

**10 CFR Part 37**  
**Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material**  
**Implementation Plan**

## **Purpose**

This implementation plan outlines the actions necessary for the successful implementation of the 10 CFR Part 37 rulemaking. This rule captures the security measures<sup>1</sup> required by Nuclear Regulatory Commission (NRC) security orders issued to licensees that possess radioactive materials in quantities of concern (greater than International Atomic Energy Agency (IAEA) category 2). The draft rule also incorporates lessons learned during the implementation of those orders. The implementation plan is a living document that may be updated often before and during the implementation of the rule.

## **Background**

The NRC issued a series of orders to materials licensees following the terrorist attacks that occurred in the United States on September 11, 2001. The orders required licensees to implement compensatory measures, additional security measures or increased controls to enhance the protection of radioactive materials in quantities of concern. The orders were issued using a prioritized, risk informed approach. If the Commission approves the 10 CFR Part 37 rule, the security orders for the following groups of licensees will be rescinded:

- Panoramic Irradiators
- Manufacturers and Distributors (M&Ds)
- Licensees Transporting Radioactive Materials in Quantities of Concern (RAMQC)
- Recipients of Increased Controls (IC) Orders
- Fingerprinting (separate orders issued for each group above)

The orders are summarized in the following paragraphs.

### Panoramic Irradiators and Manufacturers & Distributors

The NRC issued the first series of orders to certain panoramic and underwater irradiator licensees that possessed more than 370 TBq (10,000 Ci) of radioactive material (EA-02-249; June 6, 2003) (68 FR 35458; June 13, 2003). The next series of orders were issued to certain M&D licensees (EA-03-225; January 12, 2004) (69 FR 5375; February 4, 2004). These orders contain safeguards information (SGI) and require the implementation of security measures and the protection of the licensee's physical protection information as Safeguards Information—Modified Handling (SGI-M). These orders were issued to both NRC and Agreement State licensees under the NRC's authority to protect the common defense and security.

### RAMQC Orders

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<sup>1</sup> The orders used a variety of terms (compensatory measures, additional security measures or increased controls) for the security requirements being imposed on the licensees. This implementation plan uses the terms "security measures" and "security requirements" interchangeably.

In 2005, the NRC issued orders enhancing security measures for the transportation of category 1 and category 2 quantities of radioactive material. The first set of transportation security orders were issued to certain licensees that might be expected to transport radioactive materials in quantities of concern (category 1 quantities) (EA-05-006; July 19, 2005) (70 FR 44407; August 2, 2005). The orders require the implementation of additional security measures (ASMs) and the protection of the licensee's transportation security planning as SGI-M. The original orders are not publicly available because they contain detailed security measures that are designated as SGI-M. A redacted version of the order is publicly available (73 FR 51016; August 29, 2008). These orders were issued to both the NRC and Agreement State licensees under the NRC's authority to protect the common defense and security.

### Increased Controls Orders

Subsequently, the NRC issued IC Orders (EA-05-090; November 14, 2005) (70 FR 72128; December 1, 2005) to other licensees authorized to possess certain risk-significant quantities of radioactive material (category 1 and category 2 quantities). These orders were issued under the NRC's authority to protect public health and safety, and require licensees to implement enhanced security measures known as Increased Controls. The IC Orders also included security measures to safeguard materials shipments less than category 1, but greater than or equal to category 2. The IC Orders do not contain safeguards information (SGI) or SGI-M and are available on the NRC's public Web site at <http://www.nrc.gov/security/byproduct/orders.html>. To effect nationwide implementation of the IC Orders, each Agreement State issued legally binding requirements (LBR) to establish enhanced security measures, essentially identical to the IC Orders, for licensees under that State's regulatory jurisdiction.

### Fingerprinting Orders

In 2005, Congress enacted the Energy Policy Act of 2005 (EPAct). The EPAct amended Section 149 of the Atomic Energy Act (AEA) to require fingerprinting of any individual who is permitted unescorted access to radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and a Federal Bureau of Investigation (FBI) criminal history records check. With this new authority, the Commission determined that individuals who have access to category 1 and category 2 quantities of radioactive material warrant fingerprinting and FBI criminal history records checks. On October 17, 2006, the NRC issued orders to panoramic and underwater irradiator licensees (EA-06-248) (71 FR 63043; October 27, 2006), M&D licensees (EA-06-250) (71 FR 63046; October 27, 2006), and licensees making shipments of category 1 quantities of radioactive material (EA-06-249) (71 FR 62302; October 24, 2006) to require fingerprinting and FBI criminal history records checks for unescorted access to risk-significant quantities of radioactive material at their facilities. In issuing these orders, NRC noted that a malevolent act by an individual with unescorted access to these materials could result in significant adverse impacts to the public health and safety or the common defense and security and, thus, necessitated expedited implementation of fingerprinting requirements. The orders were issued to both NRC and Agreement State licensees under the NRC's authority to protect the common defense and security.

On December 5, 2007, the NRC issued orders to all other NRC licensees that possessed category 1 or category 2 quantities of radioactive material (EA-07-305) (72 FR 70901; December 13, 2007) to require fingerprinting and FBI criminal history records checks for

unescorted access to category 1 or category 2 quantities of radioactive material. These orders were issued under the NRC's authority to protect the public health and safety and are available on the NRC public Web site at <http://www.nrc.gov/security/byproduct/orders.html>. To effect nationwide implementation, each Agreement State issued legally binding requirements to licensees under their regulatory jurisdiction.

### Non-M&D Service Providers

On December 16, 2009, the NRC issued fingerprinting orders to service provider licensees that are not manufacturers or distributors and that request unescorted access to certain radioactive material (EA-09-293). These orders are issued to NRC and Agreement State service provider licensees who need unescorted access to radioactive material in quantities of concern at a customer's facility and submit a written request to the NRC for the orders. These orders are issued to both NRC and Agreement State licensees under the NRC's authority to protect the common defense and security.

### **Cumulative Effect of Regulation**

For NRC licensees, the final rule is effective 1 year after publication in the *Federal Register*. This should provide sufficient time for licensees to fully implement the provisions. There are no other rules or orders that would be implemented in the year period that impacts the majority of the licensees that will be required to implement the rule. The M&D licensees may also be implementing, "Requirements for Distribution of Byproduct Material." The final rule was provided to the Commission in SECY-11-0129. The rule is expected to reduce the burden on licensees, so it should not result in cumulative effect issues in implementing Part 37. Some reactor licensees and fuel cycle licensees may be impacted by Part 37. However, these licensees have the option of protecting the material under their Part 73 approved security plan and would not need to implement Part 37. With the issuance of the final rule, each Agreement State will be expected to promulgate legally binding requirements within three years of the published date of the rule.

### **Implementation Plan Summary**

This implementation plan outlines the actions necessary for the successful implementation of the 10 CFR Part 37 rule. The plan is divided into individual topic areas. Each topic area includes specific tasks essential to completion of that topic. The topic areas are discussed briefly in the paragraphs below. The Action Plan tables list the tasks associated with each topic. Attachment 1 is a comparison of the 10 CFR Part 37 requirements versus the security orders.

#### 1.0 Working Group Activities

The NRC staff will form an implementation working group in accordance with Management Directive 5.3. The working group will resolve licensee questions and issues that emerge during the implementation period, track development of inspection guidance and training programs, and update implementing guidance as needed. The working group will receive the routine status of Agreement State regulation reviews and promulgation and coordinate NRC and State inspection activities, and rescission of security orders. Written communications may include letters, regulatory issue summaries and other generic communications and license modifications. Communication with the Agreement States, the NRC Office of the General

Counsel, the NRC staff, and others is necessary to provide information to stakeholders regarding the status of implementation milestones, training, updated guidance and best practices and to resolve questions or problems that will arise during the implementation period.

## 2.0 Agreement State Regulations

The majority of licensees affected by the rule are Agreement State licensees. Under the “Policy Statement on Adequacy and Compatibility of Agreement State Programs” approved by the Commission on June 30, 1997, and published in the Federal Register (62 FR 46517; September 3, 1997), this rule is a matter of compatibility and health and safety between the NRC and the Agreement States, which will ensure consistency between the Agreement States and the NRC requirements. With the issuance of the final rule, each Agreement State will be expected to promulgate legally binding requirements within 3 years of the published date of the rule. States generally fulfill that responsibility through promulgation of regulations. NRC uses the Integrated Material Performance Evaluation Program (IMPEP), to evaluate the Agreement States. In support of the IMPEP evaluations, Agreement States are requested to submit proposed and final amendments to their regulations or other proposed generic legally binding requirements for NRC staff review. NRC will review the Part 37 requirements under the existing review program for regulations and legally binding requirements that are designated as matters of compatibility and health and safety.

The NRC orders will remain in effect for the Agreement State licensees until compatible regulations or legally binding requirements are promulgated and implemented. The NRC staff will conduct the routine review of the state regulations for compatibility and health and safety, and will maintain awareness of the effective dates and implementation periods associated with the state regulations through the oversight of the Agreement State programs. In some cases, Agreement State regulations may not fully implement some of the Part 37 requirements and NRC may consider leaving certain provisions of the security orders in place, rather than fully rescinding the orders if the Agreement State is unable to address identified issues or deficiencies through other legally binding requirements.

## 3.0 Rescission of Security Orders

To ensure continual protection of radioactive material, the security requirements of the orders must remain in effect until the final rule is issued and the specified implementation period is complete. For NRC licensees the rule will be immediately effective, and Office of Federal and State Materials and Environmental Programs (FSME) will send rescission letters to NRC licensees to coincide with the end of the implementation period specified in the regulation. FSME will coordinate with the Office of Nuclear Reactor Regulation and the Office of Nuclear Material Safety and Safeguards so they may rescind the orders affecting the licensees under their purview.

For Agreement State licensees, the orders will be rescinded once state regulations or legally binding requirements are established that meet the compatible and health and safety categories, and the implementation periods specified are complete; a process that may take several years. FSME will send rescission letters to Agreement State licensees that received orders under NRC common defense and security authority; specifically panoramic irradiators, M&Ds, service providers and to licensees transporting RAMQC. The Implementation Working Group will track the implementation process, including rescission or partial rescission of orders

using existing database tracking tools. Status reports on the review of proposed and final regulations or legally binding requirements implementing Part 37 will be provided to the Working Group to assist in NRC implementation.

The IC Orders were issued under the NRC’s authority to protect public health and safety and the Agreement States issued legally binding requirements to establish enhanced security measures, essentially identical to the IC Orders, for licensees under that State’s regulatory jurisdiction. The Agreement States are, therefore, expected to have legally binding requirements in place to address compatibility and health and safety designations of Part 37 and will need to revise or rescind the legally binding requirements, or revise existing regulations that they imposed on their licensees during implementation of the Increased Controls.

Table 1 describes the orders to be rescinded and estimates the number of licensees affected, based on information from FSME’s order tracking database.

**Table 1- Number of NRC and Agreement State Licensees Under Security Orders**

Order	NRC Licensees	Agreement State Licensees
Panoramic Irradiators	9	45
Panoramic Irradiators (fingerprinting)	9	45
Manufacturers and Distributors	8	38
Manufacturers and Distributors (fingerprinting)	8	38
RAMQC	12	18
RAMQC (fingerprinting)	12	23
Increased Controls	727	~1,800
Increased Controls (fingerprinting)	821	~1,800
Protection of SGI	27	85
Increased Controls imposed through license conditions	53	Not tracked by NRC
Non-M&D Service Providers	3	5

Table 2 lists the orders specifically and discusses the rescission strategy for each type of order.

**Table 2 - NRC Orders to be Rescinded**

Regulated Activity	Post 9/11 Security Orders	Description	Order Rescission
Irradiators	EA-02-249 6/6/2003	Compensatory Measures for Panoramic and Underwater Irradiators $\geq 10,000$ Ci	For NRC licensees, orders will be rescinded after the implementation period defined in the rule.
	EA-06-155 8/21/2006	Fingerprinting Requirements for Access to SGI	
	EA-06-248 10/27/2006	Fingerprinting for Access to Material (Irradiator Order Recipients)	For Agreement State licensees, rescinded on a variable schedule in coordination with implementation of compatible state regulations.

Regulated Activity	Post 9/11 Security Orders	Description	Order Rescission
M&Ds	EA-03-225 1/12/2004	Additional Security Measures to M&D Licensees	For NRC licensees, orders will be rescinded after the implementation period defined in the rule. For Agreement State licensees, rescinded on a variable schedule in coordination with implementation of compatible state regulations
	EA-06-155 8/21/2006  EA-06-250 10/27/2006	Fingerprinting Requirements for Access to SGI  Fingerprinting for access to materials (M&D Order recipients)	
Other Sources of Concern	EA-05-090 11/14/2005	Order Imposing Increased Controls for Certain Radioactive Materials Licensees	For NRC licensees, orders will be rescinded after the implementation period defined in the rule.  For Agreement State licensees, rescinded on a variable schedule in coordination with implementation of compatible state regulations
	EA-07-305 12/5/2007	Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material	
	EA-09-293 12/16/2009 & EA-10-058	Trustworthiness and Reliability Requirements for Unescorted Access to Certain Radioactive Material (Non M&D Service Providers)	
RAMQC Transportation (IAEA Category 1 and 2 Byproduct Material and ≤ 100 grams SNF) “LQRam Transportation” RAMQC (Continued)	EA-05-006 & EA-05-007 <sup>2</sup> 7/19/05;	Certain Licensees Authorized To Possess and Transfer RAMQC; Order Imposing Additional Security Measures	For NRC licensees, orders will be rescinded after the implementation period defined in the rule.  For Agreement State licensees, rescinded on a variable schedule in coordination with implementation of compatible state regulations.
	EA-07-305 <sup>3</sup> 12/7/07	Fingerprint/Criminal History Checks for Unescorted Access	
	EA-06-249 <sup>4</sup> 10/17/06	Fingerprint/Criminal History Checks for Unescorted Access	
	EA-07-003 <sup>5</sup> 5/22/07	ASMs, including Fingerprint/Criminal History Checks for Unescorted Access	
Decommissioning Reactors	EA-09-204 11/23/2009	Order Imposing Increased Controls for Power Reactor Licensees Undergoing Decommissioning	NRC licensees, orders will be rescinded after the implementation period defined in the rule.
	EA-09-205 11/23/2009	Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material	

<sup>2</sup> ASMs issued to licensees possessing ≥ IAEA Cat 1 and/or ≤ 100 grams SNF. Identical orders subsequently sent to additional licensees 2 more times in 2005 and 2006.

<sup>3</sup> Fingerprint/Criminal History Checks for Unescorted Access, for those previously issued ICs. Identical orders subsequently sent to additional licensees 2 more times in 2007 and 2009.

<sup>4</sup> Fingerprint/Criminal History Checks for Unescorted Access, for those previously issued ASMs.

<sup>5</sup> ASMs, including Fingerprint/Criminal History Checks for Unescorted Access. Identical orders subsequently sent to additional licensees 2 more times in 2008.

