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LANSING



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Mr. Mark R. Shaffer, Director  
Division of Intergovernmental Liaison and Rulemaking  
Office of Federal and State Materials and  
Environmental Management Programs  
United States Nuclear Regulatory Commission  
Washington, DC 20555-0001

June 15, 2009 (7:50am)  
OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Dear Mr. Shaffer:

We appreciate the opportunity to review and comment on the preliminary draft rule language for Subpart C of the proposed 10 CFR Part 37 published in the May 1, 2009 Federal Register (RIN 3150-A112).

Several inconsistencies between NUREG-1379, Rev. 1, "NRC Editorial Style Guide" and the draft text were noted, as follows:

1. The Style Guide states, "Shall" and "will" are used for persons or organizations; "must" for inanimate objects." Contrary to the Guide:

- 30.32(l) "An application ... shall include ..."
- 37.1201(b) "The licensee's security program shall be designed ..."
- 37.1203(a)(2) "The licensee must ensure ..."
- 37.1203(a)(2)(iii) "This notification shall include ..."
- 37.1203(c)(1) "... the licensee must consider ..."
- 37.1203(c)(3) "... the individual must complete ..."
- 37.1203(c)(4) "Supplemental training shall be provided ... This training shall include:"
- 37.1205(a) "Temporary security zones shall be established ..."
- 37.1209(a)(2) "Monitoring and detection shall be performed ..."
- 37.1209(c)(2) "Alternate communications and data transmission systems shall not be subject ..."
- 37.1211 "... the licensee's response shall include ..."
- 37.1213(b)(1)(i) "Such advance notification shall include:"
- 37.1219(a) "Intrusion alarms, physical barriers, and other devices used for material protection shall be maintained ..."
- 37.1219(b) "Each intrusion alarm and associated communication system ... shall be inspected and tested ..."
- 37.1221(a) "Telephone calls to notify the NRC and Agreement State agency shall be made ..."
- 37.1221(a) "In no case shall the notification be later than 4 hours ..."
- 37.1223(a) "Current documentation of the security program and written procedures ... shall be maintained ..."
- 37.1223(b) "Documentation of the individual training ... shall be retained ..."
- 37.1223(c) "Current documentation of licensee notifications and coordination activities with an LLEA ... shall be maintained ..."

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- 37.1223(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 ..."
  - 37.1223(e) "Documentation of security program reviews ... and the testing and maintenance of systems used for securing and monitoring access to radioactive material ... shall be retained ..."
2. The Style Guide states, "Use numerals to express a unit of measurement, such as time or money. This usage does not affect other numerical expressions in a sentence. • 2 meters • 15 years." Contrary to the Guide:
- 37.1213(b)(1) "At least three business days prior to beginning work at temporary job sites where the licensee will use or store Category 1 or Category 2 quantities of radioactive material for more than seven consecutive calendar days, ..."
  - 37.1213(b)(1)(ii) "If an emergency or other unforeseen circumstance does not allow the licensee to provide three business days ..."
  - 37.1213(b)(2) "The licensee shall notify the appropriate NRC regional office listed in § 30.6(a)(2) of this chapter within three business days ..."
  - 37.1213(b)(3) "The licensee shall notify such NRC regional office within three business days ..."
  - 37.1223(b) "Documentation ... shall be retained for three years ..."
  - 37.1223(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 ..."
  - 37.1223(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 ..."

Michigan is currently revising its rules in preparation to file an application with the U.S. Nuclear Regulatory Commission (NRC) to become an Agreement State. We are using the plain language guidelines set forth in "Administrative Rules in Michigan: A Manual of Style and Procedures," in NRC's NUREG-1379, Revision 1, "Editorial Style Guide," and other plain language principles. Enclosed is a redraft in underline and strikethrough format of portions of the regulations proposed in the draft Federal Register.

If we can be of additional assistance, please contact me.

Sincerely,



Robert D. Skowronek, Chief  
Radioactive Materials Unit  
Radiological Protection Section  
Waste and Hazardous Materials Division  
517-241-1253

RDS:JK  
Enclosure

Michigan Department of Environmental Quality  
Waste and Hazardous Materials Division  
Radiological Protection Section

Comments on 10 CFR Part 37 Subpart C: Physical Protection of Byproduct Material

**Part 30 — RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL**

**§ 30.32 Application for specific licenses.**

(l) An application for a specific license to use, store, or transport a Category 1 or a Category 2 quantities quantity of radioactive material ~~shall include information concerning whether must describe~~ how the applicant's proposed security program meets the requirements in Part 37 of this chapter.

