



Department of Energy

Washington, DC 20585

August 20, 2013

MEMORANDUM FOR DISTRIBUTION

FROM:


LARRY D. WILCHER

DIRECTOR, OFFICE OF SECURITY

OFFICE OF HEALTH, SAFETY AND SECURITY

SUBJECT:

Clarification of Requirements for Certification in Title 10 Code of Federal Regulations Part 712, *Human Reliability Program*

The Human Reliability Program (HRP), a combination of two earlier programs (the Personnel Assurance Program and the Personnel Security Assurance Program), was codified in 2004 at Title 10 Code of Federal Regulations Part 712 (10 C.F.R. part 712). This program has been an important component of the nuclear safety and security structure for sites possessing Category I Special Nuclear Material (SNM). The Office of Health, Safety and Security has begun an initiative to substantially revise 10 C.F.R. part 712, but a major revision of a regulation can be a lengthy process. In this case, the revision will also require coordination with the Department of Defense to determine which portions of the program should be more closely aligned with their Personnel Reliability Program requirements.

In the meantime, there are aspects of the current rule that continue to require clarification as to the intent and the practical aspects of implementation. While these issues will be addressed in the revisions to the regulation, the interpretation below is provided to assist the sites in operating under the current regulation.

In consultation with the Department of Energy's General Counsel, it has been determined that the requirements in section 712.10(c) with regard to risk analysis should be applied to the positions requiring certification under section 712.10(a) as well as to those nominated in accordance with section 712.10(b). This means that the requirement for certification under section 712.10(a) is subject to an analysis meeting the criteria (for analysis) in section 712.10(c). When conducted in accordance with Departmental requirements, the broader analyses required for a site vulnerability analysis (e.g., insider threat analysis) and/or an analysis that supports the safety authorization basis may be used to satisfy the nuclear safety and security analysis requirements, respectively, in section 712.10(c). For organizations that are not required to conduct vulnerability analyses and/or prepare a safety authorization basis (certain site offices, for example), the analysis of employee positions



based upon managers' knowledge of individual tasks and the authorities granted those individuals could also meet the risk analysis requirement.

This clarification of the requirements of sections 712.10(a)-(c) presents an opportunity for sites to enhance the value of currently required analyses by using them to more closely align HRP certification to site-specific circumstances in addition to their primary purpose of supporting site security plans and safety authorization bases. In general, the requirement to certify an individual performing the duties delineated in section 712.10(a), as well as those selected for nomination under section 712.10(b), must be supported by adequate risk analysis. Only if such an analysis shows that a position **is not mitigated** by other elements of the site security and/or safety programs, does that position require certification under section 712.10. This clarification does not limit site management's authority to require certification for positions under section 712.10(b).

As a further clarification, if a position or an individual that falls under section 712.10(a) is shown by analysis to require certification, that position is not subject to the nomination procedure included in section 712.10(b). In all cases, a record of the analysis used should be preserved to demonstrate compliance with the rule.

This memo and examples of some situations that may arise will be published from time to time at the Office of Security Policy web site as S&S FAQs (http://www.hss.doe.gov/SecPolicy/SS_FAQs_new2.html), and the HRP page (<http://www.hss.doe.gov/DepPersonnelSec/hrp.html>). These examples will not establish policy, but will indicate the intent of the policy writers as to the implementation of the policy and will identify potential solutions to implementation concerns.

If you have questions or concerns regarding this matter, please contact Regina Cano, of my staff, at (301) 903-3473, or Richard Donovan at (301) 903-3022.

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