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 ADD: Paul Goldberg,
 Adelaide Giantelli, Paul
 Michalak, Gina Davis

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Docket: NRC-2018-0170

NUREG-2155, Revision 2, "Implementation Guidance for 10 CFR Part 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material"

Comment On: NRC-2018-0170-0001

Guidance for Implementation of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material

Document: NRC-2018-0170-DRAFT-0001

Comment on FR Doc # 2019-25163

Submitter Information

Email: kme@nei.org

Organization: Nuclear Energy Institute

General Comment

Industry Comments on Draft NUREG-2155, Revision 2, "Implementation Guidance for 10 CFR Part 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material," Docket ID NRC-2018-0170

Attachments

02-13-20_Industry Comments on NRC - NUREG 2155 Rev 2

WILLIAM R. GROSS
Director, Incident Preparedness
Facility Security Officer

1201 F Street NW, Suite 1100
Washington, DC 20004
P: 202.739.8123
wrg@nei.org
nei.org



February 13, 2020

Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Program Management, Announcements and Editing Staff

Submitted via Regulations.gov

Subject: Industry Comments on Draft NUREG-2155, Revision 2, "Implementation Guidance for 10 CFR Part 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material," Docket ID NRC-2018-0170

Project Number: 689

On behalf of the Nuclear Energy Institute's (NEI)¹ members (hereinafter referred to as industry), we provide the attached comments on draft NUREG-2155, "Implementation Guidance for 10 CFR Part 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material," as requested in the Federal Register, Volume 84, Number 224, dated November 20, 2019, for consideration by the NRC staff.

The changes to the NUREG include revisions to questions and answers and guidance related to general provisions in the rule, background investigations and access authorization programs, and physical protection requirements during use and in transit. The bulk of the changes appear to be editorial. Some existing questions and answers were revised, and additional questions and answers were added, to provide clarity.

NEI continues to support the petition for rulemaking we submitted on June 12, 2014. That petition requests the NRC amend regulations to "remove unnecessary and burdensome requirements on licensees with established physical security programs."

¹ The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

Program Management, Announcements and Editing Staff

February 13, 2020

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If you have any questions or require additional information, please contact Richard Mogavero, at (202) 739-8174 or rm@nei.org, or me.

Sincerely,

A handwritten signature in cursive script that reads "William R. Gross".

William R. Gross

Attachment: Industry Comments on Draft NUREG 2155, Revision 2, Implementation Guidance for 10 CFR Part 37, Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material

c: Michael Layton, Director, MSST
NRC Document Control Desk

**Industry Comments on Draft NUREG 2155, Revision 2,
Implementation Guidance for 10 CFR Part 37, Physical Protection
of Category 1 and Category 2 Quantities of Radioactive Material**

NUREG Language	Comments	Suggested Wording/Revision
<p>§ 37.25(c), Reinvestigations”</p> <p>Q2: What actions should I take if a reinvestigations is not completed within 10 years of the date on which the fingerprinting and FBI identification and criminal history records check were last completed for an individual granted unescorted access to Category 1 or Category 2 quantities of radioactive material?</p> <p>A2: If a reinvestigations is not complete within 10 years of the date on which the fingerprinting and FBI identification and criminal history records check were last complete, the individual no longer meets the access authorization requirements. In accordance with 10 CFR 37.23(e)(5), the licensee must remove the individual from the approved access authorization list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the radioactive material until the reinvestigation is completed.</p>	<p>The word “reinvestigations” in line 17 and 21 should be changed to “reinvestigation”.</p>	<p>§ 37.25(c), Reinvestigations”</p> <p>Q2: What actions should I take if a reinvestigation is not completed within 10 years of the date on which the fingerprinting and FBI identification and criminal history records check were last completed for an individual granted unescorted access to Category 1 or Category 2 quantities of radioactive material?</p> <p>A2: If a reinvestigation is not complete within 10 years of the date on which the fingerprinting and FBI identification and criminal history records check were last complete, the individual no longer meets the access authorization requirements. In accordance with 10 CFR 37.23(e)(5), the licensee must remove the individual from the approved access authorization list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the radioactive material until the reinvestigation is completed.</p>
<p>§ 37.27(c), “Procedures for Processing of Fingerprint Checks”</p> <p>A4: No. Licensees cannot use cards from other sources</p>	<p>A period needs to be added at the end of A4 sentence (line 19).</p>	<p>A4: No. Licensees cannot use cards from other sources.</p>
<p>§ 37.29(b), A2, Line 33 “...Entry, NEXUS, Secure Electronic Network for Travelers Rapid Inspetion (SENTRI), and...”</p>	<p>Misspelled word in line 33.</p>	<p>Change “inspetion” to “inspection”</p>