**§ 30.33 General requirements for issuance of specific licenses.**

In § 30.33, paragraph(a)(4) is revised to read as follows:

(4) The applicant satisfies any special requirements contained in parts 32 through 37 and 39 of this chapter; and

**Part 150 ---- EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274**

**Reciprocity**

**§ 150.20 Recognition of Agreement State licenses.**

In § 150.20, paragraph (b)(1), a new sentence is added after the first sentence to read as follows:

The licensee shall also file with the appropriate NRC regional office listed in § 30.6 of this chapter a copy of each notification required by § 37.1213(b)(1) of this chapter.

**§ 37.3 Definitions.**

*Access control* means a system for allowing only approved individuals ~~to have unescorted access to~~ the security zone, and for ensuring that approved individuals escort other individuals ~~with a need for needing~~ access ~~are escorted by approved individuals.~~

*Aggregated* means accessible by the breach of a common physical barrier, whether the material made accessible is a single sealed source, multiple sealed sources, or multiple sources of bulk radioactive material, if the quantity of the material within the common physical barrier equals or exceeds a Category 2 quantity.

*Approved Individual* means a person whom the licensee has determined to be trustworthy and reliable in accordance with Subpart B of this Part and who has completed the training required by § 37.1203(c).

*Category 1 quantity of radioactive material* means a quantity of radioactive material equal to or greater than the Category 1 quantity of any radioactive material listed in Appendix A. The aggregate activity of sources of the same radionuclide must be included when the total activity equals or exceeds a Category 1 quantity. If several radionuclides are aggregated, they ~~amount to~~ are considered a Category 1 quantity ~~when~~ if the sum of the ratios of the activity of each source is greater than or equal to 1. (For calculating the aggregated activity of multiple collocated sources, see Appendix A.)

*Category 2 quantity of radioactive material* means a quantity of radioactive material equal to or greater than the Category 2 quantity of any radioactive material listed in Appendix A. The aggregate activity

of sources of the same radionuclide must be included when the total activity equals or exceeds a Category 2 quantity. If several radionuclides are aggregated, they ~~amount to~~ are considered a Category 2 quantity ~~when~~ if the sum of the ratios of the activity of each source is greater than or equal to 1. (For calculating the aggregated activity of multiple collocated sources, see Appendix A.)

*Diversion* means the unauthorized movement of radioactive material subject to this Part to a location different from the material's authorized destination inside or outside of the site ~~at which~~ where the material is used or stored.

*Escorted Access* means the accompaniment by an Approved Individual who maintains line-of-sight surveillance at all times over an individual who is not approved for unescorted access when that individual is within a security zone.

*Isolation* means protection of Category 1 or Category 2 quantities of radioactive material by allowing access to security zones only through established access control points.

*Local law enforcement agency (LLEA)* means a government entity that has authority to make arrests and the capability to provide an armed response in locations where licensed Category 1 or Category 2 quantities of radioactive material are used, stored, or transported.

*Mobile device* ~~is~~ means a piece of equipment containing licensed radioactive material that is either: (1) mounted on wheels or casters, or otherwise equipped for moving without a need for disassembly or dismounting; or (2) designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

*Sabotage* means deliberate damage to a radioactive source or to an associated facility.

*Security zone* means any temporary or permanent area, determined and established by the licensee in accordance with § 37.1205, for the physical protection of Category 1 or Category 2 quantities of radioactive material.

*Temporary jobsite* means a location where licensed material subject to this Part may be used or stored other than a location owned or leased by the licensee.

### **Subpart C – Security and Incident Response** **§ 37.1201 Security program.**

#### *(a) Applicability.*

(1) Each licensee ~~that possesses~~ possessing an aggregated quantity of Category 1 or Category 2 radioactive material shall develop, establish, implement, and maintain a security program in accordance with the requirements of this subpart.

