



Arkansas Department of Health

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May 6, 2016

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Mail Stop: OWFN-12-H08
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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RULES AND DIRECTIVES
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12/1/2015

Subject: Request for Comments on Physical Security Requirements – 10 CFR part 37 (Docket ID NRC-2015-0109) (STC-16-032).

Dear Ms. Bladey,

Thank you for the opportunity to provide comments on the Physical Security Requirements – 10 CFR Part 37. The Arkansas Radiation Control Program supports the effort to possibly clarify the requirements of the regulation.

1. 10 CFR 37.25(a) (6) Background investigations read “The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual)...” The Department believes reference checks from independent sources do not provide any additional value to determining the character and reputation of the individual. There are so many other sources during the background investigation (e.g., fingerprinting, FBI identification, and criminal history records check, verification of true identity, employment and education history) which will provide the reviewing official the necessary information to have confidence in the individual’s character and reputation.

2. 10 CFR 37.25(2) (c) Reinvestigations reads “Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material.” The Department believes this provision provides licensees with a substantial number of individuals with unescorted access to category 1 or category 2 quantities of radioactive material sufficient time to complete reinvestigations without undo hardship.

More frequent reinvestigations may be conducted at the licensee’s discretion. The 10 year reinvestigation requirement is an adequate minimum.

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3. 10 CFR 37.43(c)(2) General Security Program Requirements reads "In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training must be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material. The first sentence concerning who shall be trained on the security program seems to exclude those individuals involved only in the protection of information. Individual(s) with this sole job duty may not be on-site where the category 1 or category 2 quantities of radioactive material are being used or stored but still must receive training. The Department proposes adding to §37.43(c)(2) individuals involved in the protection of information so as to better indicate who must receive security program training.

4. 10 CFR 37.43(d) (7) General Security Program Requirements, states "the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access". In order to be in agreement with 37.43(d)(1) states "Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to, and unauthorized disclosure, of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access." The Department recommends adding the list of individuals approved for unescorted access to be stored in the same manner as the security plan and implementing procedures to prevent unauthorized access.

5. 10 CFR 37.47(a) Security Zones reads "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." The Department recommends clarifying the definition of "security zone" to reflect that these zones are established by the licensee for the physical protection of category 1 or 2 quantities during use or storage. The Department believes there could potentially be some confusion in regards to category 1 or 2 shipments via a common carrier not requiring a "security zone".

6. 10 CFR 37.81(g) Reporting Events states "The initial telephonic notification required by paragraphs (a) through (d) of this section must be followed within a period of 30 days by a written report submitted to the NRC by an appropriate method listed in § 37.7. A written report is not required for notifications on suspicious activities required by paragraphs (c) and (d) of this section." "The report must set forth the following information: that a written report is required for notifications detailed in paragraphs (a) through (d) except regarding suspicious activities, but then the report contents only reference actual loss and actual theft." It appears the requirements are taken from Part 20 language. The Department recommends revising the requirements of a written report to include language that will capture "lost or missing" and "actual or attempted theft or diversion" to clarify the possible confusion as to what types of events require a written report.

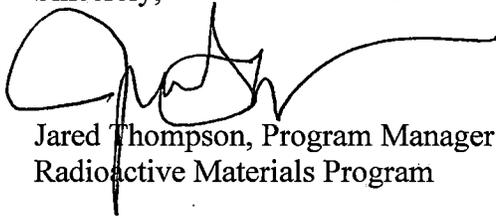
7. 10 CFR 37.45, "LLEA coordination," the Department, when working **with** Licensees have found this to be a regulatory challenge. Many LLEA are not responding or willing to provide the support Licensees are expecting to adequately meet the requirements.

Implementation Guidance Documents:

1. NUREG-2155, Annex A. The Department believes this Annex A does provide assistance for Reviewing Officials to make a determination if an individual should be T&R'd. It gives guidance and consistency to the process for Reviewing Officials, but gives them many things to consider when making determinations. The Annex was well developed and does clarify to Reviewing Officials the importance of background investigations and what to look for in a possible employee.
2. The wording of the ten year reinvestigation period cited in §37.25(c) does not seem to fully agree with the ten year period referenced in NUREG-2155 (such as pages 76 and 78). The Department suggests NUREG-2155 be revised to reflect "within 10 years of the date on which these elements were last completed" found in regulation. The NUREG states "after the initial determination" and "after given unescorted access" which is not the same as that found in §37.25(c).

Again, thank you for the opportunity to provide comments. If you have any questions, please contact me at (501) 661-2108 or by email at jared.thompson@arkansas.gov.

Sincerely,



Jared Thompson, Program Manager
Radioactive Materials Program

JT/se