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Physical Protection of Category 1 and Category 2 Quantities of Radioactive Materials

Comment On: NRC-2015-0109-0001

Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material; Request for Comment

Document: NRC-2015-0109-DRAFT-0012

Comment on FR Doc # 2016-05260

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Submitter Information

81 FR 13263
3/14/2016

Name: David Reindl

General Comment

See attached file

Attachments

STC-16-032 Wisconsin Comments

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RULES AND DIRECTIVES
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May 13, 2016

Cindy Bladey
Office of Administration
Mail Stop: OWFN-12-H08
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

RE: Comments on the Overall Effectiveness and Clarity of 10 CFR Part 37 and its Associated Guidance

Dear Ms. Bladey,

The State of Wisconsin, Radioactive Materials Program has reviewed the above document and submits the following comments:

The first section is in regard to the 12 questions provided by the NRC about 10 CFR Part 37, the questions are listed first and our answers are in **bold**. We have provided another section regarding our comments that are independent of the questions provided by the NRC.

Subpart A—General Provisions:

1. Are the definitions (in 10 CFR 37.5, "Definitions") clear, unambiguous, and consistent with their usage in other parts of the regulations?

The definition for 'Mobile Device' could be changed so as not to share its name with a cell phone.

2. Is the rule clear as to when a licensee can use physical barriers to render aggregated sources below the category 2 aggregated quantity?

Yes

Subpart B—Background Investigations and Access Control Program:

3. Are the requirements of subpart B clear for use in determining individuals to be trustworthy and reliable?

a. The rule is not clear about how far back a licensee must go when verifying an applicant's educational history. The employment history section is clear (7 years) but the educational history only says "during the claimed period".

4. While the regulations provide the type of information that must be gathered before making a Trustworthiness and Reliability (T&R) determination, NUREG-2155 provides additional guidance on determining whether someone is T&R. Is the information in Annex A to NUREG-2155 adequate in helping a Reviewing Official make a T&R determination?

a. Nureg-2155, Annex A, should address whether/how the RO can share information from a FBI criminal history check with other T&R or non-T&R licensee employees (HR or legal staff).

b. Does the requirement in 37.23(b) mean that ROs must make the T&R determinations independently or can they seek input from HR or legal staff? NUREG-2155 currently only addresses background information disclosure based on a request; it does not address the RO being the initiator of the disclosure.

c. While the RO must make the final determination, some guidance on how much of the T&R process (investigation, approval etc.) may be delegated would be helpful.

Subpart C—Physical Protection Requirements During Use:

5. Do the requirements of subpart C clearly define what is needed to support the physical protection of licensed category 1 and category 2 quantities of radioactive material during use?
Yes

6. Which requirements in 10 CFR 37.45, "LLEA [local law enforcement agency] coordination," have you found to be instrumental in ensuring an adequate LLEA response, should an LLEA response be needed? Is there other information you think should be required to be shared with an LLEA?

10 CFR 37.45(a)(1)&2 are the most useful.

7. Isolation of category 1 and category 2 quantities of radioactive material by the use of continuous physical barriers that allow access to the security zone only through established access control points is required in 10 CFR 37.37, "Security zones." Is the rule clear as to what qualifies as an adequate physical barrier?

The rule itself is not exceptionally clear but this is explained more in depth in the 'Part 37 Q&A' questions provided.

8. Do the requirements in 10 CFR 37.57, "Reporting of events," clearly define a licensee's responsibility to notify the LLEA and the NRC's Operations Center?
Yes

Subpart D—Physical Protection in Transit:

9. Do the requirements of subpart D clearly define what is needed to support the physical protection of licensed category 1 and category 2 quantities of radioactive material in transit?

Yes

10. Are the requirements in 10 CFR 37.81, "Reporting of events," clear in defining the licensee's responsibility to notify LLEA and the NRC's Operations Center within 1 hour when a determination is made that a shipment of a category 1 quantity of radioactive material is lost or missing?

Yes

Implementation Guidance Documents:

Please specify the sections of NUREG-2155 and NUREG-2166 in your responses to the extent practicable.

11. How have you utilized NUREG-2155 to implement the 10 CFR part 37 regulatory requirements in order to protect your licensed category 1 and category 2 quantities of radioactive material? If utilized, are there certain areas of NUREG-2155 that you have found to be particularly useful? Are there areas of NUREG-2155 that you think could be clarified or supplemented to make it a more useful tool?

a. Nureg-2155 does not have any Q&As about education verification. There is no discussion of what constitutes "the claimed period" or whether licensees must verify education that occurred more than 7 years ago. How far back is necessary? In addition, there is no discussion of what constitutes "education". Is it only from high schools and accredited universities?

b. The reinvestigation section could be clearer; licensees have asked a multitude of questions regarding this section.

12. How have you utilized NUREG-2166 to implement the 10 CFR part 37 regulatory requirements in order to protect your licensed category 1 and category 2 quantities of radioactive material? If utilized, are there certain areas of NUREG-2166 that you have found to be particularly useful?

Nureg-2166 should include some information about T&R best practices.

Other Items

1. Some guidance on which ancillary personnel need to be T&R'd (HR representatives, lawyers, IT technicians, contractors etc.) would be useful and to what degree i.e. information + access or just information.

2. Do individuals who have the ability to subvert security systems that protect Category 1 or 2 quantities of material need to be T&R'd? An example of this would be a security guard or IT

technician that can manipulate keycard access.

3. Does lawyer confidentiality impact T&R requirements at all?

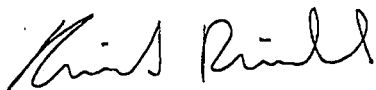
4. There is not enough concrete information for denying someone access due to adverse determinations. Understandably, this was written ambiguously but some additional guidance or examples may be useful to licensees.

5. There has been some confusion from licensees on accepting service providers T&R credentials. The requirement stipulates that this determination must be made in writing but some licensees have been making determinations verbally.

6. Under 10 CFR 37.77 "Advance Notification of Shipment of Category 1 Quantities of Radioactive Material", it states that notification must be made to the NRC. Does the NRC actually want all of these notifications or was the intent for the notifications to be made to the appropriate governing body? (Agreement State or NRC). Do Agreement States need to be notified or just the NRC? Basically, who is the responsible party that needs to be notified?

7. While there are some issues outlined above, overall, 10 CFR Part 37 has been effective and clear in implementing the increased security requirements for Category 1 and 2 quantities of material.

Sincerely,

A handwritten signature in black ink, appearing to read "David Reindl". The signature is fluid and cursive, with the first name "David" and last name "Reindl" clearly distinguishable.

David Reindl
Nuclear Engineer
Radioactive Materials Program
State of Wisconsin