## 5.0 Guidance and Procedures

Rule implementing guidance will be issued to coincide with the release of the final rule. A question and answer format similar to the guidance for the orders will be used for the implementing guidance. The Implementation Working Group will address new questions or concerns as they are raised during the implementation period, and update the implementing guidance as required. New or updated inspection procedures and related guidance documents will be developed to replace the inspection procedures for irradiators and M&Ds and the temporary instructions currently in use for inspecting the IC and RAMQC Orders. The revised inspection procedures are important inputs to the development of updated training programs.

## 6.0 Training

The NRC provides training to NRC and Agreement State inspectors for the IC Orders, including fingerprinting, which were issued under NRC's authority to protect public health and safety. The scope of the Part 37 Rule includes some new or changed requirements for recipients of the IC Orders as well as incorporating security requirements for large panoramic irradiators, manufacturers and distributors and licensees that transport RAMQC. These changes are discussed in detail in the enclosed regulatory crosswalk. The orders for irradiators, M&Ds and RAMQC were issued under NRC's common defense and security authority and contained safeguards information. Except for a few states that performed inspections under 274.(i) agreements, these requirements have been inspected by NRC inspectors. Therefore, the NRC must modify inspector training programs, and both NRC and Agreement State inspectors will require supplemental training or retraining to successfully perform the inspections of Part 37 requirements. FSME will coordinate with HR to develop the new or revised training programs and materials.

## 7.0 Inspection Activities

After the rule becomes effective for NRC licensees, NRC inspectors will begin to inspect NRC licensees under the Part 37 regulations. Some Agreement States will not yet have their regulations or legally binding requirements in place. In these cases the security orders will still be in effect; and the inspections for Irradiators, M&Ds and RAMQC will be performed by NRC inspectors, or by State inspectors through 274 (i) agreements. The Agreement States will continue to perform IC inspections against their legally binding requirements. This activity will be tracked by the Implementation Working Group. When Agreement States regulations are effective and Agreement State licensees are implementing the Agreement State regulations, the NRC will rescind the security orders and cease performing the inspections in those Agreement States.

## **Action Plan**

The tables on the following pages list the tasks required to execute the Implementation Plan. The initiation and timing of specific tasks depends on a variety of factors, such as the publication date of the final rule and development of Agreement State regulations which are not known at this time. The plan is considered a living document which may be updated frequently during the implementation period through the working group activities.

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## Action Plan

Task	Description	Start	Due	Status	Lead	Comment
<b>1.0 Working Group Activities</b>						
1.1	Form Implementation Working Group	Jan 2013			SMPB	Include ASPB, OGC, NSIR/DSP, Regions and Agreement States
1.2	Working Group Meetings	TBD			SMPB	Frequency TBD
1.3	Develop Notification to Licensees: reminder effective date of final rule.	Effective date - 45 days	Effective Date - 14 days		SMPB	Mailing or email to NRC licensees
1.4	Develop FSME letter re: issuance of final rule	Issuance of final rule	Within 2 weeks of the publication of the rule.		ASPB	Routine FSME letter issued assigning a RATS ID designation, listing the Chronology and the Reviewer summary sheet for the Regulation.
1.5	Develop mailbox resource for licensee questions/concerns	Issuance of final rule			SMPB	Feedback channel for licensee implementation questions / issues.
1.6	Existing regular conference call with Agreement States	Monthly			ASPB	Exchange information about NRC and State implementation milestones and issues
<b>2.0 State Regulations</b>						
2.1	Agreement State Regulations Review	As the States submit regulations for review	TBD		ASPB	OGC on concurrence.
2.2	Provide Status Report on State regulations				ASPB	When Agreement State final regulations are found to meet the compatibility and health and safety categories assigned to Part 37, the timeline will be established to rescind or relax the orders.

<b>Task</b>	<b>Description</b>	<b>Start</b>	<b>Due</b>	<b>Status</b>	<b>Lead</b>	<b>Comment</b>
2.3	State LRB In Place				Agreement States	Drives the NRC task to rescind orders.
2.4	Develop plans to address State not having requirements in place				SMPB/ASPB	Depending on State implementation, provisions of the orders may be relaxed rather than completely rescinded.
<b>3.0 Rescind Security Orders</b>						
3.1	Develop rescission letter templates	Final rule issuance	+45days		SMPB	NSIR and OGC on concurrence other offices as required.
3.2	Issue rescission letters to NRC licensees	Effective date - 30 days	To coincide with effective date of final rule		SMPB	Using templates that have already been through Office and OGC concurrence should expedite review and concurrence of individual letters.
3.3	Develop and issue rescission letters to Agreement State licensees	Effective date - 30 days	To coincide with effective dates of Agreement State regulations		SMPB/ASPB/Regional Agreement State Officers	Copy of letters sent to Agreement States for review before being sent to licensee.  This activity depends upon the tracking activities in section 2.
<b>4.0 License Modifications</b>						
4.1	Modify licenses for NRC licensees whose security requirements were imposed by license conditions	Effective date - 180 days	To coincide with effective date of final rule		Region I Region III Region IV	Modify license conditions to point to provisions of the rule instead of security orders. 53 NRC licensees affected.
4.2	Develop letter to communicate license changes to licensees	Effective date - 60 days	To coincide with effective date of final rule		SMPB	

<b>Task</b>	<b>Description</b>	<b>Start</b>	<b>Due</b>	<b>Status</b>	<b>Lead</b>	<b>Comment</b>
4.3	Agreement States modify licenses for their licensees whose requirements were imposed by license conditions.	Approval of State Regulations	To coincide with effective dates of compatible State regulations		Agreement States	Reviewed and monitored through the IMPEP program.
<b>5.0 Implementing Guidance and Inspection Procedures</b>						
5.1	Draft revised Inspection Procedures (IP) for Irradiators and M&D. New IP for Increased Controls. Includes updates to Inspection Manual Chapter 2800	Issuance of final rule	Final rule +120 days		SMPB/NSIR	Comments from the Regional Offices, OE and OGC and Agreement States.
5.2	Transmit draft procedures to Agreement States. (RCPD Letter)		With draft procedures for comment		SMPB/ASPB	
5.3	Final IP (comment resolution)	After comment period for draft procedures	+30 days		SMPB	Resolving comments from the Regional Offices, OE and OGC and Agreement States.  Informational copy to HRTD for training development
5.4	Implementing Guidance updates	TBD			Implementation Working Group	Updated Q/As developed as needed in response to questions from licensees and States developed during the implementation period.
<b>6.0 Training</b>						
6.1	Conduct gap analysis of existing training programs compared to	Issuance of approved final rule	Start +30 days		HRTD	With support from FSME/SMPB and Regions

<b>Task</b>	<b>Description</b>	<b>Start</b>	<b>Due</b>	<b>Status</b>	<b>Lead</b>	<b>Comment</b>
	new requirements					
6.2	Develop revised training plans, curriculum and course materials	Completion of step 5.1	TBD		HRTD	With support from FSME/SMPB and Regions Also depends on completion of revised inspection procedures in step 6.
6.3	Approval of revised training plans, curriculum and course materials	Completion of step 5.2	TBD		HRTD/SMPB	
6.4	Train NRC inspectors		TBD		HRTD/SMPB	
6.5	Train Agreement State inspectors				HRTD	Schedule of offering TBD depending on State schedule
<b>7.0 Inspection Activities</b>						
7.1	NRC Licensee Part 37 Inspections	NRC Effective Date	TBD		Regions	According to routine inspection interval
7.2	Agreement State Licensee Inspections	NRC Effective Date	Agreement State LBR Effective Dates		Regions Agreement States	NRC inspects common defense and security orders (irradiators, M&D, RAMQC), or Agreement State inspectors under 274(i) agreements.  Agreement States inspect increased controls.
7.3	Inspection Activity Tracking	NRC Effective Date	Agreement State LBR Effective Dates		Implementation Working Group	As State regulations become effective – rescind orders and cease NRC inspections in those States.

Part 37 Rule/Order Comparison

- IC - from Increased Control Order
- FP - from Finger Print Orders
- RQ - from RAMQC Order
- MD - from Manufacturer and Distributors Order
- PU - from Panoramic and Underwater Irradiators Order

Rule Provision	Order provision
<b>Subpart A – General Provisions</b>	
<p><b>§ 37.1 Purpose.</b></p> <p>This part has been established to provide the requirements for the physical protection program for any licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A to this part. These requirements provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this part authorizes possession of licensed material.</p>	<p>IC Intro - The purpose of the increased controls (IC) for radioactive sources is to enhance control of radioactive material in quantities greater than or equal to values described in Table 1, to reduce the risk of unauthorized use of radioactive materials, through access controls to aid prevention, and prompt detection, assessment, and response to mitigate potentially high consequences that would be detrimental to public health and safety. These increased controls for radioactive sources are established to delineate licensee responsibility to maintain control of licensed material and secure it from unauthorized removal or access.</p> <p>RQ A. Intro - These Additional Security Measures (ASMs) are established to delineate licensee responsibility in response to the current threat environment. The following security measures apply to Nuclear Regulatory Commission (NRC) and Agreement States licensees, who ship Radioactive Material Quantities of Concern (RAMQC) as defined in Section A .1. Shipments of RAMQC that do not fall within the NRC's jurisdiction under the Atomic Energy Act of 1954, as amended, are not subject to the provisions of these ASMs.</p> <p>MD Intro - These Additional Security Measures (ASMs) and new requirements are established to delineate licensee responsibility in response to the current threat environment. The following security measures apply to Radioactive Material Manufacturing and Distribution</p>

	<p>Licenseses who, at any given time, possess greater than or equal to the quantities of concern of radioactive material defined in Table 1 (unless the licensee documents the basis for concluding that radioactive material possessed cannot be easily aggregated into quantities in excess of the limits defined in Table 1). As with the additional security measures previously provided to other licensees who possess risk significant radioactive sources, these increased security measures and requirements address licensees who are authorized to possess high-activity radioactive material which poses a high risk to human health if not managed safely and securely.</p> <p>PU Intro</p> <p>These compensatory measures (CMs) are established to delineate licensee responsibility in response to the current threat environment in the aftermath of the terrorist attacks of September 11, 2001. The following security measures apply to Licensees who, now and in the future, possess greater than 370 TeraBecquerels (TBq) [10,000 Ci] of byproduct material in the form of sealed sources in panoramic irradiators that have dry or wet storage of the sealed sources, or in underwater irradiators in which both the source and the product being irradiated are underwater.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.3 Scope.</b></p> <p>(a) Subparts B and C ... material.</p> <p>(b) Subpart D applies to ... chapter, who:</p> <p>(1) Transports ... material; or</p> <p>(2) Imports or exports ... of the transport.</p>	<p>IC Intro - The following increased controls apply to licensees which, at any given time, possess radioactive sources greater than or equal to the quantities of concern of radioactive material defined in Table 1.</p> <p>RQ A 1. - Licensees who are subject to this Order shall ensure that the requirements listed in Section B below are in effect when they ship radioactive materials that meet the following criterion: ...</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.5 Definitions.</b></p>	<p>Table footnote - Radioactive materials are to be considered aggregated or collocated if breaching a common physical security barrier (e.g., a</p>

<p>As used in this part:</p> <p><i>Aggregated</i> means accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.</p> <p>...</p> <p><i>Safe haven</i> means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.</p> <p>...</p>	<p>locked door at the entrance to a storage room) would allow access to the radioactive material or devices containing the radioactive material.</p> <p>RQ Footnote - In general, a safe haven is a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities (LLEA). The following criteria are used by the NRC to determine the safe haven sites and licensees should use these criteria in identifying safe havens for shipments subject to this Order:</p> <ul style="list-style-type: none"> <li>- Close proximity to the route, i.e., readily available to the transport vehicle.</li> <li>- Security from local, State, or Federal assets is present or is accessible for timely response.</li> <li>- Site is well lit, has adequate parking, and can be used for emergency repair or wait for LLEA response on a 24-hours-a-day basis.</li> <li>- Have additional telephone facilities should the communications system of the transport vehicle not function properly.</li> <li>- Possible safe haven sites include: Military installations and other Federal sites having significant security assets; secure company terminals; State weigh stations; truck stops with secure areas; and LLEA sites, including State police barracks.</li> </ul> <p>The rest of the definitions are not specifically defined in the orders.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.7 Communications.</b></p>	<p>Not Applicable (NA)</p>

<p>Except ... as follows:</p> <ul style="list-style-type: none"> <li>(a) By mail ... DC 20555–0001;</li> <li>(b) By hand ... Maryland;</li> <li>(c) Where practicable... information.</li> </ul>	
<p><b>§ 37.9 Interpretations.</b> Except ... Commission.</p>	NA
<p><b>§ 37.11 Specific exemptions.</b></p> <ul style="list-style-type: none"> <li>(a) The Commission ... public interest.</li> <li>(b) Any licensee’s NRC-licensed activities are exempt from the requirements of subparts B and C of this part to the extent that its activities are included in a security plan required by part 73 of this chapter.</li> <li>(c) A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material is exempt from the requirements of subparts B, C, and D of this part. Except that any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs) is not exempt from the requirements of this part. The licensee shall implement the following requirements to secure the radioactive waste: <ul style="list-style-type: none"> <li>(1) Use continuous physical barriers that allow access to the radioactive waste only through established access control points;</li> <li>(2) Use a locked door or gate with monitored alarm at the access control point;</li> <li>(3) Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and</li> <li>(4) Immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that</li> </ul> </li> </ul>	NA



contains category 1 or category 2 quantities of radioactive material.	
<p><b>§ 37.13 Information collection requirements: OMB approval.</b></p> <p>(a) The Nuclear ... control number 3150-xxxx.</p> <p>(b) The approved ... 37.81.</p>	NA
<b>Subpart B – Background Investigations and Access Authorization Program</b>	
<p><b>§ 37.21 Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material.</b></p> <p>(a) <i>General.</i></p> <p>(1) Each licensee that possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this subpart.</p> <p>(2) An applicant for a new license and each licensee that would become newly subject to the requirements of this subpart upon application for modification of its license shall implement the requirements of this subpart, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.</p> <p>(3) Any licensee that has not previously implemented the Security Orders or been subject to the provisions of subpart B shall implement the provisions of subpart B before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.</p>	<p>IC 1. - In order to ensure the safe handling, use, and control of licensed material in use and in storage each licensee shall control access at all times to radioactive material quantities of concern and devices containing such radioactive material (devices), and limit access to such radioactive material and devices to only approved individuals who require access to perform their duties.</p> <p>IC FI - A.1. - The Licensee shall, within <b>ninety (90) days</b> of the date of this Order, establish and maintain a fingerprinting program that meets the requirements of Attachment 3 of this Order for individuals that require unescorted access to certain radioactive materials.</p> <p>IC FP - B.1. - Except as provided in paragraph E for individuals who are currently approved for unescorted access, the Licensee shall grant access to radioactive material in Attachment 2 in accordance with the requirements of IC.1. of the Increased Controls Order (EA-05-090) and the requirements of this Order.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.21 Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material.</b></p> <p>(b) <i>General performance objective.</i> The licensee’s access authorization program must ensure that the individuals specified in paragraph (c)(1) of this section are trustworthy and reliable.</p>	<p>IC 1.a. - The licensee shall allow only trustworthy and reliable individuals, approved in writing by the licensee, to have unescorted access to radioactive material quantities of concern and devices. The licensee shall approve for unescorted access only those individuals with job duties that require access to such radioactive material and devices. Personnel who require access to such radioactive material and devices to perform a job duty, but who are not approved by the</p>