(2) A licensee ~~that is~~ authorized to possess, but does not possess, an aggregated quantity of Category 1 or Category 2 radioactive material shall develop a security program in accordance with the requirements of this subpart. Licensees A licensee referenced in this section ~~are~~ is not required to implement and maintain a security program until the licensee seeks to possess radioactive material that would equal or exceed a Category 2 quantity in accordance with paragraph (3) of this section.

(3) At least 90 days ~~prior to~~ before: i) ordering material that would cause the licensee to possess radioactive material that equals or exceeds a Category 2 quantity, or ii) aggregating radioactive material to a quantity that equals or exceeds a Category 2 quantity, each licensee shall develop a security program in accordance with the requirements of this subpart. At least 30 days before ordering material that would cause the licensee to equal or exceed a Category 2 quantity of radioactive material, or before aggregating material to a quantity that would equal or exceed Category 2, each licensee subject to this subpart shall implement and maintain the security program in accordance with this subpart.

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

(c) *Program features.* Each licensee's security program must include the program features, as appropriate, described in §§ 37.1203, 37.1205, 37.1207, 37.1209, 37.1211, 37.1213, 37.1215, 37.1217, and 37.1219.

(d) *Information submittal and notification.*

(1) By **(Insert date - 180 days - after the effective date of this final rule published in the Federal Register)**, each licensee that ~~possesses~~ possessing a Category 1 or Category 2 quantity of radioactive material on the effective date of this regulation shall submit information ~~concerning the licensee's compliance~~ describing how the licensee is complying with the requirements of this subpart.

(2) A licensee that is authorized to possess, but does not possess, an aggregated Category 1 or Category 2 quantity of radioactive material on the effective date of this regulation shall notify the NRC regional office listed in § 30.6 of this chapter no later than 90 days before placing an order for material that would cause the quantity of aggregated radioactive material in the licensee's inventory to equal or exceed a Category 2 quantity.

(3) A licensee possessing radioactive material that could be, but is not, aggregated to a Category 1 or Category 2 quantity on the effective date of this regulation shall notify the NRC regional office listed in § 30.6 of this chapter no later than 90 days before aggregating a quantity that equals or exceeds Category 2.

### § 37.1203 General program requirements.

(a) *Security plan.*

(1) Each licensee subject to the requirements of this subpart shall develop a written security plan. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this subpart. The security plan must at a minimum:

(i) Describe the measures and strategies to implement the requirements of this subpart;

(ii) Identify the security resources, equipment, and technology used to satisfy the requirements of this subpart;

(iii) Describe any site-specific conditions that affect how the licensee implements these requirements;

(iv) Describe a process for the implementation, revision, and oversight of the security plan, including approval of changes by the individual with overall responsibility for the security program; and

(v) Describe the means by which individuals implementing the security program will be kept informed of changes in the on-site storage, transfer, or use of this material.

(2) A licensee may revise its security plan as necessary to ensure the effective implementation of Commission requirements. The licensee must shall ensure that:

(i) ~~The revision has been reviewed and approved by the~~ individual with overall responsibility for the security program and licensee management has reviewed and approved the revision;

(ii) The affected individuals are instructed on the revised plan before the changes are implemented;

(iii) The licensee notifies the appropriate NRC Regional Office listed in § 30.6 and affected local law enforcement agencies (LLEAs) within 6 months after the revision is made. This notification ~~shall include information concerning the continued compliance of the~~ must describe how the licensee's security plan complies with the requirements of this Part; and

(3) The licensee shall retain a record of each security plan revision in accordance with §37.1223.

(b) *Implementing procedures.*

(1) The licensee shall develop and maintain written procedures that document how the requirements of this subpart and the security plan will be met.

(2) The licensee shall ~~provide~~ have a process for the written approval of implementing procedures and revisions by the individual with overall responsibility for the security program.

(c) *Training.*

(1) Each licensee shall conduct training on the security plan to ensure that those individuals responsible for implementing the security plan possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. In determining those individuals ~~who shall to~~ be trained on the security plan, the licensee ~~must shall~~ consider the individuals' assigned activities during authorized use and situations involving actual or attempted theft, diversion, or sabotage of a Category 1 or a Category 2 ~~quantities~~ quantity of radioactive material that can reasonably be expected to occur during the life of a licensed facility. The extent of these instructions must be commensurate with the individual's potential involvement in the security of Category 1 or Category 2 quantities of radioactive material as detailed in the licensee's security plan.

