

New Physical Security Event Notification and Suspicious Activity Reporting Rule

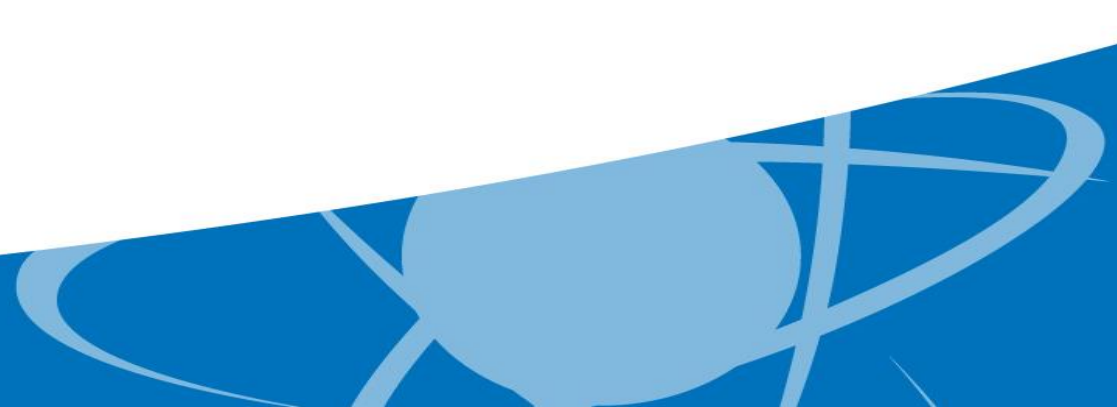
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Highlights

- Key Dates
- Reporting Requirements and Guidance
- Applicability
- Event Notifications
- Suspicious Activity Reporting
- Questions



Key Dates

- Rule published in the *Federal Register* (FR)
 - March 14, 2023 ([88 FR 15864](#))
- Effective date: April 13, 2023
- Compliance date: January 8, 2024



New Reporting Requirements

- **Four new sections in Title 10, Code of Federal Regulations (CFR) part 73:**
- Notification of Physical Security Events
 - [10 CFR 73.1200](#)
- Written Follow-up Reports of Physical Security Events
 - [10 CFR 73.1205](#)
- Recordkeeping of Physical Security Events
 - [10 CFR 73.1210](#)
- Suspicious Activity Reporting
 - [10 CFR 73.1215](#)



New Reporting Regulatory Guides



- Regulatory Guide (RG) 5.62 Revision 2, “Physical Security Event Notification, Reports, and Records” ([ML17131A285](#))
- RG 5.87, “Suspicious Activity Reports” ([ML17138A384](#))
 - Non-power production and utilization facilities are subject to the suspicious activity reporting requirements of 10 CFR 73.1215(d)
 - Non-power production and utilization facilities transporting spent nuclear fuel under 10 CFR 73.37 are subject to the suspicious activity reporting requirements of 10 CFR 73.1215(e)

Applicability of Event Notifications

- **10 CFR 73.1200, “Notification of Physical Security Events”**
 - One-hour notification for facilities
 - Licensees subject to the provisions of 10 CFR 73.20, 73.45, 73.46, 73.50, 73.51, 73.55, 73.60, or 73.67
 - Four-hour for facilities
 - Licensees subject to the provisions of 10 CFR 73.20, 73.45, 73.46, 73.50, 73.51, 73.55, 73.60, or 73.67
 - Eight-hour for facilities
 - Licensees subject to the provisions of 10 CFR 73.20, 73.45, 73.46, 73.50, 73.51, 73.55, 73.60, or 73.67

Event Notification



Previous: 10 CFR 73.71

73.71(b)(1): Licensees subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, or **73.60** shall notify the NRC Operations Center **within 1 hour** after discovery of the safeguards events described in paragraph I(d) of appendix G to this part.

73 Appendix G(I)(d) The actual or attempted introduction of contraband into a protected area, material access area, vital area, or transport.

New: 10 CFR 73.1200

73.1200(e)(1): Each licensee subject to the provisions of 73.20, 73.45, 73.46, 73.50, 73.51, 73.55, **73.60**, or **73.67** of this part must notify the NRC Headquarters Operations Center **within 4 hours** after time of discovery of the following facility security events involving—

