

10 CFR Part 37 State Perspectives

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Positive Aspects of Part 37

- States were engaged early and often in the development of the rule and its guidance
- There were five State representatives on the working groups that developed the proposed rule
- There were four State representatives that participated on the Steering Committee for the rule (two as members and two as alternates); State working group reps were provided the opportunity to present their views to the Committee in areas of disagreement.
- States were provided the opportunity to comment on the draft proposed rule and there were changes made to the draft as a result of the comments

Positive Aspects of Part 37

- Rulemaking: better, more transparent method of regulation than Orders
- Irradiator Order (6/13/2003)
- M&D Order (1/12/2004)
- RAM QC Order (7/19/2005)
- Increased Controls Order (11/14/2005)
- Fingerprinting Order (12/5/2007)

State Concerns Regarding Part 37

- OAS July 8, 2010 comment letter
- Part 37 should reflect, not expand, on the Orders (“if it ain’t broke...”)
- Reviewing Official: Fingerprint? Approval?
- Expansion of T&R criteria to include credit history
- LLEA to notify licensee when the LLEA's response capabilities become degraded
- Advance written notification to the "appropriate LLEA" at least 3 business days prior to beginning work at temporary job sites where the licensee will be working for more than 7 consecutive calendar days.

Fingerprinting/Approving Reviewing Official

- “NRC should seek that authority and require fingerprinting of ROs...even if the RO does get fingerprinted, they should not have unescorted access themselves unless ... (have) a true need to be in the facility unescorted”
- “Radiation Control Program does not have any individuals with appropriate law enforcement experience, nor are we likely to obtain this expertise in the future”
- “The Reviewing Official who has been permitted access must also meet the requirement of having radiation safety training... The existing Increased Controls requirements for the Trustworthy and Reliable Official has worked well with no noted problems or instances of collusion.”

Inclusion of Credit Checks in T&R?

- “No, until it is clear what would be acceptable in a credit check it should not be included in the review”
- “Credit history checks would raise even more privacy concerns than the criminal history check”
- “Given the current economic environment, individuals’ credit history may not be truly reflective of an individual’s trustworthiness. Not everyone has good or perfect credit and not everyone will become a terrorist”

LLEA notify licensee when capabilities become degraded?

- “It would be more reasonable for the licensee to be required to periodically ask the LLEA if they are able to respond rather than requiring something of the LLEA which we don’t have the authority to do”
- “Why would LLEA want ANYONE to know that their response capabilities have become degraded? What message does that send out? Too much of this type of information compromises more than the security of RAM”

Notify LLEA for Temporary Job Sites?

- “First, by the nature of the business, they often do not know 3 days in advance. Second, if a licensee gives notification to a LLEA, it is very possible that the information will be relayed by police radio and then picked up on a scanner making the licensee’s work more vulnerable and less secure”
- “The coordination of security plans and notifications requirements of work at temporary jobsites is an extra burden to both the licensee and LLEA. Requiring the licensee to make these contacts with LLEA without any possible response from LLEA accomplishes nothing but aggravation and frustration for the licensee and LLEA”

CRCPD Poll on Part 37

- 29 states voted
- Fingerprint Reviewing Official?
- 62% Yes 38% No
- Regulator approve Reviewing Official?
- 31% Yes 69% No
- State authority to review criminal history?
- 31% Yes 69% No (3 states: no reply)

CRCPD Poll on Part 37

- Include a credit history evaluation as part of T&R determination?
- 31% Yes 69% No
- State authority to require a credit history check as part of T&R determination?
- 30% Yes 70 % No (2 states: no reply)

CRCPD Poll on Part 37

- LLEA notify the licensee whenever the LLEA's response capabilities become degraded or it becomes incapable of providing an armed response?
- 31% Yes 69% No

CRCPD Poll on Part 37

- Advance written notification to the “appropriate LLEA” at least 3 business days prior to beginning work at temporary job sites where the licensee will more than 7 consecutive calendar days?
- 38% Yes 62% No

CRCPD Poll on Part 37

- Poll results will be used to develop draft response letter for CRCPD Board
- There is still time for states to vote!

States' responses to Proposed Part 37

- OAS July 8, 2010 letter
- CRCPD response
- States need to submit own responses to proposed Part 37
- States that indicate that they lack authority regarding certain issues should provide details on this conclusion

- Questions?