

MEMORANDUM OF UNDERSTANDING
BETWEEN THE UNITED STATES DEPARTMENT OF TRANSPORTATION AND
THE UNITED STATES NUCLEAR REGULATORY COMMISSION
FOR REGULATION OF SAFETY IN THE TRANSPORTATION OF
RADIOACTIVE MATERIALS

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Abstract. This agreement delineates the respective responsibilities of the Department of Transportation (DOT) and the Nuclear Regulatory Commission (NRC) for the regulation of safety in transportation of radioactive materials. It supersedes the existing agreement executed on March 22, 1973, between the DOT and the Atomic Energy Commission. Generally, the DOT is responsible for regulating safety in transportation of all hazardous materials, including radioactive materials, and the NRC is responsible for regulating safety in receipt, possession, use, and transfer of byproduct, source, and special nuclear materials. The NRC reviews and approves or denies approval of package designs for fissile materials and for other radioactive materials (other than low specific activity materials) in quantities exceeding Type A limits, as defined in 10 CFR Part 71.

Agreement Between the DOT and the NRC.

The Department of Transportation (DOT), under the Transportation of Explosives Act (18 U.S.C. 831-835), the Dangerous Cargo Act (R.S. 4472, as amended, 46 U.S.C. 170), Title VI and 902 (h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h)), the Department of Transportation Act (49 U.S.C. 1655), and the Hazardous Materials Transportation Act (49 U.S.C. 1801-1812), is required to regulate safety in the transportation of hazardous materials, including radioactive materials.

The Nuclear Regulatory Commission (NRC), under the Atomic Energy Act of 1954, as amended (42 U.S.C. Chapter 23), and Section 201 of the Energy Reorganization

Act of 1974, as amended (42 U.S.C. 5841), is authorized to license and regulate the receipt, possession, use, and transfer of "byproduct material," "source material," and "special nuclear material" (as defined in 42 U.S.C. 2014). The NRC authority to license air shipment of plutonium is further governed by P.L. 94-79.

For the purpose of developing, establishing, and implementing consistent and comprehensive regulations and requirements for the safe transportation of radioactive materials, and avoiding duplication of effort, the DOT and the NRC agree, subject to their respective statutory authorities, as follows. Terms used in this agreement are defined in 49 CFR Parts 100-199 and 10 CFR Part 71.

I. Development of Safety Standards

A. The DOT (in consultation with the NRC) will develop safety standards for the classification of radioactive materials; for the design specifications and performance requirements of packages for quantities of radioactive materials (other than fissile materials) not exceeding Type A limits and for low specific activity (LSA) radioactive materials; for the external radiation fields, labeling, and marking of all radioactive materials packages and vehicles; for the mechanical conditions, construction requirements, and tie-down requirements of carrier equipment; for the qualifications of carrier personnel; for the procedures for loading, unloading, handling, and storage in transit; for any special transport controls (excluding safeguards) necessary for radiation safety during

carriage; and for all other safety requirements except those specified in the next paragraph.

B. The NRC (in consultation with the DOT) will develop safety standards for design and performance of packages for fissile materials and for quantities of other radioactive materials (other than LSA materials) exceeding Type A limits in the following areas:

1. Structural materials of fabrication;
2. Closure devices;
3. Structural integrity;
4. Criticality control;
5. Containment of radioactive material;
6. Shielding;
7. Generation of internal pressure;
8. Internal contamination of packages;
9. Protection against internal overheating; and
10. Quality assurance of packaging design, fabrication, testing, maintenance, and use.

II. Adoption of Safety Standards and Regulations

A. The DOT will adopt regulations imposing on shippers and carriers subject to its jurisdiction those standards developed by the DOT and the NRC pursuant to Section I of this Memorandum of Understanding and any additional requirements necessary to protect the public health and safety. The DOT will require NRC approval of designs of packages for shipment of

fissile materials and other radioactive materials in quantities exceeding Type A limits (except LSA materials) by all persons subject to the jurisdiction of the DOT. The DOT will issue complete and comprehensive Federal regulations for the packaging and transportation of all radioactive materials as a part of its overall body of Federal regulations (49 CFR Parts 100-199) for the packaging and transportation of all hazardous materials.

B. The NRC will adopt packaging standards for fissile materials and for quantities of other radioactive materials (other than LSA materials) exceeding Type A limits and will adopt regulations imposing on its licensees administrative, procedural, and technical requirements necessary to protect the public health and safety and to assure the common defense and security.

C. The NRC will adopt procedures, standards, and criteria for approval of package designs and for approval of special transport controls proposed by the applicant for a given package design. The NRC will require its licensees to comply with the DOT regulations when those persons are not otherwise subject to the DOT regulations.

III. Package Review

A. The DOT will submit to the NRC for review the following package designs:

1. Specification containers. Approval by the NRC of package designs for fissile materials and for radioactive materials (other than LSA materials) in quantities exceeding Type A limits will be obtained before publication of such designs in the DOT regulations.

2. Packages with foreign certification. Approval by the NRC will be obtained before revalidation of the foreign certificates required in the DOT regulations for packages shipped between origins and destinations within the United States, except for import and export shipments. Approval by the NRC is not required if a package is used solely for export or import or if a package is authorized by the DOT regulations solely for transportation through or over the United States between origins and destinations outside the United States. The DOT has the responsibility for exercising discretion as to whether it requests NRC review of such packages.