<p>(c) <i>Applicability.</i></p> <p>(1) Licensees shall subject the following individuals to an access authorization program:</p> <p>(i) Any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and</p> <p>(ii) Reviewing officials.</p> <p>(2) Licensees need not subject the categories of individuals listed in § 37.29(a)(1) through (13) to the investigation elements of the access authorization program.</p> <p>(3) Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.</p> <p>(4) Licensees may include individuals needing access to safeguards information-modified handling under part 73 of this chapter in the access authorization program under subpart B.</p>	<p>licensee for unescorted access, must be escorted by an approved individual.</p> <p>MD FP 1. - Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to safeguards information (SGI) or unescorted access to radioactive materials equal to, or greater than, the quantities listed in Attachment 2 to this Order. The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in this Order and this attachment are satisfied.</p> <p>PU 2. A. - For individuals granted access to safeguards information or unescorted access to the security zone, Licensees must provide reasonable assurance that individuals are trustworthy and reliable, and do not constitute an unreasonable risk to the common defense and security. "Access" means that an individual could exercise some physical control over the material or device containing radioactive material.</p> <p>MD,PU, RQ C.2. - No person may have access to Safeguards Information or unescorted access to radioactive materials if the NRC has determined, in accordance with its administrative review process based on fingerprinting and an FBI identification and criminal history records check, either that the person may not have access to Safeguards Information or that the person may not have unescorted access to a utilization facility, or radioactive material or other property subject to regulation by the NRC.</p> <p>RQ B. 2. (f) - Individuals shall not perform assigned duties associated with the transport of RAMQC until the licensee has confirmed that a determination of trustworthiness and reliability, based on the appropriate background investigation requirements in B.2.d. and B.2.e., has been performed and documented.</p>
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RQ B. 2. - Background Investigations

a. - Background investigations are intended to provide high assurance that individuals performing assigned duties associated with the transport of RAMQC, are trustworthy and reliable, and do not constitute an unreasonable risk to the common defense and security, including the potential to commit radiological sabotage.

b. - For highway shipments only, the licensee shall ensure background investigations for all drivers, accompanying individuals, communications center managers, and other appropriate communications center personnel have been performed. The NRC only has the authority to impose a Federal Bureau of Investigation (FBI) criminal history check, which includes fingerprinting, on those individuals who seek access to Safeguards Information (SGI) or unescorted access to licensed material.

c. - For rail shipments, the licensee shall ensure background investigations for employees filling the positions of communications center managers and other appropriate communications center personnel have been performed. The NRC only has the authority to impose a Federal Bureau of Investigation (FBI) criminal history check, which includes fingerprinting, on those individuals who seek access to SGI or unescorted access to licensed material.

IC FP - B 2. - The T&R Official, if he/she does not require unescorted access, must be deemed trustworthy and reliable by the Licensee in accordance with the requirements of IC.1. of the Increased Controls Order (EA-05-090) before making a determination regarding the trustworthiness and reliability of another individual. If the T&R Official requires unescorted access, the Licensee must consider the results of fingerprinting and the review of an FBI identification and criminal history records check as a component in approving a T&R Official.

	<p><b>Differences:</b> The rule requires the reviewing official to be subject to the full background investigation, including fingerprinting. The program for access to SGI-M is contained in Part 73.</p>
<p><b>§ 37.23 Access authorization program requirements.</b></p> <p>(a) <i>Granting unescorted access authorization.</i></p> <p>(1) Licensees shall implement the requirements of this subpart for granting initial or reinstated unescorted access authorization.</p> <p>(2) Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by § 37.43(c) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.</p>	<p>New Requirement</p>
<p><b>§ 37.23 Access authorization program requirements.</b></p> <p>(b) <i>Reviewing officials.</i></p> <p>(1) Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.</p> <p>(2) Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official must be taken by a law enforcement agency, Federal or State agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a State to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with § 37.25(b).</p> <p>(3) Reviewing officials must be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or</p>	<p>MD, PU, RQ C. 1 - In accordance with the NRC's "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information" ..., only the NRC-approved reviewing official shall review results from an FBI criminal history records check....</p> <p>MD 5. c., RQ 2.d. (3), PU 2. A. iii. - A reviewing official that the licensee nominated and has been approved by the NRC, in accordance with NRC "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information," is the only individual that may make trustworthiness and reliability determinations.</p> <p>MD, RQ, PU FP- B. - In accordance with the NRC's "Order Imposing Fingerprinting and Criminal History Check Requirements for Access to Safeguards Information" ... only the NRC-approved reviewing official shall review results from an FBI criminal history records check. The reviewing official shall determine whether an individual may have, or continue to have, unescorted access to radioactive materials that equal or exceed the quantities listed in Attachment 3 to this Order. Fingerprinting and the FBI ...</p>

access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling.

(4) Reviewing officials cannot approve other individuals to act as reviewing officials.

(5) A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

(i) The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or

(ii) The individual is subject to a category listed in § 37.29(a).

IC FP 4. - All fingerprints .... Additionally, the Licensee shall submit a certification of the trustworthiness and reliability of the T&R Official as determined in accordance with paragraph B.2 of this Order.

IC FP - A.2. - Within **ninety (90)** days of the date of this Order, the Licensee shall provide under oath or affirmation, a certification that the Trustworthiness and Reliability (T&R) Official (an individual with the responsibility to determine the trustworthiness and reliability of another individual requiring unescorted access to the radioactive materials identified in Attachment 2) is deemed trustworthy and reliable by the Licensee as required in paragraph B.2 of this Order.

PU C. 1. - In accordance with the NRC's "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information" ...only the NRC-approved reviewing official shall review results from an FBI criminal history records check. The reviewing official shall determine whether an individual may have, or continue to have, unescorted access to the panoramic or underwater irradiator sealed sources that equal or exceed 370 Terabecquerels (10,000 curies). ...

MD C. 1. - In accordance with the NRC's "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information" (EA-06-242 or EA-06-290 as applicable), only the NRC-approved reviewing official shall review results from an FBI criminal history records check. The reviewing official shall determine whether an individual may have, or continue to have, unescorted access to radioactive materials that equal or exceed the quantities in Attachment 2 to this Order. ...

RQ C. 1. - In accordance with the NRC's "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information" (EA-06-155) issued on August 21, 2006, only the NRC-approved reviewing official shall review results from an FBI criminal history records check. The reviewing official shall determine whether an individual may have, or continue to have, unescorted access to radioactive materials that equal or exceed the

	<p>quantities listed in Attachment B to this Order. ...</p> <p><b>Difference:</b> The T&amp;R official was not required to be fingerprinted under the IC Orders. The NRC approved the reviewing official under some of the orders (MD, PU, and RQ) and the rule now allows the licensee to approve the reviewing official and submit the name under oath and affirmation. The orders did not contain a requirement for recertification of the reviewing official. Additionally, the rule requires the fingerprints for the reviewing official to be taken by a law enforcement agency, Federal or State agencies that provide finger printing services to the public, or commercial fingerprinting services authorized by a State to take fingerprints.</p>
<p><b>§ 37.23 Access authorization program requirements.</b></p> <p>(c) <i>Informed consent.</i></p> <p>(1) Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of § 37.25(b). A signed consent must be obtained prior to any reinvestigation.</p> <p>(2) The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:</p> <p>(i) If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and</p> <p>(ii) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.</p>	<p>IC FP C. - Prior to requesting fingerprints from any individual, the Licensee shall provide a copy of this Order to that person.</p> <p>FP 2. - The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the "Right to Correct and Complete Information" section of this attachment.</p> <p><b>Difference:</b> The rule requires a signed consent from the individual before beginning any aspect of the background investigation. The rule also addresses the situation where an individual withdraws their consent.</p>

<p><b>§ 37.23 Access authorization program requirements.</b></p> <p>(d) <i>Personal history disclosure.</i> Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee’s access authorization program for the reviewing official to make a determination of the individual’s trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this subpart is sufficient cause for denial or termination of unescorted access.</p>	<p>New Requirement</p>
<p><b>§ 37.23 Access authorization program requirements.</b></p> <p>(e) <i>Determination basis.</i></p> <p>(1) The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual’s unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this subpart.</p> <p>(2) The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this subpart and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.</p> <p>(3) The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.</p> <p>(4) The reviewing official may terminate or administratively withdraw an individual’s unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.</p> <p>(5) Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access</p>	<p>IC 1.d. - The licensee shall document the basis for concluding that there is reasonable assurance that an individual granted unescorted access is trustworthy and reliable, and does not constitute an unreasonable risk for unauthorized use of radioactive material quantities of concern. The licensee shall maintain a list of persons approved for unescorted access to such radioactive material and devices by the licensee.</p> <p>IC, MD, PU FP 7. - The Licensee shall document the basis for its determination whether to grant, or continue to allow, access to SGI or unescorted access to radioactive materials equal to or greater than the quantities...(category 2 referenced in different documents).</p> <p>MD 5. - Licensees shall document the basis for concluding that there is reasonable assurance that individuals granted access to safeguards information or unescorted access to the security zone are trustworthy and reliable, and do not constitute an unreasonable risk for malevolent use of the regulated material. “Access” means that an individual could exercise some physical control over the material or device containing radioactive material.</p> <p>RQ 2. d. - Licensees shall document the basis for concluding that there is high assurance that individuals granted access to safeguards information or unescorted access to licensed material are trustworthy and reliable, and do not constitute an unreasonable risk for malevolent use of the regulated material. “Access” means that an individual could exercise some physical control over the material or device containing</p>

<p>authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.</p>	<p>radioactive material.</p> <p>IC 5.b. - Each time the licensee revises the list of approved persons required by 1.d., or the documented program required by 2, the licensee shall retain the previous documentation for three years after the revision.</p> <p>IC 5.a. -The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years after the individual's employment ends.</p> <p><b>Difference:</b> The rule relaxes the record retention of the determination basis for an individual from 3 years after the individual's employment ends to 3 years after the individual no longer required unescorted access.</p>
<p><b>§ 37.23 Access authorization program requirements.</b></p> <p>(f) <i>Procedures.</i> Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.</p>	<p>New Requirement</p>
<p><b>§ 37.23 Access authorization program requirements.</b></p> <p>(g) <i>Right to correct and complete information.</i></p> <p>(1) Prior to any final adverse determination, licensees shall provide each individual subject to this subpart with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of</p>	<p>FP - Right to Correct and Complete Information</p> <p>Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification.</p>



<p>1 year from the date of the notification.</p> <p>(2) If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees must provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.</p>	<p>If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod.D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 (as set forth in 28 CFR Part 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an Official communication directly from the agency that contributed the original information, the FBI CJIS Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI identification and criminal history records check after the record is made available for his/her review. The Licensee may make a final unescorted access to certain radioactive material determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on unescorted access to certain radioactive material, the Licensee shall provide the individual its documented basis for denial. Unescorted access to certain radioactive material shall not be granted to an individual during the review process.</p> <p><b>Difference:</b> The rule allows the individual to provide corrected information on any aspect of the background investigation and not just the criminal history records.</p>
<p><b>§ 37.23 Access authorization program requirements.</b></p> <p>(h) <i>Records.</i></p> <p>(1) The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years</p>	<p>IC 5. - The licensee shall retain documentation required by these increased controls for three years after they are no longer effective:</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>

<p>from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.</p> <p>(2) The licensee shall retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.</p> <p>(3) The licensee shall retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.</p>	
<p><b>§ 37.25 Background investigations.</b></p> <p>(a) <i>Initial Investigation.</i> Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation must encompass at least the 7 years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation must include at a minimum:</p>	<p>IC 1.b. - For individuals employed by the licensee for three years or less, and for non-licensee personnel, such as physicians, physicists, house-keeping personnel, and security personnel under contract, trustworthiness and reliability shall be determined, ... For individuals employed by the licensee for longer than three years, trustworthiness and reliability shall be determined, at a minimum, ....</p> <p>RQ 2. d. - ...The trustworthiness, reliability, ...The background investigation shall address at least the past three (3) years, and ... If an individual's employment has been less then the required three (3) years period, educational references may be used in lieu of employment history.</p> <p>MD 5. a. - The trustworthiness and reliability of individuals shall be determined based on a background investigation. The background investigation shall address at least the past 3 years ...</p> <p>PU 2. A. i. - The trustworthiness and reliability of individuals shall be determined based on a background investigation. The background investigation shall address at least the past 3 years ...</p> <p><b>Difference:</b> The rule goes back the last 7 years instead of 3 years and the background investigation elements are the same whether the individual is a long-time employee or a new hire.</p>

<p>(1) Fingerprinting and an FBI identification and criminal history records check in accordance with § 37.27;</p>	<p>FP 5. - The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements of the ...</p> <p>PU FP 1. - Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to safeguards information (SGI) or unescorted access to the panoramic or underwater irradiator sealed sources. ...</p> <p>IC 1.b. - ... trustworthiness and reliability shall be determined, at a minimum, by .. and fingerprinting and the review of an FBI identification and criminal history records check. ...For individuals employed by the licensee for longer than three years, trustworthiness and reliability shall be determined, at a minimum, by a .. and fingerprinting and an FBI identification and criminal history records check.</p> <p>RQ 2. d. - ...The background investigation shall ...as a minimum, include fingerprinting and an FBI criminal history check, ...</p> <p>MD 5. a. - ...The background investigation shall ..as a minimum, include fingerprinting and a Federal Bureau of Investigation (FBI) criminal history check, ...</p> <p>PU 2. A. i. - ...The background investigation shall ...as a minimum, include fingerprinting and a Federal Bureau of Investigation (FBI) criminal history check, ...</p> <p>MD FP 1. - Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to safeguards information (SGI) or unescorted access to radioactive materials equal to, or greater than, the quantities listed in Attachment 2 to this Order. The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in this Order and this attachment are satisfied.</p> <p><b>Difference:</b> No substantive difference between the rule and orders.</p>
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<p>(2) Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who he or she claims to be. A licensee shall review official identification documents (e.g., driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with § 37.31. Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;</p>	<p>RQ 2. d. - ...The trustworthiness, reliability, and verification of an individual's true identity shall be determined based on a background investigation ...</p> <p><b>Difference:</b> Only the RQ Order addressed verification of true identity. This is a new requirement for all other licensees.</p>
<p>(3) Employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent 7 years before the date of application;</p>	<p>IC 1.b. - ... shall be determined, at a minimum, by verifying employment history, ...For individuals employed by the licensee for longer than three years, trustworthiness and reliability shall be determined, at a minimum, by a review of the employees' employment history with the licensee and ...</p> <p>RQ 2. d. - ... The background investigation shall ... as a minimum, include ... verification of employment history, ... If an individual's employment has been less then the required three (3) years period, educational references may be used in lieu of employment history.</p> <p>MD 5. a. - ... The background investigation shall address ... as a minimum, include ... verification of work or education references as appropriate to the length of employment, and confirmation of employment eligibility.</p> <p>PU 2. A. i. - ...The background investigation shall ... as a minimum, include ... verification of work or education references as appropriate to the length of employment, and confirmation of employment eligibility.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>