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NUREG Language	Comments	Suggested Wording/Revision
<p>§37.33(a)(b)(c), "Access Authorization Program Review"</p> <p>Q2: How do I ensure that I will meet the requirement to review the access authorization program "at least annually"?</p> <p>A2: Recognizing that some demands on a licensee's time and resources are beyond its control, the NRC will consider that the licensee is conducting a program review "at least annually" if it conducts such a review each year at about the same time.</p> <p>§37.55(a)(b)(c), "Security Program Review"</p> <p>Q2: What does the NRC mean by its requirement to review the security program content and implementation "at least annually"?</p> <p>A2: Recognizing that some demands on a licensee's time and resources are beyond its control, the NRC will consider that the licensee is conducting a program review "at least annually" if it conducts the review each year at about the same time of year. The licensee will comply if it reviews its program at regular intervals not to exceed 12 months.</p>	<p>The answers to Question 2 of these similar sections are inconsistent. This revision deleted the words "of year, not to exceed 12 months" at the end of the sentence in A2 of §37.33. These words were not deleted in A2 of §37.55. Both answers should be consistent.</p>	<p>Change §37.55(a)(b)(c), A2 to match wording in §37.33(a)(b)(c), A2.</p>
<p>§37.53, (Requirements for Mobile Devices", (a)</p> <p>Q4: If I have a Category 2 or higher mobile device, are the physical protection requirements in 10 CFR 37.53 the only ones that I</p>	<p>There are two number 4 questions and answers in this section.</p>	<p>Re-sequence the numbering.</p>

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<p>am required to implement?</p> <p>A4: No. Licensees must implement all physical protection requirements in 10 CFR Part 37, Subpart C. The requirements in 10 CFR 37.53 are in addition to the other physical protection requirements in Subpart C.</p> <p>Q4: If mobile devices are stored in one room, does that mean the licensee has an aggregated quantity of radioactive materials?</p> <p>A4: The regulation provides that licensees must consider radioactive materials aggregated if:</p> <ul style="list-style-type: none"> • Their total quantity at a single location equals or exceeds a Category 2 quantity using the sum-of-fractions method (see the Q&As on the definition of "aggregated" in 32 10 CFR 37.5); and • Breaching a common physical security barrier (e.g., a locked door at the entrance to a 34 storage room) would allow access to the radioactive material or devices that contain the radioactive material (see the Q&As on physical barriers in 10 CFR 37.47). <p>For example, if the licensee stores several mobile devices—each of which is below the Category 2 quantity threshold—in one room without any physical barriers between them, these devices would be considered aggregated if their combined activity equaled or exceeded the Category 2 threshold.</p>		

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NUREG Language	Comments	Suggested Wording/Revision
<p>§ 37.55, “Security Program Review”</p> <p>Q4: Can a licensee conduct their annual security program review at the same time as the annual audit of their radiation safety program, and if so, can the review and audit be documented together?</p> <p>A4: A licensee may conduct their annual security program review at the same time they conduct the annual audit of their radiation safety program, and may document both the review and audit together, if they choose to do so. Regardless of the timing and documentation of the security program review, in accordance with the requirements in 10 CFR 37.55, it should be clear that the security program review includes a review of the radioactive material security program content and implementation, and the documentation should reflect the review along with any recommendations.</p>	<p>The word requirements in A4, line 24, is misspelled.</p>	<p>Change “requirements” to “requirements”.</p>
<p>§ 37.5, “Definitions” <i>Telemetric position monitoring system</i> means a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.</p> <p>§ 37.79(b) “Shipment by Rail”</p> <p>Q2: What is a telemetric position monitoring system?</p>	<p>These sections are duplicative. § 37.79(b) provides more information than the definition in § 37.5.</p>	<p>Reword Q2 of § 37.79(b) as follows.</p> <p>Q2: What is the purpose of a telemetric position monitoring system?</p>

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NUREG Language	Comments	Suggested Wording/Revision
<p>A2: A telemetric position monitoring system is a data transfer system that captures, by instrumentation or by other measuring devices, information about the location and status of a shipment (i.e., transport vehicle or package) between the departure and destination locations. The gathering of this information permits the remote monitoring and reporting of the location of a transport vehicle or package. Systems that use radiofrequency identification or satellite-based global positioning technologies are examples of telemetric position monitoring systems</p>		