(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 a Category 1 or a Category 2 ~~quantities~~ quantity of radioactive material; and

(iv) Instructed in the appropriate response to alarms.

(3) Before an individual is ~~permitted to have~~ allowed unescorted access to Category 1 or Category 2 quantities of radioactive material, the individual ~~must shall~~ complete the training requirements in paragraph (c) of this section.

(4) Supplemental training shall must be provided at a frequency not to exceed 12 months, or when significant changes ~~have been~~ are made to the security program. This training shall must include:

(i) Review of the training requirements of paragraph (b) of this section, and any changes made since the last training;

(ii) Reports on any relevant security issues, problems, and lessons learned;

(iii) Relevant results of NRC inspections; and

(iv) Relevant results of the licensee's program review, audit, testing, and maintenance.

(5) The licensee shall maintain records of the initial and supplemental training as required by Subpart F of this Part.

### **§ 37.1205 Security zones.**

(a) Licensees shall ensure that all aggregated Category 1 and Category 2 quantities of radioactive material are used or stored within licensee-established security zones. Security zones may be permanent or temporary. Temporary security zones shall must be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.

(b) Security zones must, at a minimum, allow unescorted access only to approved individuals through:

(1) Isolation of Category 1 and Category 2 quantities of radioactive materials by ~~the use of~~ continuous physical barriers that allow access to the security zone only through established access control points; or

(2) Direct control of the security zone by approved individuals at all times; or

(3) A combination of continuous physical barriers and direct control.

(c) For Category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, ~~provide~~ have an approved individual to maintain constant surveillance of sources in temporary security zones and in any security zone in ~~which~~ where physical barriers or intrusion detection systems have been disabled to allow such the activities.

### **§ 37.1207 Personnel access controls.**

(a) Licensees required to have security zones under § 37.1205 shall allow only Approved Individuals to have unescorted access to security zones.

(b) Service provider licensee employees shall be escorted unless the service provider licensee has provided written verification ~~has been provided by the service provider licensee~~ that the employee has been determined to be trustworthy and reliable by the required background investigation in Subpart B of this Part and the licensee has provided training to the service provider's employee in accordance with § 37.1203(c).

(c) An Approved Individual shall escort Personnel personnel who have not undergone the access authorization approval process but who require access to security zones to perform a job duty ~~shall be escorted by an Approved Individual.~~

(d) When a licensee determines that an Approved Individual no longer requires unescorted access to a security zone, the licensee shall immediately take measures to ensure that the individual ~~is unable to~~ cannot obtain unescorted access.

### § 37.1209 Monitoring, detection, and assessment.

(a) *Monitoring and detection.*

(1) Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into their security zones. Licensees shall ~~provide the~~ have a means to maintain continuous monitoring and detection capability ~~in the event of a loss of~~ if the primary power source is lost, or ~~provide for~~ initiate an alarm and response ~~in the event of a loss of~~ if this capability is lost.

(2) Monitoring and detection shall must be performed by:

(A) A monitored intrusion detection system ~~that is~~ linked to an on-site or off-site central monitoring facility;

(B) Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or

(C) Visual monitoring by video surveillance cameras or visual inspection by approved individuals or both.

(3) A licensee subject to this Subpart shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability must provide:

(i) For Category 1 quantities of radioactive material: immediate detection of any attempted unauthorized removal of the source from the security zone. Such This immediate detection capability must be provided by:

(A) ~~Use of electronic~~ Electronic sensors linked to an alarm; or

(B) Continuous visual surveillance by an approved individual.

(ii) For Category 2 quantities of radioactive material: weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the sources are present.

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

(c) *Personnel communications and data transmission.* For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:

(1) Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and

(2) Provide Have an alternative alternate communication capability for personnel, and an alternative alternate data transmission and processing capability, ~~in the event of a loss of~~ if the primary means of communication or data transmission and processing is lost. Alternate communications and data transmission systems shall must not be subject to the same failure modes as the primary systems.

