Physical Protection of Byproduct Material, 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, 51, 71 and 73
(78 FR 16922, Published March 19, 2013) RATS ID: 2013-1
Effective Date: May 20, 2013
Compliance Date for NRC licensees: March 19, 2014
Date Due for State Adoption: March 19, 2016

REVIEWER PLEASE NOTE: 79 FR 75735, 12/19/2014 – Organization change from FSME to NMSS

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
§20.2201(c)	Reports of theft or loss of licensed material	N/A	D	N/A			
§30.6(a)	Communications	N/A	D	N/A			
§30.13	Carriers	As already defined and published in 105 CMR 120.775(B) (Attached)	B	**§30.13 is revised to read as follows:** Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this part and parts 31 through 37 and 39 of this chapter and the requirements for a license set forth in section 81 of the Act to the extent that they transport or store byproduct material in the regular course of carriage for another or storage incident thereto.			
§30.33	General	105 CMR	D	N/A			

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	requirements for issuance of specific licenses	120.125(A)(4) As proposed with added reference to new 120.050 through 120.080 requirements (Attached)					
§32.1(b)	Purpose and scope	As already published in 105 CMR 120.101 (Attached)	D	N/A			
§33.1	Purpose and scope	As already published in 105 CMR 120.101 (Attached)	D	N/A			
§34.1	Purpose and scope	As already published in 105 CMR 120.101 (Attached)	D	N/A			
§35.1	Purpose and scope	As already published in 105 CMR 120.101 (Attached)	D	N/A			
§36.1(a)	Purpose and	As already	D	N/A			

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	scope	published in 105 CMR 120.101 (Attached)					
Note: Since Part 37 is a new part, all text will be listed under the Summary of Change to CFR, including those with Compatibility Category D and NRC. The text for changes that are Compatibility Category D and NRC in other parts will not be provided, but can be found in 78 FR 16922							
§37.1	Purpose	105 CMR 120.051	D	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.			
§37.3	Scope	105 CMR 120.052	D	(a) Subparts B and C of this part apply to any person who, under the regulations in this chapter, possesses or uses at any site, an aggregated category 1 or category 2 quantity of radioactive material. (b) Subpart D of this part applies to			

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				any person who, under the regulations of this chapter: (1) Transports or delivers to a carrier for transport in a single shipment, a category 1 or category 2 quantity of radioactive material; or (2) Imports or exports a category 1 or category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.			
§37.5	Definition: Access control	105 CMR 120.053	C	*Access control* means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.			
§37.5	Definition: Act	N/A	D	*Act* means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.			
§37.5	Definition: Aggregated	105 CMR 120.053	C	*Aggregated* 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.			

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§37.5	Definition: Agreement State	As already defined and published in 105 CMR 120.005 (Attached)	[B]	*Agreement State* means any state with which the Atomic Energy Commission or the U.S. Nuclear Regulatory Commission has entered into an effective agreement under subsection 274b. of the Act. Non-agreement State means any other State.			
§37.5	Definition: Approved individual	105 CMR 120.053	B	*Approved individual* means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with subpart B of this part and who has completed the training required by § 37.43(c).			
§37.5	Definition: Background Investigation	105 CMR 120.053	C	*Background investigation* means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.			
§37.5	Definition: Becquerel	As already defined and published in 105 CMR 120.005 (Attached)	[A]	*Becquerel* (*Bq*) means one disintegration per second.			
§37.5	Definition:	As already	[H&S]	*Byproduct material* means—			

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	Byproduct Material	defined and published in 105 CMR 120.005 (Attached)		(1) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material; (2) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute “byproduct material” within this definition; (3)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or (ii) Any material that— (A) Has been made radioactive by use of a particle accelerator; and (B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and (4) Any discrete source of naturally occurring radioactive material, other			

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				than source material, that— (i) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and (ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.			
§37.5	Definition: Carrier	105 CMR 120.053	[B]	*Carrier* means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.			
§37.5	Definition: Category 1 quantity of radioactive material	105 CMR 120.053	B	*Category 1 quantity of radioactive material* means a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A to this part. This is determined by calculating the ratio of the total activity of each radionuclide to the category 1			

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				threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.			
§37.5	Definition: Category 2 quantity of radioactive material	105 CMR 120.053	B	*Category 2 quantity of radioactive material* means a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A to this part. This is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.			
§37.5	Definition: Commission	N/A	D	*Commission* means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.			

