



# COMMONWEALTH of VIRGINIA

## Department of Health

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May 13, 2016

George Smith  
Office of Nuclear Material Safety and Safeguards  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555

RE: Federal Register Notice, Request for Comments on Physical Security Requirements, 10 CFR Part 37 (NRC-2015-0109) (STC-16-032)

Dear Mr. Smith:

The Virginia Radioactive Materials Program (VRMP) has reviewed the subject document and respectfully submits the following comments specific to 10 CFR 37 security requirements. The numbers correspond to the questions in the Federal Register Notice.

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

Yes, the definitions are consistent with usage and definitions in other parts of the regulations.

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, but to be more clear, the definition could be improved by referencing the aggregation methodology listed in Appendix A.

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

Overall, yes, but the use of a “claimed period” for the education verification instead of the 7 years listed in 37.25(a) and in the employment history required by 37.25(a)(3) may lead to confusion.

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?

Yes, but VRMP recommends the Annex include language that licensees should inquire of previous employers as to whether they considered the individual to be trustworthy and reliable, and how they came to that conclusion.

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?

Virginia’s compatible regulations became effective on March 8, 2016. To date, an LLEA response has not been required under these regulations. The VRMP recommends that LLEA be provided with contact information for the Radioactive Material Program and the Emergency Management Program in the event that the licensee is non-responsive during a response.

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?

Yes.

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.

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.

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?

VRMP has made NUREG-2155 available to all applicable licensees and posted it on our website. VRMP believes that the NUREG is a useful tool but should be lessened in size. For example, the NUREG could be broken down into separate volumes for each subpart and reformatted to reduce the number of pages.

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?

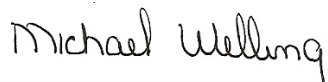
VRMP has made this available to all applicable licensees and posted it on our website for use.

13. Are there areas of NUREG–2166 that you think could be clarified or supplemented to make it a more useful tool?

No.

We appreciate the chance to comment on this subject, and stand ready to answer any questions you may have.

Sincerely,



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