### § 37.1211 Response.

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

### § 37.1213 LLEA coordination and notification requirements.

#### (a) LLEA coordination requirements.

(1) A licensee subject to this Subpart shall provide information to and coordinate, to the extent practicable practical, with the LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA must include:

(i) A description of the facilities and radioactive materials subject to this section;

(ii) A description of the licensee's security measures ~~that have been~~ implemented to comply with this subpart;

(iii) A notification that the licensee will request a timely prompt armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of a Category 1 or a Category 2 quantities quantity of material;

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

(v) A request to establish a means of direct communication with an LLEA-designated point of contact for security emergencies involving actual or attempted theft or sabotage of licensee materials; and

(vi) A request that the LLEA notify the licensee ~~whenever if~~ the LLEA's contact information is changed changes during the term of the licensee's authorization to possess Category 1 or Category 2 quantities of materials at the subject facility location.

(2) To the extent practicable practical, the licensee shall have a written agreement with the LLEA describing the LLEA's commitments to provide a response in accordance with this section. At a minimum, the licensee shall document its efforts to coordinate with the LLEA to provide a response to threats to the licensee's facility. The licensee's documentation must include:

(i) Dates, times, and locations of meetings with the LLEA;

(ii) Licensee personnel present; and

(iii) LLEA personnel present.

#### (b) LLEA notification requirements

(1) At least ~~three 3~~ 3 business days ~~prior to before~~ beginning work at temporary job sites where the licensee will use or store a Category 1 or a Category 2 quantities quantity of radioactive material for more than ~~seven 7~~ 7 consecutive calendar days, the licensee shall provide advance written notification to the appropriate LLEA.

(i) ~~Such This~~ This advance notification shall must include:

(A) An explanation that the licensee is required to provide this notification to the LLEA in accordance with this section;

(B) An explanation that the licensee will request an armed response from the LLEA ~~in the event of if~~ an actual or attempted theft, sabotage, or diversion of a Category 1 or a Category 2 quantities quantity of radioactive material occurs at the temporary job site;

(C) Information on the quantities of radioactive material involved and the potential hazards associated with loss of control of the material;

(D) Scheduled start date and expected duration of the licensee's work requiring the use or storage of a Category 1 or a Category 2 quantities quantity of radioactive ~~materials~~ material at the temporary job site for which this notice is provided;

(E) Address of the temporary job site, if available, or sufficient directions to allow the LLEA to determine the location of the temporary job site;

(F) Names and contact information for licensee personnel expected to be present at the temporary job site and responsible for the security of Category 1 or Category 2 quantities of radioactive material;



(G) Names and contact information for other licensee personnel to be contacted in ~~case of~~ an emergency or for additional information;

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

(I) A request that the LLEA confirm receipt of the notification.

(ii) If an emergency or other unforeseen circumstance does not allow the licensee to provide ~~three~~ 3 business days written advance notice to the LLEA the licensee shall notify the LLEA as soon as possible via telephone, facsimile, or e-mail.

(iii) The licensee shall maintain documentation of all temporary job site notifications sent to the LLEA and any confirmations provided by the LLEA.

(2) The licensee shall notify the appropriate NRC regional office listed in § 30.6(a)(2) of this chapter within ~~three~~ 3 business days after the licensee becomes aware of any applicable state or local agency requirement that an initial response to an emergency involving radioactive materials must be provided by other than armed LLEA personnel.

(3) The licensee shall notify ~~such~~ the NRC regional office within ~~three~~ 3 business days if the LLEA declines to respond to the licensee's coordination requests.

(c) The licensee shall maintain records of its coordination activities with any LLEA in the development of the licensee's security plan, and copies of all documents and correspondence provided to or received from any LLEA in accordance with this section.

#### **§ 37.1215 Requirements for mobile devices.**

Each licensee that ~~possesses~~ possessing a mobile devices device containing a Category 1 or a Category 2 ~~quantities~~ quantity of radioactive material shall:

(a) Have two independent physical controls to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and

(b) For devices in or on a vehicle or trailer, ~~utilize~~ use a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

#### **§ 37.1217 Reviews.**

Each licensee that ~~possesses~~ possessing Category 1 or Category 2 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.

The licensee shall coordinate with the LLEA in accordance with § 37.1213(a) of this subpart at a frequency no greater than 12 months, or when changes to the facility design or operation, or changes in the LLEA's response capabilities, adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

#### **§ 37.1219 Testing and maintenance.**

Each licensee that ~~possesses~~ possessing Category 1 or Category 2 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 must be maintained in operable condition.