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§37.5	Definition: Curie	As already defined and published in 105 CMR 120.005 (Attached)	[A]	*Curie* means that amount of radioactive material which disintegrates at the rate of 37 billion atoms per second.			
§37.5	Definition: Diversion	105 CMR 120.053	C	*Diversion* means the unauthorized movement of radioactive material subject to this part to a location different from the material's authorized destination inside or outside of the site at which the material is used or stored.			
§37.5	Definition: Escorted access	105 CMR 120.053	B	*Escorted access* means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.			
§37.5	Definition: Fingerprint orders	105 CMR 120.053	C	*Fingerprint orders* means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by Agreement States that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive			

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				material or safeguards information-modified handling.			
§37.5	Definition: Government agency	105 CMR 120.053	D	*Government agency* means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.			
§37.5	Definition: License	As already defined and published in 105 CMR 120.005 (Attached)	D	*License*, except where otherwise specified, means a license for byproduct material issued pursuant to the regulations in parts 30 through 36 and 39 of this chapter.			
§37.5	Definition: License issuing authority	N/A	D	*License issuing authority* means the licensing agency that issued the license, i.e. the U.S. Nuclear Regulatory Commission or the appropriate agency of an Agreement State.			
§37.5	Definition: Local law enforcement agency	105 CMR 120.053	C	*Local law enforcement agency* (*LLEA*) means a public or private organization that has been approved by a federal, state, or local government to carry			

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				firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantity of radioactive material is used, stored, or transported.			
§37.5	Definition: Lost or missing licensed material	As already defined and published in 105 CMR 120.005 "Lost or Missing Source of Radiation" (Attached)	[B]	*Lost or missing licensed material* means licensed material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.			
§37.5	Definition: Mobile device	105 CMR 120.053	B	*Mobile device* means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or otherwise equipped for moving without a need for disassembly or dismounting; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.			
§37.5	Definition: Movement control center	105 CMR 120.053	B	*Movement control center* means an operations center that is remote from transport activity and that maintains position information on the movement			

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				of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.			
§37.5	Definition: No-later-than arrival time	105 CMR 120.053	B	*No-later-than arrival time* means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than-arrival time may not be more than 6 hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.			
§37.5	Definition: Person	As already defined and published in 105 CMR 120.005 (Attached)	[C]	*Person* means– (1) Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission or the DOE (except that the Department shall be considered a person within the meaning of the regulations in 10 CFR chapter I to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission under			

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				section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021), the Nuclear Waste Policy Act of 1982 (96 Stat. 2201), and section 3(b)(2) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (99 Stat. 1842), any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) Any legal successor, representative, agent, or agency of the foregoing.			
§37.5	Definition: Reviewing official	105 CMR 120.053	C	*Reviewing official* means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee.			
§37.5	Definition: Sabotage	105 CMR 120.053	C	*Sabotage* means deliberate damage, with malevolent intent, to a category 1 or category 2 quantity of radioactive			

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				material, a device that contains a category 1 or category 2 quantity of radioactive material, or the components of the security system.			
§37.5	Definition: Safe haven	105 CMR 120.053	B	*Safe haven* 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.			
§37.5	Definition: Security zone	105 CMR 120.053	C	*Security zone* means any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 quantities of radioactive material.			
§37.5	Definition: State	105 CMR 120.053	D	*State* means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.			
§37.5	Definition: Telemetric position monitoring	105 CMR 120.053	B	*Telemetric position monitoring system* means a data transfer system that captures information by instrumentation and/or measuring			