<p>(4) Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;</p>	<p>IC 1.b. - For individuals employed by the licensee for three years or less, .. shall be determined, at a minimum, ... education, ...</p> <p>RQ 2. d. - ... The background investigation shall ...as a minimum, ..., education...</p> <p>MD 5. a. - ... The background investigation shall address ... as a minimum, include ... verification of work or education references as appropriate to the length of employment, and confirmation of employment eligibility.</p> <p>PU 2. A. i. - ...The background investigation shall ... as a minimum, include ... verification of work or education references as appropriate to the length of employment, and confirmation of employment eligibility.</p> <p>IC FP - F.1. - The Licensee shall comply with... trustworthiness and reliability shall be determined, at a minimum, by verifying ... education, ...</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p>(5) Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this subpart must be limited to whether the individual has been and continues to be trustworthy and reliable;</p>	<p>IC FP - F.1. - The Licensee shall comply with... trustworthiness and reliability shall be determined, at a minimum, by ... personal references, ...</p> <p>IC 1.b. - For individuals employed by the licensee for three years or less, ..., trustworthiness and reliability shall be determined, at a minimum, ... and personal references,</p> <p>RQ 2. d. - ... The background investigation shall ... as a minimum, include ... and personal references ...</p> <p>MD 5. a. - ...The background investigation shall address at least the past 3 years and, as a minimum, ..., verification of work or education references as appropriate to the length of employment, ...</p> <p>PU 2. A. i. - ...The background investigation shall ...as a minimum,</p>

	<p>include ... verification of work or education references as appropriate to the length of employment, ...</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p>(6) The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual); and</p>	<p>IC FP - F.1. - .... The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the employee (i.e. seeking references not supplied by the individual)....</p> <p>IC 1.b. - For individuals employed by the licensee for three years or less, ... The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the employee (i.e., seeking references not supplied by the individual). ...</p> <p><b>Difference:</b> The requirement to obtain independent information is now a requirement for all background investigations.</p>
<p>(7) If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.</p>	<p>New Requirement</p>
<p><b>§ 37.25 Background investigations.</b></p> <p>(b) <i>Grandfathering.</i> (1) Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the Fingerprint Orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.</p> <p>(2) Individuals who have been determined to be trustworthy and reliable under the provisions of part 73 of this chapter or the security</p>	<p>FPU C. 1. - In accordance with the NRC's "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information" ... Fingerprinting and the FBI identification and criminal history records check are not required for individuals exempted from fingerprinting requirements under 10 CFR 73.61 [72 Fed. Reg. 4945 (February 2, 2007)]. ....</p> <p>FPOMRP - C. - Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment 2 to this Order. Individuals who have been fingerprinted and granted access to SGI by the reviewing official under Order EA-06-155 do not need to be</p>

<p>orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of part 73 of this chapter or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.</p>	<p>fingerprinted again.</p> <p>RQ B. 2. e. - Licensees background investigation requirements may also be satisfied for an individual that has:</p> <ul style="list-style-type: none"> <li>(1) - current access authorization permitting unescorted access to a power reactor facility or access to Safeguards Information,</li> <li>(2) - current U.S. government-issued security clearance (based upon a national agency check, at a minimum), or</li> <li>(3) - satisfactorily completed a background investigation under an NRC-approved access authorization program.</li> </ul> <p>PU, MD, RQ D. - ...Individuals who have been fingerprinted and granted access to Safeguards Information by the reviewing official under Order EA-06-242 do not need to be fingerprinted again for purposes of being considered for unescorted access.</p> <p><b>Difference:</b> The rule grandfathers additional individuals as the rule applies to a broader category of licensees.</p>
<p><b>§ 37.25 Background investigations.</b></p> <p>(c) <i>Reinvestigations.</i> Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with § 37.27. The reinvestigations must be completed within 10 years of the date on which these elements were last completed.</p>	<p>New Requirement</p>
<p><b>§ 37.27 Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.</b></p> <p>(a) <i>General performance objective and requirements.</i> (1) Except for those individuals listed in § 37.29 and those individuals</p>	<p>FP 1. - Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted unescorted access to risk significant radioactive materials equal to or greater than the quantities listed in attachment B. The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) identification and criminal history records check and ensure that</p>

<p>grandfathered under § 37.25(b), each licensee subject to the provisions of this subpart shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the Commission for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.</p> <p>(2) The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.</p> <p>(3) Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:</p> <p>(i) The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and</p> <p>(ii) The previous access was terminated under favorable conditions.</p> <p>(4) Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under this subpart, the Fingerprint Orders, or part 73 of this chapter. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of § 37.31(c).</p>	<p>the provisions contained in the subject Order and this attachment are satisfied.</p> <p>FP 4. - All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI. ....</p> <p>RQ 2.d. (2), MD 5. b , PU 2. A. ii., PU D. - Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment ... to this Order....</p> <p>PU, MD, RQ D. - Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment 3 to this Order....</p> <p>FP 2. - The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the "Right to Correct and Complete Information" section of this attachment.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.27 Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.</b></p>	<p>FP 6. - The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access to risk significant radioactive materials equal to or greater than the quantities listed in</p>



<p>(a) <i>General performance objective and requirements.</i></p> <p>(5) Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.</p>	<p>Attachment B.</p> <p>MD, PU FP 6. - The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for access to SGI or unescorted access to radioactive materials equal to or greater than the quantities used in Attachment 2 to this Order.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.27 Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.</b></p> <p>(b) <i>Prohibitions.</i></p> <p>(1) Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:</p> <p>(i) An arrest more than 1 year old for which there is no information of the disposition of the case; or</p> <p>(ii) An arrest that resulted in dismissal of the charge or an acquittal.</p> <p>(2) Licensees may not use information received from a criminal history records check obtained under this subpart in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.</p>	<p>FP - Prohibitions</p> <p>A Licensee shall not base a final determination to deny an individual unescorted access to certain radioactive material solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.</p> <p>A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.27 Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.</b></p> <p>(c) <i>Procedures for processing of fingerprint checks.</i></p> <p>(1) For the purpose of complying with this subpart, licensees shall</p>	<p>FP (RQ, MD, PU) - Procedures for Processing Fingerprint Checks</p> <p>For the purpose of complying with this Order, Licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T-6E46, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ) or, where</p>

use an appropriate method listed in § 37.7 to submit to the Office of Administration, Division of Facilities and Security, Mail Stop TWB-05 B32M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0012, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 415-7232, or by e-mail to [FORMS.Resource@nrc.gov](mailto:FORMS.Resource@nrc.gov). Guidance on submitting electronic fingerprints can be found at <http://www.nrc.gov/site-help/e-submittals.html>.

(2) Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at (301) 492-3531.) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC public Web site. (To find the current fee amount, go to the Electronic Submittals page at <http://www.nrc.gov/site-help/e-submittals.html> and see the link for the Criminal History Program under Electronic Submission Systems.)

(3) The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks.

practicable, other fingerprint records for each individual seeking unescorted access to the panoramic or underwater irradiator sealed sources, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 415-5877, or by e-mail to [forms@nrc.gov](mailto:forms@nrc.gov). Practicable alternative formats are set forth in 10 CFR 73.4. The Licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards. The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free resubmission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee. Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415-7404]. Combined payment for multiple applications is acceptable. The application fee (currently \$27) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submissions. The Commission will directly notify Licensees who are subject to this regulation of any fee changes. The Commission will forward to the submitting Licensee all data received from the FBI as a result of the Licensee's application(s) for criminal history checks, including the FBI

	<p>fingerprint record.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.29 Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials or other property.</b></p> <p>(a) Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:</p> <p>(1) An employee of the Commission or of the Executive Branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;</p> <p>(2) A Member of Congress;</p> <p>(3) An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;</p> <p>(4) The Governor of a State or his or her designated State employee representative;</p> <p>(5) Federal, State, or local law enforcement personnel;</p> <p>(6) State Radiation Control Program Directors and State Homeland Security Advisors or their designated State employee representatives;</p> <p>(7) Agreement State employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act;</p> <p>(8) Representatives of the International Atomic Energy Agency</p>	<p>IC 1.c. - All individuals requiring access .... In the case of a service provider's employee, the licensee shall obtain from the service provider written verification attesting to or certifying the employee's trustworthiness and reliability before granting unescorted access.</p> <p><b>Difference:</b> The rule provides relief for additional categories of individuals (emergency response personnel, commercial vehicle drivers, and package handlers at transportation facilities).</p>

<p>(IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;</p> <p>(9) Emergency response personnel who are responding to an emergency;</p> <p>(10) Commercial vehicle drivers for road shipments of category 2 quantities of radioactive material;</p> <p>(11) Package handlers at transportation facilities such as freight terminals and railroad yards;</p> <p>(12) Any individual who has an active Federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that granted the Federal security clearance or reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and</p> <p>(13) Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider must be provided to the licensee. The licensee shall retain the documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.</p>	
<p><b>§ 37.29 Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials.</b></p> <p>(b) Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records</p>	<p>MD, PU, RQ C. 1. - In accordance with the NRC's "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information" ..... Fingerprinting and the FBI identification and criminal history records check are not required for individuals exempted from fingerprinting requirements under 10 CFR 73.61 [72 Fed. Reg. 4945 (February 2, 2007)]. In addition, individuals who have a favorably decided U.S. Government criminal history records check within the last five (5) years, or have an active federal security clearance (provided in each case that the appropriate</p>

check within the last 5 years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:

- (1) National Agency Check;
- (2) Transportation Worker Identification Credentials (TWIC) under 49 CFR 1572;
- (3) Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR 555;
- (4) Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR 73;
- (5) Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license under 49 CFR 1572; and
- (6) Customs and Border Protection's Free and Secure Trade (FAST) Program.

documentation is made available to the Licensee's reviewing official), have satisfied the Energy Policy of 2005 fingerprinting requirement and need not be fingerprinted again for purposes of being considered for unescorted access.

PU, MD, RQ - B. - ... Fingerprinting and the FBI identification and criminal history records check are not required for individuals that are exempted from fingerprinting requirements under 10 CFR 73.59 [71 Fed. Reg. 33,989 (June 13, 2006)] for access to SGI. In addition, individuals who have a favorably decided U.S. Government criminal history records check within the last five (5) years, or individuals who have an active federal security clearance, (provided in each case that the appropriate documentation is made available to the Licensee's reviewing official) have satisfied the EPAAct fingerprinting requirement and need not be fingerprinted again.

FP (IC) 3. - Fingerprints for unescorted access need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR § 73.61, or any person who has been favorably-decided by a U.S. Government program involving fingerprinting and an FBI identification and criminal history records check (e.g. National Agency Check, Transportation Worker Identification Credentials in accordance with 49 CFR Part 1572, Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR Part 555, Health and Human Services security risk assessments for possession and use of select agents and toxins in accordance with 42 CFR Part 73, Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license in accordance with 49 CFR Part 1572, Customs and Border Patrol's Free and Secure Trade Program) within the last five (5) calendar years, or any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation). Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the FBI criminal history records results based upon a fingerprint identification check must be provided. The

	<p>Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires unescorted access to certain radioactive material associated with the Licensee's activities.</p> <p>FP (RQ, MD, PU) 3. Fingerprints for unescorted access need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.59 for access to Safeguards Information, has a favorably-decided U.S. Government criminal history check within the last five (5) years, or has an active federal security clearance. Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the criminal history check must be provided for either of the latter two cases. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires unescorted access to radioactive materials associated with the Licensee's activities.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.31 Protection of information.</b></p> <p>(a) Each licensee who obtains background information on an individual under this subpart shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.</p> <p>(b) The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.</p> <p>(c) The personal information obtained on an individual from a</p>	<p>FP - Protection of Information</p> <ol style="list-style-type: none"> <li>1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.</li> <li>2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining unescorted access to certain radioactive material. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.</li> <li>3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record check receives the individual's written request to re-disseminate the information</li> </ol>

<p>background investigation may be provided to another licensee:</p> <p>(1) Upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and</p> <p>(2) The recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.</p> <p>(d) The licensee shall make background investigation records obtained under this subpart available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.</p> <p>(e) The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.</p>	<p>contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.</p> <p>4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.</p> <p>5. The Licensee shall retain all fingerprint and criminal history records from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or determination of unescorted access to certain radioactive material (whether unescorted access was approved or denied). After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.</p> <p>FP (IC) - D. - Upon receipt of the results of FBI identification and criminal history records checks, the Licensee shall control such information as specified in the "Protection of Information" section of Attachment 3 of this Order and in requirement IC.5 of the Increased Controls Order (EA-05-090).</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.33 Access authorization program review.</b></p> <p>(a) Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this subpart and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically (at least annually) review the access program content and implementation.</p>	<p>New Requirement</p>

(b) The results of the reviews, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

(c) Review records must be maintained for 3 years.

**Subpart C – Physical Protection Requirements during Use**

**§ 37.41 Security program.**

*(a) Applicability.*

(1) Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of this subpart.

(2) An applicant for a new license and each licensee that would become newly subject to the requirements of this subpart upon application for modification of its license shall implement the requirements of this subpart, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.

(3) Any licensee that has not previously implemented the Security Orders or been subject to the provisions of subpart C shall provide written notification to the NRC regional office specified in § 30.6 of this chapter at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

*(b) General performance objective.* Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2

IC Intro - The purpose of the increased controls (IC) for radioactive sources is to enhance control of radioactive material in quantities greater than or equal to values described in Table 1, to reduce the risk of unauthorized use of radioactive materials, through access controls to aid prevention, and prompt detection, assessment, and response to mitigate potentially high consequences that would be detrimental to public health and safety. These increased controls for radioactive sources are established to delineate licensee responsibility to maintain control of licensed material and secure it from unauthorized removal or access.

IC 2. Intro - In order to ensure the safe handling, use, and control of licensed material in use and in storage, each licensee shall have a documented program to monitor and immediately detect, assess, and respond to unauthorized access to radioactive material quantities of concern and devices. Enhanced monitoring shall be provided during periods of source delivery or shipment, where the delivery or shipment exceeds 100 times the Table 1 values.