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

#### **§ 37.1221 Reports of events.**

(a) After initiating an appropriate response to any actual or attempted theft, sabotage, or diversion of a Category 1 or Category 2 quantity of radioactive material, the licensee shall immediately notify the NRC Operations Center at (301)816-5100, and the appropriate Agreement State agency if the affected site is a temporary job site in an Agreement State. Telephone calls to notify the NRC and Agreement State agency shall must be made as soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event. In no case shall the notification be later than 4 hours after the discovery of any attempted or actual theft, sabotage, or diversion.

(b) Within 30 days of the occurrence, the licensee shall submit to the NRC, with a copy to the appropriate Agreement State agency if the temporary job site is in an Agreement State, a description of any actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material and an analysis identifying any necessary corrective actions to prevent future instances of such unauthorized access.

### **§ 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 if the license is terminated before the required retention period:

(a) Current documentation of the security program and written procedures required by § 37.1203(a) and (b) shall must be maintained ~~at all times that~~ when a licensee is authorized to possess Category 1 or Category 2 quantities of radioactive material. The licensee shall retain the most recent previous versions of ~~such the~~ the 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 must be retained for ~~three~~ 3 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 must be maintained ~~at all times that~~ when a licensee is authorized to possess Category 1 or Category 2 quantities of radioactive material. The licensee shall retain the most recent previous version of ~~such this~~ this 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 these~~ these instances as required by § 37.1221(b) shall must be retained for ~~three~~ 3 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 must be retained for ~~three~~ 3 years after the completion of each ~~such~~ review, testing, or maintenance activity or until the next NRC inspection, whichever is later.

## Comments, Rulemaking

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**From:** Skowronek, Robert (DEQ) [SKOWRONEKR@michigan.gov]  
**Sent:** Friday, June 12, 2009 4:42 PM  
**To:** Rulemaking Comments  
**Cc:** Strong, Thor (DEQ)  
**Subject:** RIN 3150-A112 Michigan Comments on Draft 10 CFR Part 37 Subpart C  
**Attachments:** RIN 3150-A112 Michigan Comments on Draft 10 CFR Part 37 Subpart C.pdf

Our comments are attached.

If we can be of additional assistance, please contact me.

Robert D. Skowronek, Chief  
Radioactive Materials Unit  
Radiological Protection Section  
Waste and Hazardous Materials Division  
517-241-1253

Received: from mail2.nrc.gov (148.184.176.43) by OWMS01.nrc.gov  
(148.184.100.43) with Microsoft SMTP Server id 8.1.358.0; Fri, 12 Jun 2009  
16:42:52 -0400

X-Ironport-ID: mail2

X-SBRS: 5.3

X-MID: 3452260

X-IronPort-AV: E=Sophos;i="4.42,211,1243828800";  
d="pdf?scan'208,217";a="3452260"

Received: from coreosmtp2.state.mi.us (HELO smtpout.michigan.gov)  
([136.181.192.12]) by mail2.nrc.gov with ESMTP; 12 Jun 2009 16:42:30 -0400

Received: from corexsmtp1.som.ad.state.mi.us ([10.42.124.17]) by  
COREOSMTP2.som.ad.state.mi.us with InterScan Message Security Suite; Fri, 12  
Jun 2009 16:42:27 -0400

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Subject: RIN 3150-AI12 Michigan Comments on Draft 10 CFR Part 37 Subpart C

Date: Fri, 12 Jun 2009 16:42:27 -0400

Message-ID:

<16F40A68F887AD46B10ED20F418EECD0ABFF00@HCS084EXCHPE006.som.ad.state.mi.us>

X-MS-Has-Attach: yes

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Thread-Topic: RIN 3150-AI12 Michigan Comments on Draft 10 CFR Part 37 Subpart C

Thread-Index: Acnrnkwan+PW6Nd4QvaDcUyejJqrWA==

From: "Skowronek, Robert (DEQ)" <SKOWRONEKR@michigan.gov>

To: <Rulemaking.Comments@nrc.gov>

CC: "Strong, Thor (DEQ)" <STRONGT@michigan.gov>

Return-Path: SKOWRONEKR@michigan.gov

X-OriginalArrivalTime: 12 Jun 2009 20:42:27.0601 (UTC) FILETIME=[4C67F010:01C9EB9E]