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	system			devices about the location and status of a transport vehicle or package between the departure and destination locations.			
§37.5	Definition: Trustworthiness and reliability	105 CMR 120.053	B	*Trustworthiness and reliability* are characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.			
§37.5	Definition: Unescorted access	105 CMR 120.053	B	*Unescorted access* means solitary access to an aggregated category 1 or category 2 quantity of radioactive material or the devices that contain the material.			
§37.5	Definition: United States	N/A	D	*United States*, when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.			
§37.7	Communications	105 CMR 120.054	D	Except where otherwise specified or covered under the regional licensing			

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				program as provided in § 30.6(b) of this chapter, all communications and reports concerning the regulations in this part may be sent as follows: (a) By mail addressed to: ATTN: Document Control Desk; Director, Office of Nuclear Reactor Regulation; Director, Office of New Reactors; Director, Office of Nuclear Material Safety and Safeguards; Director, Office of Federal and State Materials and Environmental Management Programs; or Director, Division of Security Policy, Office of Nuclear Security and Incident Response, as appropriate, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; (b) By hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland 20852; (c) Where practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page			

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				at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at http://www.nrc.gov/site-help/e-submittals.html; by e-mail to MSHD.Resource@nrc.gov; or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.			
§37.9	Interpretations	N/A	D	Except as specifically authorized by the Commission in writing, no interpretations of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized as binding upon the Commission.			
§37.11(a)	Specific exemptions	105 CMR 120.055(A)	D	(a) The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security,			

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				and are otherwise in the public interest.			
§ 37.11(b)	Specific exemptions	N/A	D	(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.			
§37.11(c)	Specific exemptions	105 CMR 120.055(B)	B	(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: (1) Use continuous physical barriers that allow access to the radioactive waste only through established access control points; (2) Use a locked door or gate with monitored alarm at the access control point; (3) Assess and respond to each			

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				actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and (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 contains category 1 or category 2 quantities of radioactive material.			
§37.13	Information collection requirements: OMB approval	N/A	D	(a) The U.S. Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB has approved the information collection requirements contained in this part under control number 3150-0214. (b) The approved information collection requirements contained in this part appear in §§ 37.11, 37.21,			

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				37.23, 37.25, 37.27, 37.29, 37.31, 37.33, 37.41, 37.43, 37.45, 37.49, 37.51, 37.55, 37.57, 37.71, 37.75, 37.77, 37.79, and 37.81.			
§37.21(a)	Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material	105 CMR 120.056(A)	C	(a) *General*. (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. (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 this subpart B shall implement the provisions of this subpart B before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.			

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§37.21(b)	Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material	105 CMR 120.056(B)	B	(b) *General performance objective.* The licensee's access authorization program must ensure that the individuals specified in paragraph (c)(1) of this section are trustworthy and reliable.			
§37.21(c)	Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material	105 CMR 120.056(C)	B	(c) *Applicability*. (1) Licensees shall subject the following individuals to an access authorization program: (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 (ii) Reviewing officials. (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. (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.			

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				(4) Licensees may include individuals needing access to safeguards information-modified handling under part 73 of this chapter in the access authorization program under this subpart B.			
§37.23(a)	Access authorization program requirements	105 CMR 120.057(A)	B	(a) *Granting unescorted access authorization.* (1) Licensees shall implement the requirements of this subpart for granting initial or reinstated unescorted access authorization. (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.			
§37.23(b)(1) & (b)(2)	Access authorization program requirements	105 CMR 120.057(B)(1) and (2)	B	(b) *Reviewing officials*. (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. (2) Each licensee shall name one or	Yes	No	Last sentence correctly references 37.25(c) "reinvestigation" instead of 37.25(b) "grandfathering" compatible section.

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				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).			
§37.23(b)(3)	Access authorization program requirements	105 CMR 120.057(B)(3)	C	(b) *Reviewing officials*. **** (3) Reviewing officials must be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling.			

