



Part 37 for Nuclear Power Plant Inspections

Protection of Information
(ML20209A553)

Office of Nuclear Reactor Regulation

Protection of Information

- Purpose: To familiarize inspectors with information protection requirements associated with the inspection of Part 37 such that nuclear security related information and personal information is properly protected during NRC inspections.
- Inspectors will:
 - Understand applicable requirements regarding protection of information pursuant to Part 37
 - Understand NRC information protection requirements of staff as they apply to Part 37 oversight

Licensee Requirements

1. Protect personal information gained from background investigations
2. Protect security program information
 - Security Plan
 - Implementing Procedures
 - List of Authorized Individuals
3. Transportation
 - Protect schedule information associated with category 1 material shipments

Licensee Requirements – Personal Info

- Per 37.31 – Protection of information
 - **Establish and maintain a system of files and written procedures for protection from unauthorized disclosure of background investigation information**
 - Requirement stems from Section 149(c)(2)(D) of the AEA
 - Unauthorized disclosure (page 98 of NUREG 2155 and 37.31(b)) = disclosure to unauthorized person, i.e. not ...
 - The subject
 - The subject's representative
 - An authorized representative of the NRC
 - The Reviewing Official
 - Licensees may share background investigation information if
 - Upon **individual's written request** to holder AND if the **recipient verifies info** is correct for the person whose file is being transferred

“protected information”

Authorized individuals
per 37.31(b)

Licensee Requirements – Security Info

- Per 37.43(d) – Protection of Information

- **Licensees must limit access to, and unauthorized disclosure of, their...**

- Security plans
 - Implementing procedures
 - Lists of individuals approved for unescorted access

“protected information”

- **Licensees must have written procedures and policies for...**

- Controlling **access** to protected information
 - Proper **handling** of protected information
 - Protection against unauthorized **disclosure**

What licensee procedures and policies should do

- **Licensees must evaluate need to know and determine an individual is trustworthy and reliable (documented) prior to granting access to protected information**

Licensee Requirements – Security Info

- Per 37.43(d) – Protection of Information
 - **Maintain a list of persons currently approved for access to protected information**
 - **Once access to protected information is no longer needed or an individual no longer qualifies for access...**
 - **Must remove from access list ASAP but NLT 7 days**
 - **Must take measures to ensure individual is no longer able to access protected information (e.g., change combinations, locks, passwords etc.)**
 - **73.70 provides analogous control requirements for records developed under Part 73 ("must protect against tampering and loss of control")**

Licensee Requirements - Transportation

- **Per 37.77(f) – Protection of Information (Transportation of Category 1 Material)**

- Individuals who receive schedule information of the kind provided in an advanced notification of a category 1 material shipment (per 37.77(b)) shall protect that information against unauthorized disclosure as specified in 37.43(d) of this part

“protected information”

37.77(b) - Information to be furnished in advance notification of shipment

- (1) The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;
- (2) The license numbers of the shipper and receiver;
- (3) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;
- (4) The point of origin of the shipment and the estimated time and date that shipment will commence;
- (5) The estimated time and date that the shipment is expected to enter each State along the route;
- (6) The estimated time and date of arrival of the shipment at the destination; and
- (7) A point of contact, with a telephone number, for current shipment information.

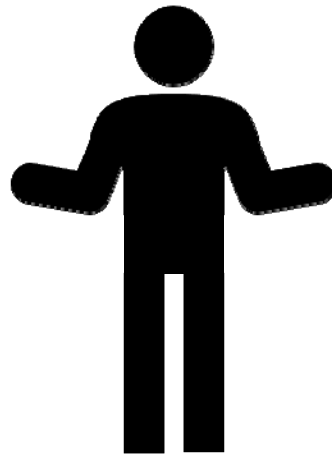
Question?

Is information protected under Part 37 considered safeguards information?



Answer

No. Why?



Easy Version – Def'n of Safeguards Information

- 73.2 – Information that specifically identifies a licensee's or applicant's detailed control and accounting procedures for
 - the physical protection of special nuclear material in quantities determined by the Commission through order or regulation to be significant to the public health and safety or the common defense and security;
 - detailed security measures (including security plans, procedures, and equipment) for the physical protection of source, byproduct, or special nuclear material in quantities **determined by the Commission through order or regulation to be significant to the public health and safety or the common defense and security;**
 - security measures for the physical protection of and location of certain plant equipment vital to the safety of production or utilization facilities; and
 - any other information within the scope of Section 147 of the Atomic Energy Act of 1954, as amended, the unauthorized disclosure of which, as determined by the Commission through order or regulation, could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of sabotage or theft or diversion of source, byproduct, or special nuclear material.

