

MEMORANDUM OF UNDERSTANDING
BETWEEN THE FEDERAL AVIATION ADMINISTRATION
AND THE NUCLEAR REGULATORY COMMISSION

1.0 PURPOSE

The purpose of this memorandum is to provide a clear basis for contingency response planning, coordination, and cooperation between the Federal Aviation Administration (FAA) and the Nuclear Regulatory Commission (NRC) in order to deal effectively with threats against or hijacking of aircraft carrying NRC licensed special nuclear material (SNM) subject to NRC safeguards requirements as specified in 10 CFR Part 73, and hereinafter referred to as SNM. This memorandum supersedes the previous memorandum dated October 8, 1980.

Because the FAA has a primary statutory responsibility with regard to aircraft piracy situations and the NRC has a primary statutory responsibility for the safeguarding during transport of licensed SNM, the FAA and NRC cooperate fully in all incidents where their respective responsibilities are interrelated.

2.0 APPLICABLE AUTHORITY

2.1 FAA

The Air Transportation Security Act of 1974, Section 202 of Title II of Public Law 93-366, August 5, 1974, 88 Stat. 409, amends Title III of the Federal Aviation Act of 1958 as amended, 49 U.S.C. Chapter 20, to vest in the Administrator of the Federal Aviation Administration exclusive responsibility for the direction of law enforcement activity in aircraft piracy situations.

2.2 NRC

The NRC's authority for contingency planning and for regulation of SNM for security purposes derives from:

- (1) Title II, Energy Reorganization Act of 1974, Public Law 93-438, as amended, 42 U.S.C. 5841-51.
- (2) Atomic Energy Act of 1954, Public Law 83-703, as amended, 42 U.S.C. 2011 et seq.

3.0 AGENCY ROLES AND RELATIONSHIPS

3.1 FAA's Role with Respect to Incidents Concerning Licensed SNM.

The FAA has exclusive responsibility for the direction of any law enforcement activity for recovery of a hijacked aircraft while in flight. The FAA will include the NRC in its initial notifications regarding any potential (threatened) or actual aircraft hijacking of an aircraft determined to be carrying licensed SNM. The NRC will then assume a consultative role to the FAA throughout the aircraft recovery phase.

3.2 NRC's Role with Respect to Incidents Concerning Licensed SNM.

The NRC requires certain licensees to provide and maintain a physical security system, including contingency response plans and coordination with local law enforcement agencies, to protect nuclear materials against theft and sabotage. In the event an aircraft carrying licensed SNM is hijacked, the contingency role of the NRC would be to gather and assess information concerning the nuclear aspects of the situation, and cooperate with the FAA. The NRC also would consult and cooperate with other responsible Federal agencies in order to recover the SNM.

3.3 Contingency Response Coordination and Cooperation

The NRC, Division of Safeguards and Transportation, Transportation Branch, will provide the FAA Civil Aviation Security Watch Center all schedules and subsequent changes of schedules of air shipments of Category I and Category II SNM in as timely a manner as possible. When information concerning an actual or threatened hijacking or other type of aircraft incident is received by the FAA, the FAA Civil Aviation Security Watch Center will verify if the plane involved was scheduled to carry Category I or II licensed SNM. If so, the FAA will immediately notify the NRC Operations Center (301) 951-0550. Likewise, the NRC Operations Center will immediately notify the FAA Civil Aviation Security Watch Center, (202) 267-3099, about any hijacking of an aircraft carrying SNM that is reported through NRC channels that has not been reported to the NRC by the FAA.

Depending upon the specific situation, the NRC may send representatives to the FAA Civil Aviation Security Watch Center to advise the FAA as necessary, concerning the licensed SNM and to expedite information exchange between the FAA and NRC concerning the situation. The FAA may likewise place representatives at the NRC Operations Center.

The NRC and FAA will consult as necessary to arrange for effective implementation of the contingency response procedure, and to exchange information assessments concerning threats and potential adversaries of concern.

3.4 Information Exchange

NRC and FAA agree to exchange information on matters of mutual concern. Threats related to FAA statutory responsibilities which are also directed against any NRC licensed activities will also be forwarded to the NRC Operations Center.

4.0 PUBLIC INFORMATION RELEASES

When a hijacking incident involves SNM subject to NRC jurisdiction, public information and media releases in that regard will be coordinated between the two agencies.

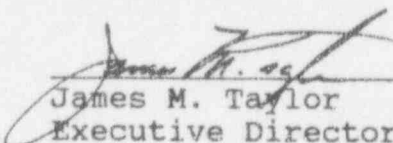
5.0 IMPLEMENTATION, RESTRICTIONS, AND TERMINATION

This Memorandum of Understanding will take effect and will constitute termination of the previous Memorandum of Understanding dated October 8, 1980, when it has been signed by the authorized representatives indicated below for each agency. Nothing herein should be construed as an alteration or revision of procedures set forth in any other memoranda or documents. It may be terminated by either the FAA or the NRC upon written notification by either party to that effect.

FOR THE FEDERAL AVIATION
ADMINISTRATION

FOR THE NUCLEAR REGULATORY
COMMISSION


O. K. Steele
Assistant Administrator of
Civil Aviation Security


James M. Taylor
Executive Director
for Operations

Date: 1/5/93

Date: 12/8/92

Mr. Richard Sanderson
 Director
 Office of Federal Activities
 U.S. Environmental Protection Agency
 401 M Street, SW
 Washington, DC 20460

DEC 09 1993

Dear Mr. Sanderson:

As requested in your November 10, 1993, letter, I have signed the enclosed framework for technical cooperation between the Nuclear Regulatory Commission and the Environmental Protection Agency (EPA) concerning the development of the Generic Environmental Impact Statement for the rulemaking to establish radiological criteria for decommissioning of NRC-licensed facilities. In signing this letter, NRC notes that the framework will not abrogate, alter, or in any way modify existing or future licensing or other regulatory requirements, any enforcement action, or other enforceable agreements, nor will it alter NRC's responsibilities under the National Environmental Policy Act or NRC's requirements in 10 CFR Part 51.

The technical exchanges between our agencies in support of NRC's rulemaking and EPA's standards development have been productive and open. NRC looks forward to such continued cooperation over the next several years.

Sincerely,

Original signed by
 Robert M. Bernero

Robert M. Bernero, Director
 Office of Nuclear Material
 Safety and Safeguards

Enclosure: As stated

cc: Margo Oge, EPA/ORIA
 Susan Offerdal, EPA/OFA
 Francis Cameron, NRC/OGC
 Bill Morris, NRC/RES

TICKET: NMSS 93-00586

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