

PR 37
(74FR20235)

Comments, Rulemaking

June 9, 2009 (10:23am)

From: James Harris [jharris@kdheks.gov]
 Sent: Monday, June 08, 2009 4:59 PM
 To: Comments, Rulemaking
 Subject: RIN 3150-A112 Physical Protection of Byproduct Material comments

OFFICE OF SECRETARY
 RULEMAKINGS AND
 ADJUDICATIONS STAFF

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Please accept these comments to the new Part 37 subpart C

Comments or suggested changes are underlined.

37.1201 Security program

(b) *General performance objective.* The licensee's security program shall be designed to monitor, and without delay detect, assess, and respond to actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.

Add: "actual or attempted" before unauthorized access

37.1203 General program requirements.

(c)(2) All individuals identified in accordance with subsection (c)(1) of this section shall be:

- (i) Instructed in the licensee's security program and procedures to secure Category 1 or Category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;
- (ii) Instructed in their responsibility to report promptly to the licensee any condition that may cause or lead to a violation of Commission regulations and licenses;
- (iii) Instructed in their responsibility to report promptly to the LLEA and licensee any actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material; and
- (iv) Instructed in the appropriate response to alarms.

Change second (ii) to (iii) – numbering error

37.1209 Monitoring, detection, and assessment.

(b) *Assessment.* Licensees shall assess without delay each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.

Add: "actual or attempted" before unauthorized entry

37.1211 Response.

Licensees shall respond without delay to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any actual or attempted unauthorized access involving an actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material, the licensee's response shall include requesting an armed response from the LLEA.

Add: "actual or attempted" before unauthorized access (2 places)

37.1213 LLEA coordination and notification requirements.

(a)(1)(iv) A request for information about the LLEA's capabilities to provide a timely armed response taking into consideration the description of the security measures provided in

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paragraph (a)(1)(ii) of this section;

change (b) to (a) – (b)(1)(ii) of this section describes notification not security measures

(b)(1)(i)(H) Names and contact information for the NRC Region or agreement state responsible for oversight of the licensee's activities at the temporary job site that the LLEA may contact for information; and

add: "or agreement state" after NRC Region

General comment on this section: The information required for training of LLEA appears to be safeguards information. As such there may be a conflict with the requirement for security of safeguards information.

37.1217 Reviews.

Each licensee that possesses Category 1 or Category 2 aggregated quantities of radioactive material shall conduct, at a frequency no greater than 12 months, a review of the radioactive material security program content and implementation, and document management's action on prior assessment recommendations.

Add: "aggregated" before quantities

37.1219 Testing and maintenance. Each licensee that possesses Category 1 or Category 2 aggregated quantities of radioactive material shall test and maintain intrusion alarms, physical barriers, and other systems used for securing and monitoring access to radioactive material as follows:

(a) Intrusion alarms, physical barriers, and other devices used for material protection shall be maintained in operable condition.

(b) Each intrusion alarm and associated communication system subject to § 37.1207 shall be inspected and tested for performance as described in the security plan required by § 37.1201(b) to detect actual or attempted unauthorized access to a security zone, but not less frequently than once every quarter.

Add: "aggregated" before quantities

Add: "actual or attempted" before unauthorized access

37.1221 Reports of events. If the licensing authority is an agreement state the licensing authority needs to be notified also.

37.1223 Document retention.

A licensee subject to this part shall retain and make available for inspection the documentation required by this Part as specified below, or until license termination:

(a) Current documentation of the security program and written procedures required by § 37.1203(a) and (b) shall be maintained at all times that a licensee is authorized to possess Category 1 or Category 2 aggregated quantities of radioactive material. The licensee shall retain the most recent previous versions of such program or procedures for 3 years after their replacement by the current program and procedures, or until the next **NRC** inspection, whichever is later;

(b) Documentation of the individual training, including descriptions and dates of training courses administered, certifications of completion by licensee personnel, and related information as required by § 37.1203(c) shall be retained for three years after the individual no longer requires unescorted access to the licensee's security zones, or until the next **NRC** inspection, whichever is later;

(c) Current documentation of licensee notifications and coordination activities with an LLEA as required by § 37.1213(c) shall be maintained at all times that a licensee is authorized to possess Category 1 or Category 2 aggregated quantities of radioactive material. The licensee shall retain the most recent previous version of such documentation for 3 years after its replacement by the current documentation, or until the next **NRC** inspection, whichever is later;

(d) Descriptions of instances of unauthorized access to security zones, analyses identifying

needed corrective actions, and documentation of corrective action commitments concerning such instances as required by § 37.1221(b) shall be retained for three years after the submittal of each such description, analysis, or documentation or until the next ~~NRC~~ inspection, whichever is later;

(e) Documentation of security program reviews as required by § 37.1217, and the testing and maintenance of systems used for securing and monitoring access to radioactive material as required by § 37.1219, shall be retained for three years after the completion of each such review, testing, or maintenance activity or until the next ~~NRC~~ inspection, whichever is later.

Delete: "NRC" (5 locations)

Add: "aggregated" before quantities (2 locations)

James Harris, BS, RRPT
Environmental Scientist II
Bureau of Air and Radiation
Kansas Department of Health and Environment
1000 SW Jackson Suite 310
Topeka KS 66612-1366
jharris@kdheks.gov ** NEW e-mail **
785.296.6726
785.296.0984 - fax

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From: James Harris <jharris@kdheks.gov>

To: "'Rulemaking.Comments@nrc.gov'" <Rulemaking.Comments@nrc.gov>

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Thread-Topic: RIN 3150-AI12 Physical Protection of Byproduct Material
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Thread-Index: Acnoe+BY1W7Q8SFgQNSgWZfWbqTRWQ==

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