**Difference:** No substantive difference between the rule and the orders.



quantities of radioactive material.	
<p><b>§ 37.41 Security program.</b></p> <p>(c) <i>Program features.</i> Each licensee’s security program must include the program features, as appropriate, described in §§ 37.43, 37.45, 37.47, 37.49, 37.51, 37.53, and 37.55.</p>	NA
<p><b>§ 37.43 General security program requirements.</b></p> <p>(a) <i>Security plan.</i></p> <p>(1) Each licensee identified in § 37.41(a) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee’s overall security strategy to ensure the integrated and effective functioning of the security program required by this subpart. The security plan must, at a minimum:</p> <p>(i) Describe the measures and strategies used to implement the requirements of this subpart; and</p> <p>(ii) Identify the security resources, equipment, and technology used to satisfy the requirements of this subpart.</p> <p>(2) The security plan must be reviewed and approved by the individual with overall responsibility for the security program.</p> <p>(3) A licensee shall revise its security plan as necessary to ensure the effective implementation of Commission requirements. The licensee shall ensure that:</p> <p>(i) The revision has been reviewed and approved by the individual with overall responsibility for the security program; and</p> <p>(ii) The affected individuals are instructed on the revised plan before the changes are implemented.</p>	<p>IC 2. - Intro - In order to ensure the safe handling, use, and control of licensed material in use and in storage, each licensee shall have a documented program to monitor and immediately detect, assess, and respond to unauthorized access to radioactive material quantities of concern and devices. ...</p> <p><b>Difference:</b> The rule requires a security plan while the IC Orders required a documented program. The rule requires the plan to be approved by the individual with responsibility for the security program while the orders did not specify any approval. The rule also requires instruction on the plan before implementation.</p>
<p><b>§ 37.43 General security program requirements.</b></p> <p>(a) <i>Security plan.</i></p> <p>(4) The licensee shall retain a copy of the current security plan as a record for 3 years after the security plan is no longer required. If any</p>	<p>Records associated with all of the orders were to be maintained at least 3 years</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>

<p>portion of the plan is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.</p>	
<p><b>§ 37.43 General security program requirements.</b>  <b>(b) Implementing procedures.</b>  (1) The licensee shall develop and maintain written procedures that document how the requirements of this subpart and the security plan will be met.  (2) The implementing procedures and revisions to these procedures must be approved in writing by the individual with overall responsibility for the security program.  (3) The licensee shall retain a copy of the current procedure as a record for 3 years after the procedure is no longer needed. Superseded portions of the procedure must be retained for 3 years after the record is superseded.</p>	<p>New Requirement</p>
<p><b>§ 37.43 General security program requirements.</b>  <b>(c) Training.</b>  (1) Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training must include instruction in:  (i) The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;  (ii) The responsibility to report promptly to the licensee any condition that causes or may cause a violation of Commission requirements;  (iii) The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and</p>	<p>New Requirement</p>

<p>(iv) The appropriate response to security alarms.</p> <p>(2) In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training must be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.</p> <p>(3) Refresher training must be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training must include:</p> <p>(i) Review of the training requirements of paragraph (c) of this section and any changes made to the security program since the last training;</p> <p>(ii) Reports on any relevant security issues, problems, and lessons learned;</p> <p>(iii) Relevant results of NRC inspections; and</p> <p>(iv) Relevant results of the licensee's program review and testing and maintenance.</p> <p>(4) The licensee shall maintain records of the initial and refresher training for 3 years from the date of the training. The training records must include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.</p>	
<p><b>§ 37.43 General security program requirements.</b></p> <p>(d) <i>Protection of information.</i></p> <p>(1) Except as provided in paragraph (d)(9) of this section, licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.</p>	<p>IC 6. - Detailed information generated by the licensee that describes the physical protection of radioactive material quantities of concern, is sensitive information and shall be protected from unauthorized disclosure.</p> <p>IC 6.a. - The licensee shall control access to its physical protection information to those persons who have an established need to know the information, and are considered to be trustworthy and reliable.</p>

(2) Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.

(3) Before granting an individual access to the security plan or implementing procedures, licensees shall:

(i) Evaluate an individual's need to know the security plan or implementing procedures; and

(ii) If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee must complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in § 37.25(a)(2) through (a)(7).

(4) Licensees need not subject the following individuals to the background investigation elements for protection of information:

(i) The categories of individuals listed in § 37.29(a)(1) through (8); or

(ii) Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable by the required background investigation in § 37.25(a)(2) through (a)(7) has been provided by the security service provider.

(5) The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.

(6) Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as

IC 6.b. - The licensee shall develop, maintain and implement policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, its physical protection information for radioactive material covered by these requirements. The policies and procedures shall include the following:

IC 6.b.1. - General performance requirement that each person who produces, receives, or acquires the licensee's sensitive information, protect the information from unauthorized disclosure,

IC 6.b.2. - Protection of sensitive information during use, storage, and transit,

IC 6.b.3. - Preparation, identification or marking, and transmission,

IC 6.b.4. - Access controls,

IC 6.b.5. - Destruction of documents,

IC6.b.6. - Use of automatic data processing systems, and

IC 6.b,7. - Removal from the licensee's sensitive information category.

**Difference:** The rule does not provide the specificity contained in the orders.

<p>possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.</p> <p>(7) When not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in nonremovable electronic form must be password protected.</p> <p>(8) The licensee shall retain as a record for 3 years after the document is no longer needed:</p> <p>(i) A copy of the information protection procedures; and</p> <p>(ii) The list of individuals approved for access to the security plan or implementing procedures.</p> <p>(9) Licensees that possess safeguards information or safeguards information-modified handling are subject to the requirements of § 73.21 of this chapter, and shall protect any safeguards information or safeguards information-modified handling in accordance with the requirements of that section.</p>	
<p><b>§ 37.45 LLEA coordination.</b></p> <p>(a) A licensee subject to this subpart shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA must include:</p> <p>(1) A description of the facilities and the category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with this subpart; and</p> <p>(2) A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.</p> <p>(b) The licensee shall notify the appropriate NRC regional office listed in § 30.6(a)(2) of this chapter within 3 business days if:</p>	<p>IC 2.b. - The licensee shall have a pre-arranged plan with LLEA for assistance in response to an actual or attempted theft, sabotage, or diversion of such radioactive material or of the devices which is consistent in scope and timing with a realistic potential vulnerability of the sources containing such radioactive material. The pre-arranged plan shall be updated when changes to the facility design or operation affect the potential vulnerability of the sources. Pre-arranged LLEA coordination is not required for temporary job sites.</p> <p>MD 4. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed]</p> <p><b>Difference:</b> The rule relaxes the requirement to have a pre-arranged plan and only requires coordination with the LLEA. The rule also requires annual coordination.</p>

<p>(1) The LLEA has not responded to the request for coordination within 60 days of the coordination request; or</p> <p>(2) The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.</p> <p>(c) The licensee shall document its efforts to coordinate with the LLEA. The documentation must be kept for 3 years.</p> <p>(d) The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee’s material to theft, sabotage, or diversion.</p>	
<p><b>§ 37.47 Security zones.</b></p> <p>(a) Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee-established security zones. Security zones may be permanent or temporary.</p> <p>(b) Temporary security zones must be established as necessary to meet the licensee’s transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.</p> <p>(c) Security zones must, at a minimum, allow unescorted access only to approved individuals through:</p> <p>(1) Isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone; or</p> <p>(2) Direct control of the security zone by approved individuals at all times; or</p> <p>(3) A combination of continuous physical barriers and direct control.</p>	<p>IC 2. Intro - In order to ensure the safe handling, use, and control of licensed material in use and in storage, each licensee shall have a documented program to monitor and immediately detect, assess, and respond to unauthorized access to radioactive material quantities of concern and devices. ..</p> <p>PU 1 - Use and store the radioactive material only within a security zone that isolates the material from unauthorized access and facilitates detection if such access occurs.</p> <p>The security zone is an area, defined by the licensee, that provides for both isolation of radioactive material and access control. The licensee must demonstrate for this area a means to detect any attempt of unauthorized access to licensed material. “Isolation” means to deter persons, materials, or vehicles from entering or leaving through other than established access control points. “Access control” means to allow only approved individuals into the security zone. Thus, isolation and access control aid in the detection of unauthorized access or activities deemed by the licensee to be indicative of, or contributory to, the loss, theft, or release of material. The security zone does not have to be the same as the restricted area or controlled area, as defined in 10 CFR Part 20.</p>

Security zones can be permanent or temporary to meet transitory or intermittent business activities (such as during periods of maintenance, source delivery and source replacement). Different isolation/access control measures may be used for periods during which the security zone is occupied versus unoccupied.

PU 2 - Continuously control access to the security zone and limit admittance to those individuals who are approved and require access to perform their duties.

MD 1. - Establish a security zone (or zones). A security zone is an area, determined by the licensee, that provides for both isolation of radioactive material and access control.

a. - Only use and store the radioactive material within the established security zone(s); and

b. - The licensee shall demonstrate for each security zone, a means to deter, detect and delay any attempt of unauthorized access to licensed material. The security zone is not required to be the same as the restricted area or controlled area, as defined in 10 CFR Part 20 or equivalent agreement state regulations; and

c. - Security zones can be permanent or temporary to meet transitory or intermittent business activities (such as during periods of maintenance, source delivery, source replacement, and temporary job sites.). Different isolation/access control measures may be used for periods during which the security zone is occupied versus unoccupied.

PU, MD 2 – (Continuously) control access to the security zone and limit admittance to those individuals who are approved and require access to perform their duties.

MD 3. b. - Provide a positive measure to detect unauthorized removal of the radioactive material from the security zone; and

**Difference:** IC Orders did not contain a requirement for security zones,

	<p>however the IC orders did require the licensee to monitor, detect and respond to unauthorized access. No substantive difference from the other orders.</p>
<p><b>§ 37.47 Security zones.</b></p> <p>(d) For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.</p>	<p>IC 2. Intro - In order to ensure ... Enhanced monitoring shall be provided during periods of source delivery or shipment, where the delivery or shipment exceeds 100 times the Table 1 values.</p> <p>PU 3. B. - Provide enhanced security measures when temporary security zones are established, during periods of maintenance, source delivery and shipment, and source replacement, that will provide additional assurance for enhanced detection and assessment of and response to unauthorized individuals or activities involving the radioactive material. Such security measures shall include, but not be limited to:</p> <p>PU 3. B. a. - Advanced notification to the local law enforcement agency (LLEA) for radioactive source exchanges, deliveries, and shipments. For shipments of sources, establish a positive means of transferring the security responsibility, between the shipper/carrier and the consignee (receiver), for communicating with the LLEA.</p> <p><b>Difference:</b> The rule does not require the LLEA to be notified for source exchanges as the LLEA does not need the information. In the case of an attempted theft, the LLEA would be notified.</p>
<p><b>§ 37.47 Security zones.</b></p> <p>(e) Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material must be escorted by an approved individual when in a security zone.</p>	<p>IC 1.a. - The licensee shall allow ... Personnel who require access to such radioactive material and devices to perform a job duty, but who are not approved by the licensee for unescorted access, must be escorted by an approved individual.</p> <p>MD 5. d. - Individuals for whom the licensee has not made a determination of trustworthiness and reliability, based on the appropriate background investigation above, shall be escorted within the security zone to prevent unauthorized access or actions to the licensed radioactive material. The licensee shall also ensure these individuals are clearly identifiable as needing an escort while in the</p>



	<p>security zone.</p> <p>PU 2 B. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] The requirement addresses the need for escorts similar to MD5. D above.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.49 Monitoring, detection, and assessment.</b></p> <p><i>(a) Monitoring and detection.</i></p> <p>(1) Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.</p> <p>(2) Monitoring and detection must be performed by:</p> <p>(i) A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility; or</p> <p>(ii) Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or</p> <p>(iii) A monitored video surveillance system; or</p> <p>(iv) Direct visual surveillance by approved individuals located within the security zone; or</p> <p>(v) Direct visual surveillance by a licensee designated individual located outside the security zone.</p> <p>(3) A licensee subject to this subpart shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability must provide:</p> <p>(i) For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive</p>	<p>IC 2. Intro - In order to ensure the safe handling, use, and control of licensed material in use and in storage, each licensee shall have a documented program to monitor and immediately detect, assess, and respond to unauthorized access to radioactive material quantities of concern and devices. Enhanced monitoring shall be provided during periods of source delivery or shipment, where the delivery or shipment exceeds 100 times the Table 1 values.</p> <p>PU 3. - Implement a system (i.e., devices and/or trained individuals) to monitor, detect, assess and respond to unauthorized entries into or activities in the security zone.</p> <p>PU 3. C. - Provide a positive measure to validate that there has been no unauthorized removal of the radioactive material from the security zone.</p> <p>MD 3. - Implement a system to monitor, detect, assess and respond to unauthorized entries into or activities in the security zone.</p> <p>PU 3. A. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] The requirement addresses monitoring and use of intrusion detection</p> <p>MD 3. a. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed] This requirement addresses monitoring and detection.</p> <p><b>Difference:</b> The rule provides additional detail on what is acceptable</p>

<p>material from the security zone. Such immediate detection capability must be provided by:</p> <p>(A) Electronic sensors linked to an alarm; or</p> <p>(B) Continuous monitored video surveillance; or</p> <p>(C) Direct visual surveillance.</p> <p>(ii) For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.</p> <p>(b) <i>Assessment.</i> Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.</p>	<p>for the monitoring and detection system.</p>
<p><b>§ 37.49 Monitoring, detection, and assessment.</b></p> <p>(c) <i>Personnel communications and data transmission.</i> For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:</p> <p>(1) Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and</p> <p>(2) Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.</p>	<p>IC 2.c. - The licensee shall have a dependable means to transmit information between, and among, the various components used to detect and identify an unauthorized intrusion, to inform the assessor, and to summon the appropriate responder.</p> <p>PU 3. D. - Maintain continuous communications capability among the various components for intrusion detection and assessment to bring about a timely response.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.49 Monitoring, detection, and assessment.</b></p> <p>(d) <i>Response.</i> Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or</p>	<p>IC 2.a. - The licensee shall respond immediately to any actual or attempted theft, sabotage, or diversion of such radioactive material or of the devices. The response shall include requesting assistance from a Local Law Enforcement Agency (LLEA).</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>

<p>attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.</p>	
<p><b>§ 37.51 Maintenance, testing, and calibration.</b></p> <p>(a) Each licensee subject to this subpart shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition, are capable of performing their intended function when needed, and are inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested frequency, the testing must be performed at least annually, not to exceed 12 months.</p> <p>(b) The licensee shall maintain records on the maintenance and testing activities for 3 years.</p>	<p>New Requirement</p>
<p><b>§ 37.53 Requirements for mobile devices.</b></p> <p>Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material must:</p> <p>(a) Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and</p> <p>(b) For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.</p>	<p>IC 4. - In order to ensure the safe handling, use, and control of licensed material in use and in storage each licensee that possesses mobile or portable devices containing radioactive material in quantities greater than or equal to Table 1 values, shall:</p> <p>IC 4.a. - For portable devices, have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee.</p> <p>IC 4.b - For mobile devices:</p> <p>IC 4.b.1. - that are only moved outside of the facility (e.g., on a trailer), have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee.</p> <p>IC 4.b.2. - that are only moved inside a facility, have a physical control</p>