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§37.23(b)(4) & (b)(5)	Access authorization program requirements	105 CMR 120.057(B)(4) and (5)	B	(b) *Reviewing officials*. **** (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).			
§37.23(c)	Access authorization program requirements	105 CMR 120.057(C)	B	(c) *Informed consent*. (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			

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				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. (2) The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that: (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 (ii) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.			
§37.23(d)	Access authorization program requirements	105 CMR 120.057(D)	B	(d) *Personal history disclosure*. 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			

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				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.			
§37.23(e)	Access authorization program requirements	105 CMR 120.057(E)	B	(e) *Determination basis.* (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. (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. (3) The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.			

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				(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. (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 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.			
§37.23(f)	Access authorization program requirements	105 CMR 120.057(F)	C	(f) *Procedures*. 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			

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				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.			
§37.23(g)	Access authorization program requirements	105 CMR 120.057(G)	B	(g) *Right to correct and complete information*. (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 1 year from the date of the notification. (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			

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				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			

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				record.			
§37.23(h)	Access authorization program requirements	105 CMR 120.057(H)	C	(h) *Records*. (1) The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. (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. (3) The licensee shall retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.			
§37.25(a)	Background investigations	105 CMR 120.058(A)	B	(a) *Initial investigation*. Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material,			

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				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: (1) Fingerprinting and an FBI identification and criminal history records check in accordance with § 37.27; (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			

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				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; (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; (4) Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period; (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,			

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				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; (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 (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.			
§37.25(b)	Background investigations	105 CMR 120.058(B)	C	(b) *Grandfathering*. (1) Individuals who have been determined to be trustworthy and			

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				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. (2) Individuals who have been determined to be trustworthy and reliable under the provisions of part 73 of this chapter or the security 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			

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				nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.			
§37.25(c)	Background investigations	105 CMR 120.058(C)	B	(c) *Reinvestigations*. 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.			
§37.27(a)	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material	105 CMR 120.059(A)	B	(a) *General performance objective and requirements*. (1) Except for those individuals listed in § 37.29 and those individuals 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			

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				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. (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. (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: (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 (ii) The previous access was terminated under favorable conditions. (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			

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				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). (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.			
§37.27(b)	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or	105 CMR 120.059(B)	B	(b) *Prohibitions*. (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: (i) An arrest more than 1 year old			

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	category 2 quantities of radioactive material			for which there is no information of the disposition of the case; or (ii) An arrest that resulted in dismissal of the charge or an acquittal. (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.			
§37.27(c)	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material	105 CMR 120.059(C)	B	(c) *Procedures for processing of fingerprint checks*. (1) For the purpose of complying with this subpart, licensees shall use an appropriate method listed in § 37.7 to submit to the U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-03B46M, Rockville, Maryland 20852-2738, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable,			

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				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 1-630-829-9565, or by e-mail to 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 301-415-7513.) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public Web site. (To find the current fee			

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				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. ***Note: See FSME-13-081 dated August 16, 2013, for notification to Agreement States of the change of address from that published in the regulations. Change is reflected above.***			
§37.29(a)	Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted	105 CMR 120.060(A) as revised with RATS-ID: 2015-2	B	(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: (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.			

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	access to certain radioactive materials			Government criminal history records check; (2) A Member of Congress; (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; (4) The Governor of a State or his or her designated State employee representative; (5) Federal, State, or local law enforcement personnel; (6) State Radiation Control Program Directors and State Homeland Security Advisors or their designated State employee representatives; (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; (8) Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC; (9) Emergency response personnel who are responding to an emergency; (10) Commercial vehicle drivers for			

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				road shipments of category 2 quantities of radioactive material; (11) Package handlers at transportation facilities such as freight terminals and railroad yards; (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 (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			

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				of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.			
§37.29(b)	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	105 CMR 120.060(B)	B	(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 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)			

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				under 49 CFR part 1572; (3) Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR part 555; (4) Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR part 73; (5) Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license under 49 CFR part 1572; and (6) Customs and Border Protection's Free and Secure Trade (FAST) Program.			
§37.31(a)-(d)	Protection of information.	105 CMR 120.061(A) through (D)	B	(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. (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			

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				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. (c) The personal information obtained on an individual from a background investigation may be provided to another licensee: (1) Upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and (2) The recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics. (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.			

