI) in 1979. The MOU delineated the responsibilities of each agency regarding nuclear threat incidents involving NRC-licensed facilities, materials, or activities. In 1991, the NRC and FBI revised the MOU to reflect new legal authorities and operating experience. In 1999, the agencies

reviewed the MOU and determined additional revisions were not required. We are currently publishing the MOU to inform the public of this review and staff conclusion regarding the continuing adequacy of the document. The text of the MOU between the NRC and the FBI follows.

FOR FURTHER INFORMATION CONTACT:

John Davidson, Office of Nuclear Material Safety and Safeguards, telephone 301-415-8130, e-mail jjd@nrc.gov (<mailto:jjd@nrc.gov>).

Dated at Rockville, Maryland, this 9th day of May 2000.

For the Nuclear Regulatory Commission

Michael F. Weber,

Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

Memorandum of Understanding Between the Federal Bureau of Investigation and the Nuclear Regulatory Commission Regarding Nuclear Threat Incidents Involving NRC Licensed Facilities, Materials, or Activities

I. Purpose

In recognition of the responsibilities and functions of the Federal Bureau of Investigation (FBI) and the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954, as amended, this Memorandum of Understanding (MOU) delineates the responsibilities of each agency regarding nuclear threat incidents involving NRC-licensed facilities, materials, or activities. (This agreement does not affect the procedures and responsibilities set forth in the November 23, 1988, Memorandum of Understanding between the NRC and the Department of Justice (DOJ) regarding cooperation concerning NRC enforcement actions, criminal prosecution by DOJ, and the exchange of pertinent information.)

Having closely related statutory responsibilities with regard to nuclear materials, facilities, and activities in the United States, the FBI and NRC must cooperate fully in carrying out their respective responsibilities in the interest of achieving:

1. Effective communication and exchange of relevant information, and
2. A timely, reliable, and effective response to a nuclear threat incident.

II. Definitions

For the purpose of this agreement, nuclear threat incidents are defined as threats, or acts of theft or sabotage in the U.S. nuclear industry, including the following:

- Theft or attempted theft of NRC-licensed special nuclear material.
- Sabotage or attempted sabotage of NRC-licensed nuclear facilities or NRC-licensed transportation activities.
- Attacks on NRC-licensed nuclear facilities or activities.
- Credible threats involving NRC licensed facilities, materials, or activities.

III. Responsibilities

A. THE FBI

The FBI derives the authority to investigate criminal matters related to NRC licensed facilities, materials, or activities from the Atomic Energy Act of 1954, as amended; Title 18, Section 831 "Prohibited transactions involving nuclear materials," and other Federal statutes as may be applicable. The FBI has been designated as the lead agency for coordinating the Federal Response to acts of terrorism within the United States by National Security Decision Directive (NSDD) Number 207 and the National System for Emergency Coordination (NSEC).

It is therefore understood that the FBI shall:

1. Provide to NRC, intelligence information concerning possible criminal acts relative to the security of nuclear facilities, materials, activities.
2. Notify NRC when allegations of a serious nature arise, or derogatory information is developed involving licensee personnel occupying positions considered critical to the safety and security of nuclear facilities or activities.
3. Investigate ongoing nuclear-related threat situations; advise NRC regarding the credibility and danger of such threats.
4. Establish liaison and develop contingency response plans with pertinent local law enforcement agencies to ensure effective and coordinated law enforcement response operations.
5. In accordance with the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986, conduct identification and criminal history records checks on individuals with unescorted access to NCR-licensed nuclear power plants or access to Unclassified Safeguards Information.
6. Establish liaison with pertinent NRC Headquarters staff, NRC regional offices, and licensed facilities to ensure effective information exchange, threat evaluation, and contingency response planning.

In the event of a nuclear threat incident the FBI shall:

7. Coordinate the Federal response to a nuclear threat incident involving NRC-licensed facilities, materials, or activities. The FBI will rely on the NRC on matters concerning public health and safety, as they relate to the nuclear facility, material, or activity.
8. Manage the law enforcement and intelligence aspects of the responded to a nuclear threat incident involving NRC-licensed facilities, materials, or activities.
9. Establish and maintain contacts and coordinate the incident response with other Federal and local law enforcement agencies and military authorities, as appropriate.
10. Ensure that all reasonable measures are provided to ensure the physical safety and security of all NRC personnel and equipment to be used in support of the incident. □
11. Promptly provide NRC with all information applicable to an assessment of a perpetrator's operational capability to carry out a threat.

□ Start Printed
Page 31198

12. At the scene of a nuclear threat incident, provide the necessary support, as may be needed by NRC personnel, in carrying out assigned operations and actions to protect the public from radiological hazards.

13. Request Department of Defense (DOD)/Civil Explosive Ordnance Disposal (EOD) resources, as appropriate.

B. THE NRC

NRC shall provide, to the extent compatible with its primary mission to protect the public's health and safety, as required by the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Omnibus Diplomatic Security Act and Anti-Terrorism Act of 1986, scientific and technical support to the FBI upon notification of the existence of a nuclear threat incident.