	<p>that forms a tangible barrier to secure the material from unauthorized movement or removal when the device is not under direct control and constant surveillance by the licensee.</p> <p>IC 4.c. - For devices in or on a vehicle or trailer, licensees shall also utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee</p> <p><b>Difference:</b> Rule allows for relief from the disabling mechanism in cases where the health and safety requirements prevent disabling the vehicle.</p>
<p><b>§ 37.55 Security program review.</b></p> <p>(a) Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this subpart and that comprehensive actions are taken to correct any noncompliance that is identified. The review must include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.</p> <p>(b) The results of the review, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.</p> <p>(c) The licensee shall maintain the review documentation for 3 years.</p>	<p>New Requirement</p>
<p><b>§ 37.57 Reporting of events.</b></p> <p>(a) The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft,</p>	<p>IC. 2.d. - After initiating appropriate response to any actual or attempted theft, sabotage, or diversion of radioactive material or of the devices, the licensee shall, as promptly as possible, notify NRC Operations</p>

<p>sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the NRC Operations Center ((301) 816-5100). In no case shall the notification to the NRC be later than 4 hours after the discovery of any attempted or actual theft, sabotage, or diversion.</p>	<p>Center at (301) 816-5100.</p> <p>PU 3. E. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement addresses LLEA notification.</p> <p>MD 3. c. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement addresses LLEA notification.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.57 Reporting of events.</b></p> <p>(b) The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the NRC Operations Center ((301) 816-5100).</p>	<p>New Requirement</p>
<p><b>§ 37.57 Reporting of events.</b></p> <p>(c) The initial telephonic notification required by paragraph (a) of this section must be followed within a period of 30 days by a written report submitted to the NRC by an appropriate method listed in § 37.7. The report must include sufficient information for NRC analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.</p>	<p>IC 2.e. - The licensee shall maintain documentation describing each instance of unauthorized access and any necessary corrective actions to prevent future instances of unauthorized access.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>Subpart D – Physical Protection in Transit</b></p>	
<p><b>§ 37.71 Additional requirements for transfer of category 1 and category 2 quantities of radioactive material.</b></p> <p>A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the Commission or an Agreement State shall meet the license verification provisions listed</p>	<p>RQ B. 1. Licensee Verification</p> <p>Before transfer of radioactive materials in quantities which meet the criterion of Paragraph A.1, per conveyance, the licensee shall:</p>

below instead of those listed in § 30.41(d) of this chapter:

(a) Any licensee transferring category 1 quantities of radioactive material to a licensee of the Commission or an Agreement State, prior to conducting such transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

(b) Any licensee transferring category 2 quantities of radioactive material to a licensee of the Commission or an Agreement State, prior to conducting such transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

(c) In an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification must include the license number, current revision number, issuing agency, expiration date, and for a category 1 shipment the authorized address. The licensee shall keep a copy of the certification. The certification must be confirmed by use of the NRC's license verification system or by contacting the license issuing authority by the end of the next business day.

(d) The transferor shall keep a copy of the verification documentation as a record for 3 years.

a. For new recipient(s), verify that the intended recipient's license authorizes receipt of the regulated material by direct contact with the regulatory authority that issued the license (NRC Region or Agreement State) prior to transferring the material,

b. Verify the validity of unusual orders or changes (if applicable) that depart from historical patterns of ordering by existing recipients,

c. Verify the material is shipped to an address authorized in the license and that the address is valid,

d. Verify the address for a delivery to a temporary job site is valid,

e. Document the verification and validation process, and

f. Coordinate departure and arrival times with the recipient.

MD 6. - Before transfer of radioactive materials that exceed the quantities in Table 1, Licensees shall:

a. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement addresses license verification.

b. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement address unusual orders.

c. - Assure that the material is shipped to an address authorized in the license and that the address is valid,

d. - Verify the address for deliveries to temporary job site, and

e. - Document the verification or validation process.

**Difference:** The rule includes use of the license verification system. The rule also requires verification for each shipment and not just for

	new recipients and unusual orders.
<p><b>§ 37.73 Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit.</b></p> <p>(a) For shipments of category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in §§ 37.75(a) and (e); 37.77; 37.79(a)(1), (b)(1), and (c); and 37.81(a), (c), (e), (g) and (h).</p> <p>(b) For shipments of category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in §§ 37.75(b) through (e); 37.79(a)(2), (a)(3), (b)(2), and (c); and 37.81(b), (d), (f), (g), and (h). For those shipments of category 2 quantities of radioactive material that meet the criteria of § 71.97(b) of this chapter, the shipping licensee shall also comply with the advance notification provisions of § 71.97 of this chapter.</p>	<p>RQ A. 8. - The requirements of these ASMs apply to RAMQC domestic shipments within the United States (U.S.), imports into the U.S., or exports from the U.S. The requirements of these ASMs do not apply to transshipments through the U.S. Licensees are responsible for complying with the requirements of Section B for the highway and rail shipment portion of an import or export which occurs inside of the U.S...</p> <p>RQ A.4. - The requirements of these ASMs only apply to RAMQC shipments using highway or rail modes of transportation. For multi-mode shipments, the requirements of these ASMs apply only to the portion of shipments that are made using highway or rail modes of transportation, as appropriate.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.73 Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit.</b></p> <p>(c) The shipping licensee shall be responsible for meeting the requirements of this subpart unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under this subpart.</p>	<p>IC 3.C. - If a licensee employs an M&amp;D licensee to take possession at the licensee's location of the licensed radioactive material and ship it under its M&amp;D license, the requirements of 3.a. and 3.b above shall not apply.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.73 Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit.</b></p> <p>(d) Each licensee that imports or exports category 1 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in §§ 37.75(a)(2) and (e); 37.77; 37.79(a)(1), (b)(1), and (c); and 37.81(a), (c), (e), (g), and (h) for the domestic portion of the shipment.</p> <p>(e) Each licensee that imports or exports category 2 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in §§ 37.79(a)(2), (a)(3), and (b)(2); and 37.81(b), (d), (f), (g), and (h) for the domestic portion of</p>	<p>RQ A. 8. - ...For import and export RAMQC shipments, while located at the port or shipments on U.S. navigable waterways, the U.S. Coast Guard Maritime Transportation security regulations will be in effect and these ASMs are not applicable. For RAMQC shipments while located at the air freight terminal, security requirements will be performed in accordance with the Transportation Security Administration security regulations.</p> <p>For import and export RAMQC shipments, the licensee shall ensure that the requirements of these ASMs are implemented after the transportation package has been loaded onto the highway or rail vehicle (except for the advance notification requirements in section B.4)</p>

<p>the shipment.</p>	<p>and the package begins the domestic portion of the shipment to or from the U.S. port of entry [i.e., the package(s) departs for or from the port of entry facility or the airfreight terminal].</p> <p>MD 8. - For imports and exports of material in quantities greater than the quantities in Table 1, per conveyance, the licensee shall follow the requirements in the Final Rule 10 CFR Part 110, July 1, 2005, (70 FR 37985 and 46066) Export and Import of Radioactive Materials: Security Policies.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.75 Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material.</b></p> <p>(a) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee’s facility or other place of use or storage shall:</p> <p>(1) Preplan and coordinate shipment arrival and departure times with the receiving licensee;</p> <p>(2) Preplan and coordinate shipment information with the governor or the governor’s designee of any State through which the shipment will pass to:</p> <p>(i) Discuss the State’s intention to provide law enforcement escorts; and</p> <p>(ii) Identify safe havens; and</p> <p>(3) Document the preplanning and coordination activities.</p>	<p>RQ B. 1. f. Coordinate departure and arrival times with the recipient.</p> <p>RQ B. 3. - Preplanning and Coordination</p> <p>a. - As part of the shipment planning process, the licensee shall ensure that appropriate security information is provided to and is coordinated with affected States through which the shipment will pass to ensure minimal delays. These discussions shall include whether a State intends to provide escorts for a shipment.</p> <p>b. - The licensee shall ensure States are provided with position information on a shipment (see Paragraph B. 5.a), if requested and practical.</p> <p>c. - For shipments by highway, the licensees's coordination required in Paragraph B.3.a. shall include identification of Highway Route Controlled Quantity (HRCQ) shipments of material and safe havens.</p> <p>MD 7. b. - Coordinate departure and arrival times with the recipient.</p> <p><b>Difference:</b> The rule does not require licensees to share position information on a shipment. The rule also doesn’t contain provisions on identification of HRCQ shipments.</p>
<p><b>§ 37.75 Preplanning and coordination of shipment of category 1</b></p>	<p>IC 3.a.2. - Contact the recipient to coordinate the expected arrival time</p>



<p><b>or category 2 quantities of radioactive material.</b></p> <p>(b) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.</p>	<p>of the shipment;</p> <p>IC 3.d. - If the licensee is to receive radioactive material greater than or equal to the Table 1 quantities, per consignment, the licensee shall coordinate with the originator to:</p> <p>IC 3.d.1. - Establish an expected time of delivery; and</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.75 Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material.</b></p> <p>(c) Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.</p>	<p>IC 3.a.3 - Confirm receipt of the shipment;</p> <p>IC 3.d.2. - Confirm receipt of transferred radioactive material. If the material is not received at the expected time of delivery, notify the originator and assist in any investigation.</p> <p><b>Difference:</b> The rule requires the receiving licensee to notify the shipping licensee if the shipment has not arrived by the no-later-than arrival time instead of the expected arrival time.</p>
<p><b>§ 37.75 Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material.</b></p> <p>(d) Each licensee, who transports or plans to transport a shipment of a category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to paragraph (b) of this section, shall promptly notify the receiving licensee of the new no-later-than arrival time.</p>	<p>New Requirement</p>
<p><b>§ 37.75 Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material.</b></p> <p>(e) The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for 3 years.</p>	<p>IC 5.d. - The licensee shall retain documentation on shipment coordination, notifications, and investigations for three years after the shipment or investigation is completed.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.77 Advance notification of shipment of category 1 quantities of radioactive material.</b></p>	<p>RQ B. 4. - Notifications</p> <p>a. - The licensee shall ensure an advance notification of a shipment is</p>

<p>As specified in paragraphs (a) and (b) of this section, each licensee shall provide advance notification to the NRC and the governor of a State, or the governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the State, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.</p> <p>(a) <i>Procedures for submitting advance notification.</i> (1) The notification must be made to the NRC and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees, is available on the NRC website at <a href="http://nrc-stp.ornl.gov/special/designee.pdf">http://nrc-stp.ornl.gov/special/designee.pdf</a>. A list of the contact information is also available upon request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The notification to the NRC may be made by e-mail to <a href="mailto:RAMQC_SHIPMENTS@nrc.gov">RAMQC_SHIPMENTS@nrc.gov</a> or by fax to (301) 816-5151.</p> <p>(2) A notification delivered by mail must be postmarked at least 7 days before transport of the shipment commences at the shipping facility.</p> <p>(3) A notification delivered by any means other than mail must reach NRC at least 4 days before the transport of the shipment commences and must reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the State.</p>	<p>provided, or of a series of shipments, of RAMQC to the NRC. The licensee shall ensure the notification is submitted sufficiently in advance to ensure it is received by NRC at least seven (7) days, where practicable, before the shipment commences physically within the U.S.</p> <p>For written notifications, the notice should be addressed to: (10CFR 2.390)</p> <p>U.S. Nuclear Regulatory Commission</p> <p>ATTN: Director, Division of Nuclear Security</p> <p>M/S: T-4-D-8</p> <p>Office of Nuclear Security and Incident Response</p> <p>11555 Rockville Pike</p> <p>Rockville, MD 20852-2738</p> <p>Notifications may also be submitted electronically via e-mail to <a href="mailto:RAMQC_SHIPMENTS@nrc.gov">RAMQC_SHIPMENTS@nrc.gov</a> or via fax to (301) 816-5151. (10CFR 2.390)</p> <p>RQ B. 4. c. - The licensee shall ensure the information required by Paragraph B.4.b. is provided to each State through which the shipment will pass. The licensee shall ensure that the notification is received at least seven (7) days, where practicable, before the U.S. highway or railroad portion of a shipment commences.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders. Note that for Agreement State licensees, the notifications will be provided to the State and not the NRC, the State will need to provide the information to the NRC.</p>
<p><b>§ 37.77 Advance notification of shipment of category 1</b></p>	<p>RQ B. 4. b. - The advance notification shall contain the following</p>

<p><b>quantities of radioactive material.</b></p> <p><i>(b) Information to be furnished in advance notification of shipment.</i> Each advance notification of shipment of category 1 quantities of radioactive material must contain the following information, if available at the time of notification:</p> <p>(1) The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;</p> <p>(2) The license numbers of the shipper and receiver;</p> <p>(3) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;</p> <p>(4) The point of origin of the shipment and the estimated time and date that shipment will commence;</p> <p>(5) The estimated time and date that the shipment is expected to enter each State along the route;</p> <p>(6) The estimated time and date of arrival of the shipment at the destination; and</p> <p>(7) A point of contact, with a telephone number, for current shipment information.</p>	<p>information:</p> <p>(1) [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement address (b)(1) requirements.</p> <p>(2) [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement address (b)(3) requirements.</p> <p>(3) [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement address modes and routes.</p> <p>(4) [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement address (b)(4) requirements.</p> <p>(5) [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement address (b)(6) requirements.</p> <p>(6) [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement address (b)(5) requirements.</p> <p>(7) - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement address seaborne routes.</p> <p>Refer to Paragraph B.7.c. for determination of information designation of advance notifications during preplanning, coordinating, and reporting information activities.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.77 Advance notification of shipment of category 1</b></p>	<p>RQ B. 4. d. - [This paragraph contains SAFEGUARDS INFORMATION</p>

<p><b>quantities of radioactive material.</b></p> <p>c) <i>Revision notice.</i></p> <p>(1) The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the State or the governor's designee and to the NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555.</p> <p>(2) A licensee shall promptly notify the governor of the State or the governor's designee of any changes to the information provided in accordance with paragraphs (b) and (c)(1) of this section. The licensee shall also immediately notify the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555 of any such changes.</p>	<p>and will not be publicly disclosed.]</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.77 Advance notification of shipment of category 1 quantities of radioactive material.</b></p> <p>(d) <i>Cancellation notice.</i> Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each State or to the governor's designee previously notified and to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.</p>	<p>New Requirement</p>
<p><b>§ 37.77 Advance notification of shipment of category 1 quantities of radioactive material.</b></p> <p>(e) <i>Records.</i> The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.</p>	<p>The orders require most records to be maintained 3 years.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.77 Advance notification of shipment of category 1</b></p>	<p>MD 9. - The licensee shall protect pre-planning, coordinating, and</p>

<p><b>quantities of radioactive material.</b></p> <p>(f) <i>Protection of information.</i> State officials, State employees, and other individuals, whether or not licensees of the Commission or an Agreement State, who receive schedule information of the kind specified in § 37.77(b) shall protect that information against unauthorized disclosure as specified in § 73.21 of this chapter.</p>	<p>reporting information required by ASM 7 related to shipments of radioactive material, and the radioisotopes identified in Table 1 as sensitive information (proprietary business financial or confidential). Licensees shall restrict access to this information to those licensee and contractor personnel with a need to know. Licensees shall require all parties receiving this information to protect it similarly. Information may be transmitted either in writing or electronically and shall be marked as “Security-Related Information - Withhold Under 10 CFR 2.390.”</p> <p><b>Difference:</b> The information is considered SGI-M and is covered by the current regulations.</p>
<p><b>§ 37.79 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.</b></p> <p>(a) <i>Shipments by road.</i></p> <p>(1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:</p> <p>(i) Ensure that movement control centers are established that maintain position information from a remote location. These control centers must monitor shipments 24 hours a day, 7 days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.</p> <p>(ii) Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.</p> <p>(iii) Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center must provide positive confirmation of the location, status, and control over the shipment. The movement control center must be prepared to promptly implement preplanned procedures in response</p>	<p>RQ B. - <u>Specific Requirements</u></p> <p>Licensees who ship RAMQC in quantities that meet the criteria of Paragraph A.1. shall ensure that carriers used have developed and implemented transportation security plans that embody the additional security measures imposed by this Order.</p> <p>RQ A. 2. - The requirements of these ASMs apply to a conveyance (i.e., the requirements apply irrespective of whether the RAMQC is shipped in a single package or in multiple packages in a single conveyance).</p> <p>RQ B. 5.- Communications</p> <p>a. (1) For highway shipments, monitor each RAMQC shipment with a telemetric position monitoring system that communicates with a communication center or is equipped with an alternative tracking system that communicates position information to a communications center.</p> <p>RQ B. 5. b. (1) - For highway shipments, provide for a communication center that has the capability to continuously and actively monitor in-progress shipments to ensure positive confirmation of the location, status, and control over the shipment and implement pre-planned procedures in response to deviations from the authorized route or</p>

to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(iv) Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.