3. Any package for which NRC evaluation is warranted in DOT opinion.

B. The NRC will evaluate package designs for fissile materials and for other radioactive materials (other than LSA materials) in quantities exceeding Type A limits and will, if satisfactory, issue approvals therefor (viz., a license, Certificate of Compliance, or other package approval) directly to the person requesting the approval.

IV. Inspection and Enforcement

A. Each agency will conduct an inspection and enforcement program within its jurisdiction to assure compliance with its requirements. The NRC will assist the DOT, as appropriate, in inspecting shippers of fissile materials and of other radioactive materials in quantities exceeding Type A limits.

B. The DOT and the NRC will consult each other on the results of their respective inspections in the areas where the results are related to the other agency's requirements, and each will take enforcement action as it deems appropriate within the limits of its authority.

V. Accidents and Incidents

A. The DOT will require of all carriers subject to its jurisdiction the notification and reporting to the DOT of accidents, incidents, and instances of actual or suspected leakage involving radioactive material packages if such an event occurs in transit and the DOT will promptly notify the NRC of such events.

B. The NRC will require of its licensees the notification and reporting to the NRC of accidents, incidents, and instances of actual or suspected leakage involving radioactive material packages if such an event occurs prior to delivery to a carrier for transport or after delivery to a

receiver. The NRC will encourage the Agreement States¹ and the DOT will encourage the non-Agreement States to impose incident reporting requirements on shippers and receivers subject to the States' jurisdiction.

C. In all accidents, incidents, and instances of actual or suspected leakage involving packages of radioactive material regulated by the NRC, the NRC will normally be the lead agency for investigating the occurrence and preparing the report of the investigation. The DOT may either participate, as appropriate, in the investigation with the NRC as the lead agency or conduct a separate investigation. Subsequent to each investigation involving radioactive material regulated by the NRC, the NRC and the DOT will jointly define the scope of the enforcement actions to be taken by each agency to assure that shippers and carriers are subject to concurrent and equivalent enforcement actions but not unduly subject to duplicate enforcement actions.

D. This section V does not affect the authority of the National Transportation Safety Board, which is independent of the DOT and the NRC, to receive accident reports and to investigate transportation accidents.

¹ States which have entered into an Agreement with the Atomic Energy Commission or the NRC pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, under which the NRC has relinquished to such States the majority of its regulatory authority over source, byproduct and special nuclear material in quantities not sufficient to form a critical mass.

VI. National Competent Authority

A. The DOT will be the national competent authority with respect to the administrative requirements set forth in the Regulations for the Safe Transport of Radioactive Materials of the International Atomic Energy Agency (IAEA). In issuing certificates of competent authority for the United States under those regulations, the DOT will require for certain packages other than DOT specification containers an NRC approval in accordance with Section III.A. of this Memorandum of Understanding. The NRC will provide to the national competent authority (DOT) technical support and advice pertaining to the transportation of radioactive materials.

B. The DOT will act as the representative of the United States to the IAEA and other international groups on matters pertaining to the administrative and safety regulatory aspects of transportation of radioactive materials. The NRC will provide technical support and advice to the DOT in this capacity.

VII. Exchange of Information

A. Prior to issuance of any regulations by either the DOT or the NRC involving transportation of radioactive materials, each agency will advise and consult with the other to avoid possible conflict in regulations and to assure that: (1) the regulations will afford adequate protection of the health and safety of the public; (2) the effect of these regulations will not be inimical to the common defense and security of the United States; and (3) the regulations are in the public interest.

B. The DOT and the NRC will exchange information, consult and assist each other within the areas of their special competence in the development and enforcement of regulations and procedures. Each agency will make available to the other, subject to security requirements and statutory provisions affecting the release of information, summaries of inspection records, investigations of serious accidents, and other matters relating to safety in the transportation of radioactive materials.

VIII. Working Arrangements

The NRC and the DOT will designate appropriate staff representatives and will establish joint working arrangements from time to time for the purpose of administering this Memorandum of Understanding.

IX. Effect

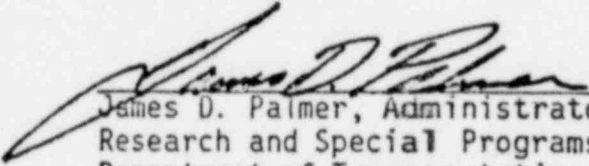
A. Nothing herein is intended to affect the statutory exemption of shipments of radioactive materials made by or under the direction or supervision of the Department of Energy or the Department of Defense in accordance with the provisions of 18 U.S.C. 832(c).

B. This agreement shall take effect upon the signing by authorized representatives of the respective agencies, and shall supersede in its entirety the March 22, 1973, Memorandum of Understanding between the DOT and the Atomic Energy Commission.

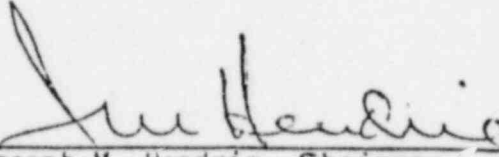
C. Nothing in this Memorandum of Understanding is intended to restrict the statutory authority of either the DOT or the NRC.

Done at Washington, D.C., in triplicate, this 8th day of June 1979.

FOR THE UNITED STATES DEPARTMENT OF
TRANSPORTATION


James D. Palmer, Administrator
Research and Special Programs Administration
Department of Transportation
for
Brock Adams,
Secretary of Transportation

FOR THE UNITED STATES NUCLEAR REGULATORY
COMMISSION


Joseph M. Hendrie, Chairman,
Nuclear Regulatory Commission