Part 37 does not invoke SGI or SGI-M requirements

Little Bit Harder...

- Licensees generally use Part 73 program features to satisfy Part 37 requirements
- Therefore, some Part 37 measures could be protected as safeguards information because they are also used within the context of the licensee's Part 73 plan and they meet the requirements for protection as SGI
- So what?
 - Need to be able to distinguish between what should be protected as SGI and what is protected information in a Part 37 context

Question?

How should information protected under Part 37 be marked?



Answer

Licensee:

If submitted to NRC (not common) documents should be marked as “Security-Related Information – Withhold Under 10 CFR 2.390”

Otherwise, it does not have to be marked, but it is a good practice for a licensee to do so (see page 142 of NUREG-2155)

NRC Staff:

Follow SUNSI marking policies (e.g., Portion marked Nuclear Security Related Information)



Licensee Requirements - Summary

	Protected Information	Summary of Requirements
Background Investigations and Access Control Program	Background Investigation/Personal Information 37.31	<ul style="list-style-type: none"> Establish and maintain a system of files and written procedures to protect from unauthorized disclosure May not disclose except to authorized individuals May share with other licensees with subject permission and verification 37.31
Physical Protection Requirements During Use	<ul style="list-style-type: none"> Security plan Implementing procedures List of individuals with unescorted access 37.34(d)	<ul style="list-style-type: none"> Must have written procedures and policies controlling access to protected information; ensuring proper handling of protected information; and protecting against unauthorized disclosure Establish need to know and determine/document T&R prior to granting access Maintain an updated list of personnel who have access to protected information Take action to remove people from the list within 7 days, as necessary, and take measures to remove access 37.43(d)
Physical Protection in Transit	Schedule information for category 1 material shipments provided pursuant 37.77(b) <i>Information to be furnished in advance notification of shipment</i> 37.77(f)	

NRC Requirements

- Part 37 protected information is to be treated as Sensitive Unclassified Non-Safeguards Information (SUNSI) when in NRC custody

SUNSI Categories

- **Privacy Act/Personally Identifiable Information**

- Background Investigation/Personal Information meets the description of

- **Nuclear Security Related Information**

- Security plans
- Security-related implementing procedures
- Lists of individuals who have been approved for unescorted access
- Information on the exact location of material (**note: more general than just schedule info referenced in 37.77(f)**)
 - Includes schedule information for category 1 shipments
- Documents containing SUNSI must be marked and access limited to those with “need to know”

NRC Requirements

- Inadvertent or Unauthorized Release of SUNSI
 - Per MD 3.4, “Release of Information to the Public,” the office director shall promptly inform the Executive Director for Operations (EDO) and the Office of the Inspector General (OIG)
 - Per MD 12.1, “NRC Facility Security Program,” NRC employees and contractors shall report all security incidents immediately following their occurrence or observed occurrence by completing and submitting an NRC Form 183, “Report of Security Incident”
- “No Comment” Policy for SUNSI
 - Should SUNSI appear in the public domain (e.g., newspapers) prior to the agency's official release of that information and should an NRC employee be contacted by an organization outside of the agency to confirm or deny either the accuracy or sensitivity of the released information, the NRC employee should respond to such a request with a "no comment" statement.

Protecting Information during Part 37 Inspections

- As an NRC inspector you have a need to know and are authorized access to the information
 - 37.31(d) – background investigation records
 - 37.105(b) – records kept by the licensee pertaining to its receipt, possession, use, acquisition, import, export, or transfer of category 1 or category 2 quantities of radioactive material
- Protect information as you would any SUNSI while in your possession (follow licensee policies while on site)
- When discussing Part 37-related issues in NRC inspection reports do not include protected information, for example do not include:
 - Background investigation/personal information
 - Security plan descriptions
 - Security implementing procedure
 - List of individual who have unescorted access
 - Category 1 material schedule information/information on exact location of material
- Discuss with management the need to develop a SUNSI annex to report, if necessary
 - See RIS 2005-31 for criteria

References

- 10 CFR Part 37
- NUREG 2155
- MD 12.6
- NRC Internal SUNSI Website
- RIS 2005-31, Rev 1 - Control of Security-Related Sensitive Unclassified Nonsafeguards Information Handled by Individuals, Firms, and Entities Subject to NRC Regulation of the use of Source, Byproduct, and Special Nuclear Material
- Guide to Marking Safeguards information (ML082530264)