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§37.31(e)	Protection of information.	105 CMR 120.061(E)	C	(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.			
§37.33	Access authorization program review.	105 CMR 120.062	C	(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. (b) The results of the reviews, along with any recommendations, must be documented. Each review report			

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				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.			
§37.41(a)	Security program	105 CMR 120.063(A)	B	(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			

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				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.			
§37.41(b)	Security program	105 CMR 120.063(B)	B	(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 quantities of radioactive material.			
§37.41(c)	Security program	105 CMR 120.063(C)	C	(c) *Program features*. 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.			
§37.43(a)	General security program	105 CMR 120.064(A)	B	(a) *Security plan*. (1) Each licensee identified in §			

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	requirements			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: (i) Describe the measures and strategies used to implement the requirements of this subpart; and (ii) Identify the security resources, equipment, and technology used to satisfy the requirements of this subpart. (2) The security plan must be reviewed and approved by the individual with overall responsibility for the security program. (3) A licensee shall revise its security plan as necessary to ensure the effective implementation of Commission requirements. The licensee shall ensure that: (i) The revision has been reviewed and approved by the individual with overall responsibility for the security program; and (ii) The affected individuals are instructed on the revised plan before the changes are implemented. (4) The licensee shall retain a copy			

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				of the current security plan as a record for 3 years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.			
§37.43(b)	General security program requirements	105 CMR 120.064(B)	C	(b) *Implementing procedures*. (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.			
§37.43(c)(1)-(c)(3)	General security program requirements	105 CMR 120.064(C)(1) through (C)(3)	B	(c) *Training*. (1) Each licensee shall conduct training to ensure that those individuals implementing the security			

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				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 (iv) The appropriate response to security alarms. (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			

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				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. (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: (i) Review of the training requirements of paragraph (c) of this section and any changes made to the security program since the last training; (ii) Reports on any relevant security issues, problems, and lessons learned; (iii) Relevant results of NRC inspections; and (iv) Relevant results of the licensee's program review and testing and maintenance.			
§37.43(c)(4)	General security program requirements	105 CMR 120.064(C)(4)	C	(c) *Training*. ***** (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,			

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				topics covered, a list of licensee personnel in attendance, and related information.			
§37.43(d)(1)-(d)(8)	General security program requirements	105 CMR 120.064(D)(1) through (D)(8) as revised with RATS-ID: 2015-2	C	(d) *Protection of information*. (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. (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			

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				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 (13); 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.			

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				(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 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. (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. (8) The licensee shall retain as a record for 3 years after the document is no longer needed: (i) A copy of the information protection procedures; and (ii) The list of individuals approved for access to the security plan or implementing procedures.			
§37.43(d)(9)	General security	N/A	NRC	(d) *Protection of information*			

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	program requirements			**** (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.			
§37.45(a) & (b)	LLEA coordination	105 CMR 120.065(A) and (B)	B	(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: (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 (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. (b) The licensee shall notify the appropriate NRC regional office listed			

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				in § 30.6(a)(2) of this chapter within 3 business days if: (1) The LLEA has not responded to the request for coordination within 60 days of the coordination request; or (2) The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.			
§37.45(c)	LLEA coordination	105 CMR 120.065(C)	C	(c) The licensee shall document its efforts to coordinate with the LLEA. The documentation must be kept for 3 years.			
§37.45(d)	LLEA coordination	105 CMR 120.065(D)	B	(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.			
§37.47	Security zones	105 CMR 120.066	B	(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. (b) Temporary security zones must be established as necessary to meet the			

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				licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement. (c) Security zones must, at a minimum, allow unescorted access only to approved individuals through: (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 (2) Direct control of the security zone by approved individuals at all times; or (3) A combination of continuous physical barriers and direct control. (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			

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				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. (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.			
§37.49(a)	Monitoring, detection, and assessment	105 CMR 120.067(A)	B	(a) *Monitoring and detection*. (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. (2) Monitoring and detection must be performed by: (i) A monitored intrusion detection system that is linked to an onsite or			