(v) Develop written normal and contingency procedures to address:

(A) Notifications to the communication center and law enforcement agencies;

(B) Communication protocols. Communication protocols must include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;

(C) Loss of communications; and

(D) Responses to an actual or attempted theft or diversion of a shipment.

(vi) Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.

notification of actual, attempted, or suspicious activities related to theft, loss, diversion, or radiological sabotage of a shipment. These procedures shall include identification of the designated LLEA contact(s) along the shipment route.

RQ B. 5. c. (1) - For highway shipments, ensure that a two-way telecommunication capability is available for the transport and any escort vehicles allowing them to communicate with each other with the communications center, and with designated LLEAs along the route. The communications center must be capable of contacting the designated authorities along the shipment route.

RQ B. 5. d - A licensee may utilize a carrier or third-party communications center in lieu of establishing such a facility itself. A commercial communications center must have the capabilities, necessary procedures, training, and personnel background investigations to meet the applicable requirements of these ASMs.

RQ B. 5. e. (1) - For highway shipments, provide a backup means for the transport and any escort vehicle to communicate with the communications center, using a diverse method not subject to the same interference factors as the primary capability selected for compliance with Paragraph B.5.c. (e.g., two-way radio or portable telephone).

RQ B. 6. - Drivers and Accompanying Individuals

a. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement addresses the accompanying individual and his/her responsibilities.

b. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement addresses the accompanying individual.

c. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement addresses requirements in

	<p>the classification yard.</p> <p>d. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement addresses accompanying individuals for small quantities of irradiated fuel.</p> <p>RQ B. 7. - Procedures, Training, and Control of Information</p> <p>(1) - For highway shipments the licensee shall ensure that normal and contingency procedures have been developed, including, for example: notifications, communications protocols, loss of communications, and response to actual, attempted, or suspicious activities related to theft, loss, diversion, or radiological sabotage of a shipment. Communication protocols must include a strategy for use of authentication and duress codes, provision for refueling or other stops, detours, and locations where communication is expected to be temporarily lost.</p> <p>RQ B. 7. b. (1) - For highway shipments, the licensee shall ensure that personnel, including drivers, accompanying individuals, responsible communication center managers, and other appropriate communication center personnel are trained in and understand the normal and contingency procedures.</p> <p>MD 7. d. - In addition to a and b above, for highway and rail shipments of material in quantities greater than or equal to 100 times the quantities in Table 1, per conveyance, the licensee shall implement the NRC Order for Additional Security Measures on the Transportation of Radioactive Material Quantities of Concern.</p> <p><b>Difference:</b> The rule does not require training of the individuals instead requiring the individuals to have access to the procedures.</p>
<p><b>§ 37.79 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.</b></p> <p>(a) <i>Shipments by road.</i></p> <p>(2) Each licensee that transports category 2 quantities of radioactive</p>	<p>IC 3.a., MD 7., RQ A. 5. - In order to ensure the safe handling, use, and control of licensed material in transportation for domestic highway and rail shipments by a carrier other than the licensee, for quantities that equal or exceed those in Table 1 but are less than 100 times Table 1</p>

<p>material shall maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.</p> <p>(a) <i>Shipments by road.</i></p> <p>(3) Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:</p> <p>(i) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system must allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.</p> <p>(ii) Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and</p> <p>(iii) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.</p>	<p>quantities, per consignment, the licensee shall:</p> <p>IC 3.a.1. - Use carriers which:</p> <p>IC 3.a.1.A. - Use package tracking systems,</p> <p>IC 3.a.1.B. - Implement methods to assure trustworthiness and reliability of drivers,</p> <p>IC 3.a.1.C. - Maintain constant control and/or surveillance during transit, and</p> <p>IC 3.a.1.D. - Have the capability for immediate communication to summon appropriate response or assistance.</p> <p>The licensee shall verify and document that the carrier employs the measures listed above.</p> <p>Note that the 3 orders are worded slightly different but have the same basic requirements.</p> <p><b>Difference:</b> The rule does not require that the licensee assure the trustworthiness and reliability of drivers or document that the carrier employs the measures.</p>
<p><b>§ 37.79 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.</b></p> <p>(b) <i>Shipments by rail.</i></p> <p>(1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:</p> <p>(i) Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the</p>	<p>RQ B. 5. a. (2) - For rail shipments, monitor each RAMQC shipment with either: (i) a telemetric position monitoring system that communicates with a licensee or third-party communication center, (ii) a railroad track-side car location monitoring systems tracking system that relays a car's position to a railroad communications center (which can provide position information to any separate licensee communications center per Paragraph B.5.b), or (iii) alternate licensee monitoring system. Additionally, licensees may use a railroad communications center to monitor the rail portion of a shipment, in lieu of using a separate communications center.</p> <p>RQ B. 5. b. (2) - For rail shipments, provide for a communication center</p>



location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(ii) Ensure that periodic reports to the communications center are made at preset intervals.

that has the capability to periodically monitor in-progress shipments to ensure positive confirmation of the location of the shipment and implement pre-planned procedures in response to notification of actual, attempted, or suspicious activities related to theft, loss, diversion, or radiological sabotage of a shipment. These procedures shall include identification of the designated LLEA contact(s) along the shipment route. Licensees may use a railroad communications center in lieu of establishing a separate communications center.

RQ B. 5. c. (2) - For rail shipments, ensure that a two-way telecommunication capability is available between the train and the communications center and between any escort vehicles and the communications center. The communications center must be capable of contacting the designated authorities along the shipment route.

RQ B. 5. e. (2) - For rail shipments, provide a backup means for the train to talk with the communications center, using a diverse method not subject to the same interference factors as the primary capability selected for compliance with Paragraph B.5.c. (e.g., two-way radio or portable telephone).

RQ B. 7.(2) - For rail shipments, the licensee shall ensure that normal and contingency procedures have been developed, including, for example: notifications, communications protocols, loss of communications, and response to actual, attempted, or suspicious activities related to theft, loss, diversion, or radiological sabotage of a shipment. Communication protocols must include a strategy for use of authentication and duress codes, provision for stops, and locations where communication is expected to be temporarily lost.

RQ B.7, (b) (2) - For rail shipments, the licensee shall ensure that personnel, including the appropriate train crew members and responsible railroad communication center managers, and other appropriate railroad communication center personnel are trained in and understand the normal and contingency procedures.

**Difference:** The rule does not require procedures or training as the

	railroad will have its own training and procedures that must be followed.
<p><b>§ 37.79 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.</b></p> <p>(b) <i>Shipments by rail.</i></p> <p>(2) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:</p> <p>(i) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system must allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.</p> <p>(ii) Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and</p> <p>(iii) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.</p>	<p>IC 3.a., MD 7., RQ A. 5. - In order to ensure the safe handling, use, and control of licensed material in transportation for domestic highway and rail shipments by a carrier other than the licensee, for quantities that equal or exceed those in Table 1 but are less than 100 times Table 1 quantities, per consignment, the licensee shall:</p> <p>IC 3.a.1. - Use carriers which:</p> <p>IC 3.a.1.A. - Use package tracking systems,</p> <p>IC 3.a.1.B. - Implement methods to assure trustworthiness and reliability of drivers,</p> <p>IC 3.a.1.C. - Maintain constant control and/or surveillance during transit, and</p> <p>IC 3.a.1.D. - Have the capability for immediate communication to summon appropriate response or assistance.</p> <p>The licensee shall verify and document that the carrier employs the measures listed above.</p> <p>Note that the 3 orders are worded slightly different but have the same basic requirements.</p> <p><b>Difference:</b> The rule does not require that the licensee assure the trustworthiness and reliability of drivers or document that the carrier employs the measures.</p>
<p><b>§ 37.79 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.</b></p> <p>(c) <i>Investigations.</i> Each licensee who makes arrangements for the</p>	<p>IC 3.a.4. - Initiate an investigation to determine the location of the licensed material if the shipment does not arrive on or about the expected arrival time. ...</p>

<p>shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.</p>	<p>MD 7. c. - Immediately initiate an investigation with the carrier and intended recipient If the shipment does not arrive by close of business on the day of the previously coordinated arrival time. ...</p> <p><b>Difference:</b> The rule requires the investigation to begin if the shipment does not arrive by the no-later-than arrival time instead of the expected arrival time. For category 1 shipments, the investigation when it is determined that the material is lost or missing.</p>
<p><b>§ 37.81 Reporting of events.</b></p> <p>(a) The shipping licensee shall notify the appropriate LLEA and the NRC Operations Center ((301) 816-5100) within 1 hour of its determination that a shipment of category 1 quantities of radioactive material is lost or missing. The appropriate LLEA would be the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by § 37.79(c), the shipping licensee will provide agreed upon updates to the NRC Operations Center on the status of the investigation.</p>	<p>RQ B. 5. f. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement addresses LLEA notifications.</p> <p>RQ B. 5. f.(1) - Not later than one hour after the time when, through the course of the investigation, it is determined the shipment is lost or stolen, the licensee shall ensure the appropriate local law enforcement agency, the NRC Operations Center at (301) 816-5100, and the appropriate Agreement State regulatory agency, if any, are notified.</p> <p>(2) - If after 24 hours of initiating the investigation, the radioactive material cannot be located, licensee shall ensure the NRC Operations Center and, for Agreement State licensees, the appropriate Agreement State regulatory agency are immediately notified.</p> <p>MD 7. c. - Immediately initiate an investigation with the carrier and intended recipient If the shipment does not arrive by close of business on the day of the previously coordinated arrival time. Not later than one hour after the time when, through the course of the investigation, it is determined the shipment has become lost or stolen, the licensee shall notify the appropriate local law enforcement agency, the NRC Operations Center at (301) 816-5100, and the appropriate Agreement State regulatory agency. If after 24 hours of initiating the investigation, the radioactive material cannot be located, it shall be presumed lost and the licensee shall immediately notify the NRC Operations Center and, for Agreement State licensees, the appropriate Agreement State regulatory agency.</p>

	<p>RQ B. 5. g. - [This paragraph contains SAFEGUARDS INFORMATION and will not be publicly disclosed.] This requirement addresses LLEA notification.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.81 Reporting of events.</b></p> <p>(b) The shipping licensee shall notify the NRC Operations Center ((301) 816-5100) within 4 hours of its determination that a shipment of category 2 quantities of radioactive material is lost or missing. If, after 24 hours of its determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify the NRC Operations Center.</p>	<p>IC 3.a.4. - ... When, through the course of the investigation, it is determined the shipment has become lost, stolen, or missing, the licensee shall immediately notify the NRC Operations Center at (301) 816-5100. If, after 24 hours of investigating, the location of the material still cannot be determined, the radioactive material shall be deemed missing and the licensee shall immediately notify the NRC Operations Center at (301) 816-5100.</p> <p><b>Difference:</b> No substantive difference between the rule and the orders.</p>
<p><b>§ 37.81 Reporting of events.</b></p> <p>(c) The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the NRC Operations Center ((301) 816-5100) upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of category 1 radioactive material.</p>	<p>New Requirement</p>
<p><b>§ 37.81 Reporting of events.</b></p> <p>(d) The shipping licensee shall notify the NRC Operations Center ((301) 816-5100) as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material.</p>	<p>New Requirement</p>
<p><b>§ 37.81 Reporting of events.</b></p> <p>(e) The shipping licensee shall notify the NRC Operations Center</p>	<p>New Requirement</p>

<p>((301) 816-5100) and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material.</p>	
<p><b>§ 37.81 Reporting of events.</b></p> <p>(f) The shipping licensee shall notify the NRC Operations Center ((301) 816-5100) as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material.</p>	<p>New Requirement</p>
<p><b>§ 37.81 Reporting of events.</b></p> <p>(g) The initial telephonic notification required by paragraphs (a) through (d) of this section must be followed within a period of 30 days by a written report submitted to the NRC by an appropriate method listed in § 37.7. In addition, the licensee shall provide one copy of the written report addressed to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response. The report must set forth the following information:</p> <p>(1) A description of the licensed material involved, including kind, quantity, and chemical and physical form;</p> <p>(2) A description of the circumstances under which the loss or theft occurred;</p> <p>(3) A statement of disposition, or probable disposition, of the licensed material involved;</p> <p>(4) Actions that have been taken, or will be taken, to recover the material; and</p> <p>(5) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.</p>	<p>New Requirement</p>
<p><b>§ 37.81 Reporting of events.</b></p> <p>(h) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.</p>	<p>New Requirement</p>
<p><b>Subpart F – Records</b></p>	

<p><b>§ 37.101 Form of records.</b></p> <p>Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.</p>	<p>New Requirement</p>
<p><b>§ 37.103 Record retention.</b></p> <p>Licensees shall maintain the records that are required by the regulations in this part for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility's license. All records related to this part may be destroyed upon Commission termination of the facility license.</p>	<p>IC 5.e. - After the license is terminated or amended to reduce possession limits below the quantities of concern, the licensee shall retain all documentation required by these increased controls for three years.</p> <p>MD10. - The licensee shall maintain all documentation required by these ASMs for a period of not less than three (3) years after the document is superceded or no longer effective.</p> <p>PU, MD G. - Notwithstanding any provisions of the Commission's or Agreement State's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.</p> <p><b>Difference:</b> The rule does not require records to be maintained after the license is terminated.</p>
<p><b>Subpart G – Enforcement</b></p>	

<p><b>§ 37.105 Inspections.</b></p> <p>(a) Each licensee ... stored.</p> <p>(b) Each licensee ... material.</p>	NA
<p><b>§ 37.107 Violations.</b></p> <p>(a) The Commission ... Acts.</p> <p>(b) The Commission ... amended.</p>	NA
<p><b>§ 37.109 Criminal penalties.</b></p> <p>(a) Section 223 ... section.</p> <p>(b) The regulations ... 37.109.</p>	NA
<p><b>Appendix A to Part 37—Category 1 and Category 2 Radioactive Materials</b></p> <p>Table 1 – Category 1 and Category 2 Threshold<sup>1</sup></p> <p>The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.</p>	<p><b>Difference:</b> The radioactive material and thresholds are the same, however, the rule provides the curie value to 3 figures.</p>
<p><b>PART 71--PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL</b></p> <p><b>§ 71.97 Advance notification of shipment of irradiated reactor fuel and nuclear waste.</b></p> <p>(b) Advance notification is also required under this section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:</p>	NA
<p><b>PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS</b></p> <p><b>§ 73.35 Requirements for physical protection of irradiated</b></p>	New Requirement

**reactor fuel (100 grams or less) in transit.**

Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a quantity of irradiated reactor fuel weighing 100 grams (0.22 pounds) or less in net weight of irradiated fuel, exclusive of cladding or other structural or packaging material, which has a total external radiation dose rate in excess of 1 sievert (100 rem) per hour at a distance of 91 meters (3 feet) from any accessible surface without intervening shielding, shall follow the physical protection requirements for category 1 quantities of radioactive material in Subpart D of Part 37 of this chapter.

