



11

TO: Nuclear Regulatory Commission

DOCKETED  
USNRC

FROM: Michael A. Charlton, CHP, LMP, CSP, CIH, CHMM  
Trustworthy & Reliability Officer  
University of Texas Health Science Center at San Antonio

August 31, 2010 (11:21am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

DATE: August 30, 2010

Below are the comments and questions regarding the NRC Proposed Rules for ICs, Federal Register Volume 75, No. 114 dated June 15, 2010:

1. It is mentioned in the proposed rules that the already deemed reviewing official may continue to act in that capacity for an expanded set of persons. What is classified as an expanded set of persons?
2. Here are the requested comments on the following:
  - a. Is a local criminal history necessary with a FBI history? Response: The FBI history should be all encompassing and local history checks should only occur on a periodic basis.
  - b. Is credit history check valuable information? Response: The credit history check is not valuable information as an employer for access to the increased controls. The Centers for Disease Control do not perform credit history checks on select agent approvals and the IC process should be similar. At this point in time the process is extensive and how are the T&R officials responsible for reviewing credit histories? What would be considered an acceptable credit history? Who is going to pay for the credit history checks?
  - c. Do agreements states have the authority to require a credit history check? Response: At this point in time, if a place of employment does not have the authority to perform the credit history check then the agreement states would not have the authority.
  - d. What are appropriate elements of a background check? Response: Employment history, education history, and reference check are appropriate elements in addition to the FBI history check.
  - e. What elements of the background investigation are too subjective? Response: Credit history checks are very subjective.
  - f. How much time does a licensee typically spend on conducting this process? Response: The review process takes up to a month when waiting for an FBI history check.
3. Security Plan – if your license is authorized for a couple of sources that total up above the Category 2 limit then it would be required that a security plan is in place but not implemented if they are at different sites.
4. It is mentioned that refresher training would need to be provided at **least once every 12 months** or when significant changes have been made to the security program. Once every 12 months might become cumbersome when you have quite a few employees who have access to these items.
5. There is a mention for security zones and that licensees would need to verify the presence of radioactive materials through weekly physical checks. Is a tamper device sufficient? Otherwise this is a cumbersome process to check weekly if we have monitoring devices in the room.
6. There is a requirement to coordinate with LLEA and give a description of the facility, radioactive materials, and security measures and notification that the licensee will request a timely and armed response to a theft, sabotage, or diversion of licensee radioactive materials. Licensee would need to **document its coordination efforts** including the dates, times, and locations of meetings, and a list of licensee and LLEA staff present at the meetings. **Required to update their security plans with affected LLEAs every 12 months.** If the LLEA has not responded to a request for coordination within 60 days or if the LLEA does not plan to participate then the licensee would have to notify the NRC regional office within 3 business days and the NRC will notify the DHS to contact the LLEA. Would the licensee be cited if the LLEA refused to meet on an annual basis? If the access controls, unit specific information, etc has not changed in the year, what is the need for the annual meeting?

Thank you for the opportunity to provide comments and questions regarding the proposed rules. If you need to contact me you can email me at [Charlton@uthscsa.edu](mailto:Charlton@uthscsa.edu).

## Rulemaking Comments

---

**From:** Gallagher, Carol  
**Sent:** Tuesday, August 31, 2010 8:30 AM  
**To:** Rulemaking Comments  
**Subject:** Comment on Physical Protection of Byproduct Material  
**Attachments:** NRC-2008-0120-DRAFT-0044.pdf

Van,

Attached for docketing is a comment from Michael Charlton on the above noted proposed rule (75 FR 33901) 3150-A112 that I received via the regulations.gov website on August 30, 2010.

Thanks,  
Carol

# PUBLIC SUBMISSION

<b>As of:</b> August 31, 2010
<b>Received:</b> August 30, 2010
<b>Status:</b> Pending_Post
<b>Tracking No.</b> 80b3eb96
<b>Comments Due:</b> October 13, 2010
<b>Submission Type:</b> Web

**Docket:** NRC-2008-0120  
Physical Protection of Byproduct Material

**Comment On:** NRC-2008-0120-0038  
Physical Protection of Byproduct Material

**Document:** NRC-2008-0120-DRAFT-0044  
Comment on FR Doc # 2010-13319

---

## Submitter Information

**Name:** Michael Charlton

**Address:**

7703 Floyd Curl Dr  
MSC 7928  
San Antonio, TX, 78229

**Submitter's Representative:** Jennifer Watson

**Organization:** UTHSCSA

**Government Agency Type:** State

**Government Agency:** UTHSCSA

---

## General Comment

See attached file(s)

---

## Attachments

**NRC-2008-0120-DRAFT-0044.1:** Comment on FR Doc # 2010-13319

Received: from HQCLSTR01.nrc.gov ([148.184.44.79]) by TWMS01.nrc.gov  
([148.184.200.145]) with mapi; Tue, 31 Aug 2010 08:30:44 -0400  
Content-Type: application/ms-tnef; name="winmail.dat"  
Content-Transfer-Encoding: binary  
From: "Gallagher, Carol" <Carol.Gallagher@nrc.gov>  
To: Rulemaking Comments <Rulemaking.Comments@nrc.gov>  
Date: Tue, 31 Aug 2010 08:30:12 -0400  
Subject: Comment on Physical Protection of Byproduct Material  
Thread-Topic: Comment on Physical Protection of Byproduct Material  
Thread-Index: ActJCEIkjJInMzXXQw6/P+sgySTwBw==  
Message-ID:  
<6F9E3C9DCAB9E448AAA49B8772A448C512DD5F3565@HQCLSTR01.nrc.gov>  
Accept-Language: en-US  
Content-Language: en-US  
X-MS-Has-Attach: yes  
X-MS-Exchange-Organization-SCL: -1  
X-MS-TNEF-Correlator:  
<6F9E3C9DCAB9E448AAA49B8772A448C512DD5F3565@HQCLSTR01.nrc.gov>  
MIME-Version: 1.0