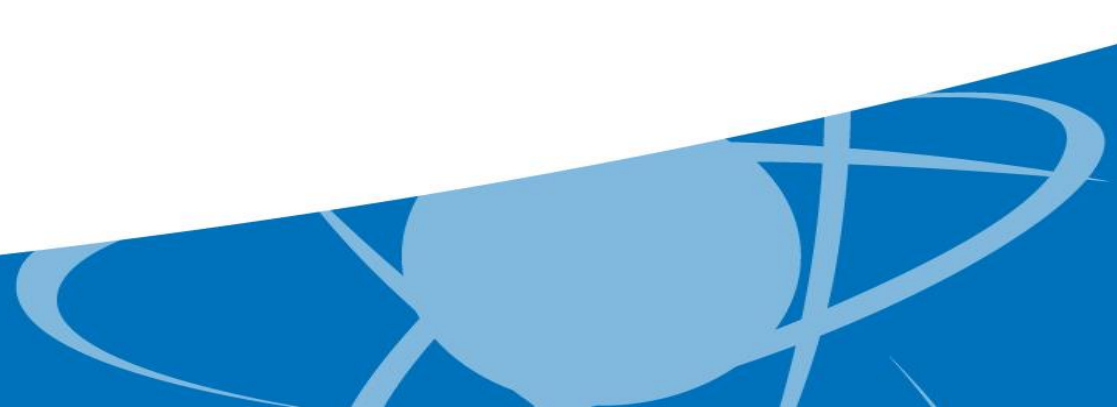
- (iii) The actual introduction of contraband into a PA, VA, or MAA;
- (iv) The attempted introduction of contraband into a PA, VA, or MAA.

An Example of an Event

- Under 10 CFR 73.1200(c)(1)(i)(A) a licensee is required to notify the NRC within 1 hour of any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a threat to commit or cause:
 - The theft or diversion of a Category I, II, or III quantity of Strategic Special Nuclear Material (SSNM) or a Category II or III quantity of Special Nuclear Material (SNM)
- This requirement refers the quantity of nuclear material possessed by a licensee, not the quantity of nuclear material that has been stolen or diverted
 - Applicability is to facilities that are licensed to possess Category I, II, or III quantity of SSNM or a Category II or III quantity of SNM
 - What must be reported is the attempted or actual theft of any SSNM or SNM

Notification Procedures

- Call NRC Headquarters Operation Center, (phone number is specified in Appendix A to 10 CFR Part 73) – 301-816-5100
- Notification process and info needed is specified in 10 CFR 73.1200(o) for event notifications
- Notification process is specified in 10 CFR 73.1215(c) for suspicious activity reports
- Written follow-up reports are due 60 days from the event notification and contents are specified in 10 CFR 73.1205(c)



Suspicious Activity Reporting

No Regulations

10 CFR 73.1215

- Security advisories and other guidance issued after 9/11 events
- Requested that such activity be voluntarily reported to the NRC
- (1) For licensees subject to the provisions of § 73.20, § 73.45, § 73.46, § 73.50, § 73.51, § 73.55, § 73.60, or § 73.67 of this part, the licensees must report activities they assess are suspicious. Examples include, but are not limited to, the following:
 - (i) Challenges to the licensee's security systems and procedures;
 - (iv) Observed surveillance activity from public spaces outside of the licensee's control;

Applicability of Suspicious Activity Report

- 10 CFR 73.1215 Suspicious Activity Reporting
 - For licensees subject to the provisions of 10 CFR 73.20, 73.45, 73.46, 73.50, 73.51, 73.55, 73.60, or 73.67
- If a suspicious activity requires a physical security event notification pursuant to 10 CFR 73.1200, then the licensee is not required to also report the occurrence as a suspicious activity
- 10 CFR 73.1215(c)(2)(ii): The licensee's assessment of a potential suspicious activity, and any discussion of this activity with its local law enforcement, does not constitute a conclusion, in and of itself, that the activity is suspicious.



What is Suspicious Activity?

- Examples can be found in 10 CFR 73.1215(d)(1), such as:
 - Activities that could be indicative of preoperational surveillance or reconnaissance efforts,
 - Elicitation of non-public information from knowledgeable licensee or contractor personnel regarding the licensee's security or emergency response programs;
 - (Observed surveillance activity from public spaces outside of the licensee's control;
- Regulatory Guide 5.87, "Suspicious Activity Reports Under 10 CFR Part 37" ([ML17138A384](#))
 - Contains both examples of suspicious activities that require reporting and other examples of activities for which a licensee may exercise discretion and not report the activity as suspicious



Implementation

- New reporting requirements for suspicious activity to law enforcement agencies and the NRC
- NRC inspections will focus on licensee's programmatic implementation of the new requirements, not on the conclusion for a specific event.
- "...it is not the NRC's intent to dispute a licensee's conclusions about whether an event is considered to be suspicious."
- Applicable to production or utilization facilities licensed under 10 CFR 50.21, or 10 CFR 50.22 (including both operating and decommissioning power reactors and non-power reactors)

Questions?