<b>Rule Provision</b>	<b>Order Condition</b>
This provision was not included in the rule because the licensee is required to use a carrier (or implement itself) and the staff did not believe that the documentation for this was essential.	IC 5.c. - The licensee shall retain documentation on each radioactive material carrier for three years after the licensee discontinues use of that particular carrier.
This provision was not included in the rule because it was felt that the FBI would take some action if there was fingerprint match with the Terrorist Screening Data Base and would not need to be notified by the NRC.	IC FP - A.5. - Licensees shall notify the NRC's Headquarters Operations Office at 301-816-5100 within 24 hours if the results from a FBI identification and criminal history records check indicate that an individual is identified on the FBI's Terrorist Screening Data Base.
This provision was not included in the rule because the provision provides the rationale for the preplanning and not an actual requirement.	RQ A. 6. - The preplanning, coordination, and tracking requirements of these ASMs are intended to reduce unnecessary delays and shipment duration and to facilitate the transfer of the RAMQC shipment and any escorts at State borders.
This provision was not included in the rule because the provision was not necessary as Part 37 only applies to licensees.	RQ 7. - Unless specifically noted otherwise, the requirements of these ASMs do not apply to local law enforcement agencies (LLEA) personnel performing escort duties.
This provision was not included in the rule because the requirements for SGI-M were addressed in a previous rulemaking. The	RQ B. 7. c. - Information to be protected as Safeguards Information - Modified Handling, shall include, but is not limited to:



<p>requirements are located at §§ 73.21-23.</p>	<p>(1) - Integrated transportation physical security plans.</p> <p>(2) - Schedules and itineraries for shipments. For shipments that are not inherently self disclosing, schedule and itineraries information may be decontrolled 2 days after a shipment is completed. For shipments that are inherently self disclosing, schedule may be released as necessary after departure.</p> <p>(3) - Details of alarm and communications systems, communication protocols and duress codes, and security contingency response procedures.</p> <p>(4) - Arrangements with designated LLEA (i.e., Federal, State Police, and/or local police departments) and information on whether a State intends to provide armed escorts for a shipment.</p> <p>For preplanning; coordinating, for example with States' organizations and carriers; reporting information as described in B.1., B.4., and B.5. related to shipments of radioactive material, and the radionuclides identified in Paragraph A.1, the licensee shall ensure the information is protected at least as sensitive information (for example, proprietary or business financial information). Licensees shall ensure access is restricted to this information to those licensee and contractor personnel with a need to know. Licensees shall ensure all parties receiving this information protect it similarly. Information may be transmitted either in writing or electronically and shall be marked as "Sensitive Information - Not for Public Disclosure."</p>
<p>This provision was not included in the rule because it is not a requirement for licensees.</p>	<p>RQ A. 3. - Licensees are not responsible for complying with the requirements of these ASMs if a carrier aggregates, during transport or storage incident to transport, radioactive material from two or more conveyances from separate licensees which individually do not exceed the limits of Paragraph A.1. but which together meet or exceed any of the criteria in Paragraph A.1.</p>
<p>The remaining provisions are no longer applicable as these were things the licensee was to accomplish shortly after receiving the</p>	<p>IC 3.b. - For domestic highway and rail shipments, prior to shipping licensed radioactive material that exceeds 100 times the quantities in</p>

<p>orders. The rule requirements will have to be implemented once the final rule is effective. NA</p>	<p>Table 1 per consignment, the licensee shall:</p> <ol style="list-style-type: none"> <li>1. - Notify the NRC, in writing, at least 90 days prior to the anticipated date of shipment. The NRC will issue the Order to implement the Additional Security Measures (ASMs) for the transportation of Radioactive Material Quantities of Concern (RAM QC). The licensee shall not ship this material until the ASMs for the transportation of RAM QC are implemented or the licensee is notified otherwise, in writing, by NRC.</li> <li>2. - Once the licensee has implemented the ASMs for the transportation of RAM QC, the notification requirements of 3.b.1 shall not apply to future shipments of licensed radioactive material that exceeds 100 times the Table 1 quantities. The licensee shall implement the ASMs for the transportation of RAM QC.</li> </ol>
<p>NA</p>	<p>IC - A. The Licensee shall comply with the requirements described in Attachment B to this Order. The Licensee shall complete implementation by May 13, 2006, or the first day that radionuclides of concern at or above threshold limits, identified in Table 1, are possessed, whichever occurs later.</p>
<p>NA</p>	<p>IC - B.1. - The Licensee shall in writing, within <b>twenty five (25) days</b> of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment B, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.</p>
<p>NA</p>	<p>IC - C.1. - The Licensee shall, <b>within twenty five (25) days</b> of the date of this Order, submit to the Commission a schedule for completion of each requirement described in Attachment B.</p> <p>ICO - C.2. - The Licensee shall report to the Commission when they</p>

	have achieved full compliance with the requirements described in Attachment B.
NA	IC - D. - Notwithstanding any provisions of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission modifies its regulations to reflect increased controls.
NA	<p>IC FP - A.3. - The Licensee shall, in writing, within <b>sixty (60) days</b> of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in this Order or in Attachment 3 to this Order, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.</p> <p>IC FP - A.4. - The Licensee shall complete implementation of the program established in accordance with paragraph A.1 of this Order by <b>June 2, 2008</b>. In addition to the notifications in paragraphs 2 and 3 above, the Licensee shall notify the Commission within <b>twenty-five (25) days</b> after they have achieved full compliance with the requirements described in Attachment 3 to this Order. If by <b>June 2, 2008</b>, the Licensee is unable, due to circumstances beyond its control, to complete implementation of this Order, the Licensee shall submit a written request to the Commission explaining the need for an extension of time to implement the requirements. The request shall provide the Licensee's justification for seeking more time to comply with the requirements of this Order.</p>
NA	IC FP - E. - The Licensee shall make determinations on continued unescorted access for persons currently granted unescorted access, by <b>June 2, 2008</b> , based upon the results of the fingerprinting and FBI identification and criminal history records check. The Licensee may allow any individual who currently has unescorted access to certain radioactive materials in accordance with the IC Order to continue to

	<p>have unescorted access, pending a decision by the T&amp;R Official. After <b>June 2, 2008</b> no individual may have unescorted access to radioactive materials without a determination by the T&amp;R Official (based upon fingerprinting, an FBI identification and criminal history records check and a previous trustworthiness and reliability determination) that the individual may have unescorted access to such materials.</p>
NA	<p>FP (MD, RQ, PU) - A. -All licensees identified in Attachment 1 to this Order shall comply with the following requirements:</p> <p>FP (MD, RQ, PU) - A.1. - The Licensee shall, within <b>twenty (20) days</b> of the date of this Order, establish and maintain a fingerprinting program that meet the requirements of Attachment 2 to this Order, for unescorted access to radioactive materials that equal or exceed the quantities listed in Attachment 3 to this Order.</p> <p>FP (MD, RQ, PU) - A.2. - The Licensee shall, in writing, within <b>twenty (20) days</b> of the date of this Order, notify, the Commission, (1) receipt and confirmation that compliance with the Order will be achieved, or (2) if it is unable to comply with any of the requirements described in Attachment 2, or (3) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.</p>
NA	<p>FP (MD, RQ, PU) - D. - The Licensee may allow any individual who currently has u FP (MD, RQ, PU) nescorted access to radioactive materials, in accordance with the M&amp;D Order, to continue to have unescorted access without being fingerprinted, pending a decision by the reviewing official (based on fingerprinting, an FBI criminal history records check, and a trustworthy and reliability determination) that the individual may continue to have unescorted access to radioactive materials that equal or exceed the quantities listed in Attachment 3 to this Order. The licensee shall complete implementation of the requirements of Attachment 2 to this Order by <b>January 15, 2007</b>.</p>

NA	<p><u>RQ Implementation Schedule</u></p> <p>1. Licensees shall implement the requirements of this ASM within 180 days of the date of issuance of the Order or before the first shipment of RAMQC, whichever is sooner.</p>
	<p>PU A. - The Licensees shall, notwithstanding the provisions of any Commission or Agreement State regulation or license to the contrary, comply with the requirements described in Attachments 2 and 3 to this Order. The licensee shall immediately start implementation of the requirements in Attachments 2 and 3 to the Order and shall complete implementation by <b>November 18, 2007</b>, or the first day that greater than 370 terabecquerels (10,000 curies) of byproduct material in the form of sealed sources is possessed, which ever is later.</p>
NA	<p>PU A. 1. - The Licensee shall, within <b>twenty (20) days</b> of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachments 2 or 3, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission or Agreement State regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.</p> <p>2. - If the Licensee considers that implementation of any of the requirements described in Attachments 2 or 3 to this Order would adversely impact safe operation of the facility, the Licensee must notify the Commission, within <b>twenty (20) days</b> of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachments 2 or 3 requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant</p>

	justifications as required in Condition B.1.
NA	PU E. - The Licensee may allow any individual who currently has unescorted access to the panoramic or underwater irradiator sealed sources, in accordance with this Order, to continue to have unescorted access without being fingerprinted, pending a decision by the reviewing official (based on fingerprinting, an FBI criminal history records check and a trustworthy and reliability determination) that the individual may continue to have unescorted access to the panoramic or underwater irradiator sealed sources. The licensee shall complete implementation of the requirements of Attachments 2 and 3 to this Order by <b>November 18, 2007</b> .
NA	PU F. 1. - The Licensee shall, <b>within twenty (20) days</b> of the date of this Order, submit to the Commission a schedule for completion of each requirement described in Attachments 2 and 3.  2) - The Licensee shall report to the Commission when they have achieved full compliance with the requirements described in Attachments 2 and 3.
NA	MD A. - The Licensee shall, notwithstanding the provisions of any Commission or Agreement State regulation or license to the contrary, comply with the requirements described in Attachments 2 and 3 to this Order. The Licensee shall immediately start implementation of the requirements in Attachments 2 and 3 to the Order and shall complete implementation by <b>November 18, 2007</b> , or the first day that radionuclides of concern at or above threshold limits (i.e., high-risk radioactive material), also identified in Attachment 2, are possessed, whichever is later.
NA	MD B. 1. - The Licensee shall, within <b>twenty (20) days</b> of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachments 2 or 3, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any

	<p>Commission or Agreement State regulation or its license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.</p> <p>a. - If the Licensee considers that implementation of any of the requirements described in Attachments 2 or 3 to this Order would adversely impact safe operation of the facility, the Licensee must notify the Commission, within <b>twenty (20) days</b> of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in Attachments 2 or 3 requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.</p>
NA	<p>MD E. - The Licensee may allow any individual who currently has unescorted access to radioactive materials, in accordance with this Order, to continue to have unescorted access without being fingerprinted, pending a decision by the reviewing official (based on fingerprinting, an FBI criminal history records check and a trustworthy and reliability determination) that the individual may continue to have unescorted access to radioactive materials that equal or exceed the quantities listed in Attachment 2. The licensee shall complete implementation of the requirements of Attachments 2 and 3 to this Order by <b>November 18, 2007</b>.</p>
NA	<p>MD F. 1. - The Licensee shall, <b>within twenty (20) days</b> of the date of this Order, submit to the Commission a schedule for completion of each requirement described in Attachments 2 and 3.</p> <p>2) - The Licensee shall report to the Commission when they have achieved full compliance with the requirements described in Attachments 2 and 3.</p>

NA	<p>RQ A. - All Licensees shall, notwithstanding the provisions of any Commission or Agreement State regulation or license to the contrary, comply with the requirements described in Attachments B and C to this Order. The Licensees shall immediately start implementation of the requirements in Attachments B and C to the Order and shall complete implementation by <b>November 18, 2007</b>, or before the first shipment of radioactive material quantities of concern, whichever is sooner. This Order supersedes the additional transportation security measures prescribed in Attachment 2, Section 7.d. of the Manufacturer and Distributor Order issued January 12, 2004.</p>
NA	<p>RQ B. 1. - All Licensees shall, within <b>twenty (20) days</b> of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements described in Attachments B or C, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission or Agreement State regulation or its license. The notification shall provide the Licensees' justification for seeking relief from or variation of any specific requirement.</p> <p>2. - Any Licensee that considers that implementation of any of the requirements described in Attachments B or C to this Order would adversely impact the safe transport of radioactive material quantities of concern must notify the Commission, within <b>twenty (20) days</b> of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachments B or requirement in question, or a schedule for modifying the activity to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.</p>
NA	<p>RQ E. - The Licensee may allow any individual who currently has</p>



	<p>unescorted access to radioactive materials, in accordance with this Order, to continue to have unescorted access without being fingerprinted, pending a decision by the reviewing official (based on fingerprinting, an FBI criminal history records check and a trustworthy and reliability determination) that the individual may continue to have unescorted access to radioactive materials that equal or exceed the quantities listed in Attachment B to this Order. The licensee shall complete implementation of the requirements of Attachments B and C to this Order by <b>November 18, 2007</b>.</p>
NA	<p>RQ F. 1. - The Licensee shall, <b>within twenty (20) days</b> of the date of this Order, submit to the Commission a schedule for completion of each requirement described in Attachments B and C.</p> <p>2) - The Licensee shall report to the Commission when they have achieved full compliance with the requirements described in Attachments B and C.</p>
NA	<p>RQ G. - Notwithstanding any provisions of the Commission's or an Agreement State's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.</p>