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				offsite central monitoring facility; or (ii) Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or (iii) A monitored video surveillance system; or (iv) Direct visual surveillance by approved individuals located within the security zone; or (v) Direct visual surveillance by a licensee designated individual located outside the security zone. (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: (i) For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability must be provided by: (A) Electronic sensors linked to an alarm; or (B) Continuous monitored video surveillance; or (C) Direct visual surveillance. (ii) For category 2 quantities of radioactive material, weekly verification through physical checks,			

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				tamper indicating devices, use, or other means to ensure that the radioactive material is present.			
§37.49(b)	Monitoring, detection, and assessment	105 CMR 120.067(B)	B	(b) *Assessment.* 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.			
§37.49(c)	Monitoring, detection, and assessment	105 CMR 120.067(C)	B	(c) *Personnel communications and data transmission*. For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall: (1) Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and (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			

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				the primary systems.			
§37.49(d)	Monitoring, detection, and assessment	105 CMR 120.067(D)	B	(d) *Response*. 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 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.			
§37.51	Maintenance and testing	105 CMR 120.068	C	(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 and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements			

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				of this part must be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing must be performed at least annually, not to exceed 12 months. (b) The licensee shall maintain records on the maintenance and testing activities for 3 years.			
§37.53	Requirements for mobile devices	105 CMR 120.069	B	Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material must: (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 (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.			

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				Licensees shall not rely on the removal of an ignition key to meet this requirement.			
§37.55	Security program review	105 CMR 120.070	C	(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. (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.			

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				(c) The licensee shall maintain the review documentation for 3 years.			
§37.57	Reporting of events	105 CMR 120.071	C	(a) The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, 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's 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. (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's Operations Center (301-816-5100). (c) The initial telephonic notification required by paragraph (a) of this section must be followed within a			

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				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.			
§37.71, (a)-(c)	Additional requirements for transfer of category 1 and category 2 quantities of radioactive material	105 CMR 120.072(A) through (C)	B	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 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			

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				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			

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				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.			
§37.71(d)	Additional requirements for transfer of category 1 and category 2 quantities of radioactive material	105 CMR 120.072(D)	C	(d) The transferor shall keep a copy of the verification documentation as a record for 3 years.			
§37.73(a) & (b)	Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit	105 CMR 120.073(A) and (B)	D	(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). (b) For shipments of category 2 quantities of radioactive material, each shipping licensee shall comply			

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				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.			
§37.73(c)	Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit	105 CMR 120.073(C)	B	(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.			
§37.73(d) & (e)	Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit	105 CMR 120.073(D) and (E)	D	(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. (e) Each licensee that imports or			

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				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 the shipment.			
§ 37.75(a)-(d)	Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material	105 CMR 120.074(A) through (D)	B	(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: (1) Preplan and coordinate shipment arrival and departure times with the receiving licensee; (2) Preplan and coordinate shipment information with the governor or the governor's designee of any State through which the shipment will pass to: (i) Discuss the State's intention to provide law enforcement escorts; and (ii) Identify safe havens; and (3) Document the preplanning and coordination activities. (b) Each licensee that plans to transport, or deliver to a carrier for			

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				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. (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. (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.			
§ 37.75(e)	Preplanning and coordination of	105 CMR 120.074(E)	C	(e) The licensee shall retain a copy of the documentation for preplanning			

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	shipment of category 1 or category 2 quantities of radioactive material			and coordination and any revision thereof, as a record for 3 years.			
§37.77, (a)-(d)	Advance notification of shipment of category 1 quantities of radioactive material	105 CMR 120.075(A) through (D)	B	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. (a) *Procedures for submitting advance notification*. (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's Web site at http://nrc-stp.ornl.gov/special/designee.pdf. A list of the contact information is also available upon request from the			

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				Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. 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 20555-0001. The notification to the NRC may be made by e-mail to RAMQC_SHIPMENTS@nrc.gov or by fax to 301-816-5151. (2) A notification delivered by mail must be postmarked at least 7 days before transport of the shipment commences at the shipping facility. (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. (b) *Information to be furnished in advance notification of shipment*. Each advance notification of shipment of category 1 quantities of radioactive			