It is therefore understood that NRC shall:

1. Review and correlate intelligence information on possible criminal acts received from the FBI; evaluate potential adversary capabilities and trends as a basis for rulemaking, evaluations, and systems design.
2. When informed of an FBI investigation involving an NRC-licensed nuclear facility or activity, will promptly provide to the FBI investigating office a list of all positions considered critical to the safety and security of that facility or activity.
3. Establish liaison with FBI Headquarters staff and field office personnel to ensure effective information exchange, threat evaluation, and contingency response planning.
4. Support joint operational readiness planning between licensees and associated local law enforcement agencies for prompt law enforcement response assistance when needed at licensed facilities or activities.
5. Notify the FBI of threats involving NRC-licensed nuclear facilities, materials, or activities; assist the FBI in evaluating the nuclear aspects and the credibility of such threats, as appropriate.
6. Disseminate, with the approval of the FBI, to the affected licensees, alert and warning information received from the FBI about specific nuclear-related threats.

In the event of a nuclear threat incident, NRC shall:

7. Plan for and manage the public health and safety aspects of the response to a nuclear threat incident involving NRC-licensed facilities, materials, or activities.
8. Provide NRC field liaison and technical assistance to the FBI at the scene of an incident.
9. Evaluate the radiological hazards of the particular incident and provide technical assessment of any potential or actual impact upon the public health and safety.
10. Ensure that all reasonable measures are provided for the health and safety of all FBI personnel and equipment involved in the support of the incident.
11. Provide for the health and safety of the public from radiological hazards.

C. JOINT

The FBI and NRC shall:

1. Coordinate all proposed press releases related to nuclear threat incidents involving NRC-licensed facilities, materials, or activities.
2. Identify individuals assigned to fulfill the positions and responsibilities outlined in Section III of this agreement.
3. Handle all threat incident information with adequate security and confidentiality commensurate with national security guidelines and the standards for the preservation of criminal evidence.
4. Review and evaluate the events leading to and occurring during a nuclear threat incident for the purpose of improving upon future joint responses.
5. Exercise and test nuclear threat incident management procedures, equipment, and personnel.

IV. Standard Procedures

A. INITIAL NOTIFICATION

1. Nuclear threat incidents involving NRC-licensed facilities, materials, or activities may be reported to either the FBI, NRC, or others. Upon receipt of a reported threat, the agency informed shall immediately notify the other concerned agencies about the situation and exact information known.
2. The FBI and NRC will notify appropriate individuals and offices of any nuclear emergency in accordance with current procedures and agreements.

B. POINTS OF CONTACT

1. The FBI Special Agent in Charge of the responding FBI field office will take command of the field operations in a nuclear threat incident involving NRC-licensed facilities, materials, or activities. At the Headquarters level, a Special Agent may be designated to act as a liaison officer with the NRC Executive Team (ET).
2. The NRC Headquarters ET will convene and during the initial stage of the response will direct NRC activities. The Director may transfer authority for managing the NRC emergency response to the Director of Site Operations.
3. The FBI and NRC field representatives will coordinate and cooperate with each other in carrying out their respective responsibilities. The FBI and NRC representatives will report on the situation and make recommendations to their respective agencies regarding the need for additional assistance at the scene.
4. The FBI and NRC will maintain points of contact with the other Federal agencies involved in responding to a nuclear threat incident involving NRC-licensed facilities, materials, or activities.

V. Threat Assessment

1. NRC will provide scientific and technical advice for determining the credibility of specific nuclear threats and potential hazards associated with those threats.

2. NRC will endeavor to verify, with the cooperation of the Department of Energy and/or the Department of Defense, whether any source material, special nuclear material, or radioactive by-products, are missing or unaccounted for.

VI. Funding Responsibilities

Interested parties will each fund for the cost incurred in providing the necessary assistance required to meet the responsibilities defined in this MOU.

VII. Terms of Agreement

1. This Agreement will become effective immediately upon signature by all parties and shall continue in effect unless terminated by any party upon 120 days notice in writing to all other parties.

2. Amendments or modifications to this Agreement may be made upon written notice by all parties to the Agreement.

For the Federal Bureau of Investigation.

Dated: May 29, 1991.

William S. Sessions,

Director.

For the Nuclear Regulatory Commission.

Dated: March 13, 1991.

Kenneth M. Carr,

Chairman.

[FR Doc. 00-12300 (/a/00-12300) Filed 5-15-00; 8:45 am]

BILLING CODE 7590-01-M

PUBLISHED DOCUMENT

Dear FOIA Requester:

The FOIA Improvement Act of 2016, which was enacted on June 30, 2016, made several changes to the Freedom of Information Act (FOIA). Federal agencies must revise their FOIA regulations to reflect those changes by December 27, 2016. In addition to revising our regulations, we intend to update the Form 464, which we use to respond to FOIA requests.

In the interim, please see the comment box in Part I.C of the attached Form 464. The comment box includes information related to the recent changes to FOIA that is applicable to your FOIA request, including an updated time period for filing an administrative appeal with the NRC.

Sincerely yours,

Stephanie Blaney /S/

Stephanie Blaney
FOIA Officer