

Rulemaking Comments

From: Merri Horn
Sent: Thursday, May 07, 2009 8:40 AM
To: Rulemaking Comments
Subject: FW: Part 37: Physical Protection of Byproduct Material (Subpart B)

DOCKETED
USNRC

May 7, 2009 (1:26pm)

From: Mohaupt, Tom [mailto:Tom.Mohaupt@STJUDE.ORG]
Sent: Wednesday, May 06, 2009 2:02 PM
To: Merri Horn
Cc: Gaut, James; Shulkin, Barry
Subject: Part 37: Physical Protection of Byproduct Material (Subpart B)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Re: Preliminary Draft Rule Language to Physical Protection of Byproduct Material (Part 37, Subpart B, April 2009)

Dear Ms. Horn,

The subject document on the NRC's website appears to codify two NRC Orders related to sources of concern and goes a few steps farther. As written, the rule can add significant, redundant expenses for licensees who've taken steps to comply with the current NRC orders. Please accept these comments for consideration in future drafts.

37.23 Program requirements, (a) Granting unescorted access authorization

- This rule addresses the access authorization process and sets a 60 day limit to validate collected personal information required for T&R Approval.

- Comments:

(1) Persons who currently have T&R approval in compliance with the two NRC Orders related to sources of concern should be grandfathered (waived) from complying with this new rule. The more extensive background checks can be performed at the 10 year renewal interval. We've made significant expenditures in both time and money to comply with the NRC orders. Repeating these efforts would be a duplicate and unnecessary expense.

(2) Many of our persons with unescorted access have required more than 60 days to obtain approval. Several times it's taken more than 60 days to get the fingerprinting results from the NRC or reference verification. This requirement can add significant cost to the approval process when the process exceeds 60 days and must be repeated.

37.23 Program requirements, (b) Reviewing officials.

- This rule requires NRC approval for reviewing officials (presently called T&R Officials).

- Comment: T&R Officials like myself have gone through background checks and fingerprinting as required by the NRC Orders. It's not clear whether the T&R Official would need another background check and fingerprinting specifically for NRC review. Repeating these efforts would be a duplicate and unnecessary expense.

37.23 Program requirements, (c) Informed consent.

- This is a new requirement.

- Comment: The rule should be clear that informed consent is only required for new and renewed T&R approvals, and does not affect persons presently approved.

37.25 Background investigations, (a) Initial Investigations

- Specifies the elements of an acceptable background investigation; some elements are new.

- Comment(s):

(1) Once again persons who have T&R Approval in compliance with the two NRC Orders should be grandfathered to avoid redundant efforts and expenses.

(2) The current order allows persons who have been employed for over three years to go through a less rigorous approval process. This rule seems to do away with this process without explanation.

37.25 Background investigations, (a) Initial investigations, (4) Verification of education

- States that the licensee must verify the applicant participated in the education process during the claimed period.

- Comment: What is meant by "claimed period"? Is that within the past 5 years or ever?

37.25 Background investigations (a) Initial investigations, (10) Lack of response to a query

- states that former employers, educational institutions, etc., have 3 working days to respond to requests for information needed to comply with this rule.

- Comment: Rarely do these entities comply with this requirement now, especially regarding personal references. You might as well go directly to Plan B.

General Comment:

This is the third step in addressing security for sources of concern. The first NRC order was expensive and burdensome. The second order is much more expensive and consumes much more of my time. This proposed rulemaking will require vastly more resources in time and money. We are already "doing more with less"; this rule makes the adage "do much, much more with essentially nothing."

Tom

Thomas Mohaupt, M.S., CHP

Radiation Safety Officer

St. Jude Children's Research Hospital

262 Danny Thomas Place (Mail Stop 730)

Memphis, TN 38105-2794

901-595-2957

tom.mohaupt@stjude.org

Email Disclaimer: www.stjude.org/emaildisclaimer

Received: from HQCLSTR01.nrc.gov ([148.184.44.79]) by TWMS01.nrc.gov
([148.184.200.145]) with mapi; Thu, 7 May 2009 08:40:18 -0400
Content-Type: application/ms-tnef; name="winmail.dat"
Content-Transfer-Encoding: binary
From: Merri Horn <Merri.Horn@nrc.gov>
To: Rulemaking Comments <Rulemaking.Comments@nrc.gov>
Date: Thu, 7 May 2009 08:40:17 -0400
Subject: FW: Part 37: Physical Protection of Byproduct Material (Subpart B)
Thread-Topic: Part 37: Physical Protection of Byproduct Material (Subpart B)
Thread-Index: AcnOdLM26ymA2kzFSNO+2+oSX917BgAnDzaw
Message-ID:
<D841D501B2C4D244B75AB897F70C149499FC81FF56@HQCLSTR01.nrc.gov>
Accept-Language: en-US
Content-Language: en-US
X-MS-Has-Attach:
X-MS-Exchange-Organization-SCL: -1
X-MS-TNEF-Correlator:
<D841D501B2C4D244B75AB897F70C149499FC81FF56@HQCLSTR01.nrc.gov>
MIME-Version: 1.0