

PR 37  
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INTERNATIONAL SOURCE SUPPLIERS  
AND PRODUCERS ASSOCIATION

January 5, 2009

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Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
ATTN: Rulemakings and Adjudications Staff

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Subject: RIN 3150-A112 Comments on Preliminary Draft Language Part 37  
Physical Protection of Byproduct Material

I am submitting these comments concerning the preliminary draft language for the physical protection of Category 1 and 2 materials while being transported to be contained in subpart D of the new Part 37 on behalf of the International Source Suppliers and Producers Association (ISSPA). ISSPA is an association that has been founded by companies that are engaged in the manufacture, production and supply of sealed radioactive sources and/or equipment that contain sealed radioactive sources as an integral component of the radiation processing or treatment system, device, gauge or camera. The mission of ISSPA is to ensure that the beneficial use of radioactive sources continues to be regarded by the public, the media, legislators, and regulators as a safe, secure, viable technology for medical, industrial, and research applications.

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ISSPA member companies have been subject to recently promulgated security regulations as well as the orders for implementing security measure enhancements and safeguarding sensitive information. ISSPA understands and appreciates the need to ensure that radioactive materials are adequately secured from potential criminal or terrorist threats. Its member companies have taken necessary precautions, whether mandated by regulation or in a voluntary capacity as a result of internal risk assessment, to enhance the protections afforded to this material. At the same time we have come to appreciate that the resources required to implement and maintain security enhancement measures are also in demand to manufacture and distribute our products and to ensure that other radiation protection obligations are fulfilled.

ISSPA believes the NRC is moving in the right direction by consolidating the various security enhancement Orders in the regulations by developing a new Part 37 to Title 10 of the Code of Regulations and appreciates the opportunity to provide the following comments and information concerning the topics for discussion in the NRC Request for Public Comments.

Sincerely,

John J. Miller, CHP



INTERNATIONAL SOURCE SUPPLIERS  
AND PRODUCERS ASSOCIATION

## Comments to Preliminary Draft Language to Part 37 Physical Protection of Byproduct Material

### §37.3 Definitions

1. Include a definition for “Safe Haven” in §37.3 Definitions. In the context of this rule an appropriate definition may be: “A Safe Haven is a well lit and reasonably secure area such as a weigh station, military installation, law enforcement or fire department facility or interstate truck stop/travel center”.

Basis for change: The term safe haven is loosely defined by various agencies and states, in most cases the licensee will not be provided a list of approved safe havens and may not be granted access to safe havens such as military installations. If a list of safe havens isn’t provided then the licensee at least has a definition to use as a guide when identifying safe havens.

2. Delete the term “readily” in the definition Lost or missing licensed material.

Basis for change: The term is subjective.

3. Strengthen the definition for the “No-later-than arrival time”. Consider language such as:

*No-later-than arrival time* means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time should not be more than 24 hours later than the estimated arrival time, and may be adjusted during transit to account for travel conditions. For export shipments of Category 2 quantities, the receiving facility may be considered the airport/customs of the receiving country.

Basis for change: The draft language does not include an enforceable parameter. The shipper and receiver could establish a no-later-than arrival time that an inspector feels is too long, a 24 hour maximum time should be adequate to account for normal delays in transit. The N-L-T arrival time should be adjustable once the shipment begins if weather conditions or vehicle breakdowns would result in the shipment to miss the original N-L-T. For export shipments of Category 2 quantities, the final transport to the end user is typically arranged by the final end user and not the shipper. As this takes place in other countries it is outside the jurisdiction of the NRC. In addition, the shipper is usually not aware of these arrangements and therefore can not readily determine final arrival at the end user facility.

## Rulemaking Comments

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**Cc:** 'MALKOSKE, Grant'; wolfgang.fasten@nuclitec.de  
**Subject:** Comments RIN 3150-AI12  
**Attachments:** ISSPA CommentsRIN 3150-AI12.pdf

Please accept the attached comments to the NRC's preliminary language to the draft proposed Part 37 rule on behalf of the International Source Suppliers and Producers Association.

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