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				material must contain the following information, if available at the time of notification: (1) The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material; (2) The license numbers of the shipper and receiver; (3) A description of the radioactive material contained in the shipment, including the radionuclides and quantity; (4) The point of origin of the shipment and the estimated time and date that shipment will commence; (5) The estimated time and date that the shipment is expected to enter each State along the route; (6) The estimated time and date of arrival of the shipment at the destination; and (7) A point of contact, with a telephone number, for current shipment information. (c) *Revision notice*. (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			

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				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 20555-0001. (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 20555-0001 of any such changes. (d) *Cancellation notice*. 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, U.S. Nuclear Regulatory Commission,			

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				Washington, DC 20555-0001. 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.			
§37.77(e)	Advance notification of shipment of category 1 quantities of radioactive material	105 CMR 120.075(E)	C	(e) *Records*. The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.			
§37.77(f)	Advance notification of shipment of category 1 quantities of radioactive material	105 CMR 120.075(F) as revised with RATS-ID: 2015-2	C* (*Please note that 37.77(f) was changed from Compatibility Category NRC to Compatibility Category C, 79 FR 58664)	(f) *Protection of information*. 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.			
§37.79(a)	Requirements for physical protection of category 1 and category 2	105 CMR 120.076(A)	B	(a) *Shipments by road*. (1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:			

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	quantities of radioactive material during shipment.			(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. (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. (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 to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the			

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				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.			

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				(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. (2) Each licensee that transports category 2 quantities of radioactive material shall maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance. (3) Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall: (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			

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				of control. (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 (iii) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.			
§37.79(b)	Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment	105 CMR 120.076(B)	B	(b) *Shipments by rail*. (1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall: (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 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			

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				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. (2) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall: (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. (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 (iii) Use carriers that have			

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				established tracking systems that require an authorized signature prior to releasing the package for delivery or return.			
§37.79(c)	Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment	105 CMR 120.076(C)	B	(c) *Investigations*. Each licensee who makes arrangements for the 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.			
§37.81(a)-(f)	Reporting of events.	105 CMR 120.077(A) through (F)	B	(a) The shipping licensee shall notify the appropriate LLEA and the NRC's 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's Operations			

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				Center on the status of the investigation. (b) The shipping licensee shall notify the NRC's 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's Operations Center. (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's 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.			

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
				(d) The shipping licensee shall notify the NRC's 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. (e) The shipping licensee shall notify the NRC's Operations Center (301-816-5100) and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material. (f) The shipping licensee shall notify the NRC's Operations Center (301-816-5100) as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material.			
§37.81(g) & (h)	Reporting of events.	105 CMR 120.077(G) and (H)	C	(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. A written report is not required for			

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
				notifications on suspicious activities required by paragraphs (c) and (d) of this section. 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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The report must set forth the following information: (1) A description of the licensed material involved, including kind, quantity, and chemical and physical form; (2) A description of the circumstances under which the loss or theft occurred; (3) A statement of disposition, or probable disposition, of the licensed material involved; (4) Actions that have been taken, or will be taken, to recover the material; and (5) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material. (h) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days			

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
				after the licensee learns of such information.			
§37.101	Form of records	105 CMR 120.078	C	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.			
§37.103	Record retention.	105 CMR 120.079	C	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			

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
				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.			
§37.105	Inspections.	As already published in 105 CMR 120.010 (Attached)	D	(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect category 1 or category 2 quantities of radioactive material and the premises and facilities wherein the nuclear material is used, produced, or stored. (b) Each licensee shall make available to the Commission for inspection, upon reasonable notice, records kept by the licensee pertaining to its receipt, possession, use, acquisition, import, export, or transfer of category 1 or category 2 quantities of radioactive material.			
§37.107	Violations	As already published in 105 CMR 120.016 (Attached)	D	(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of -- (1) The Atomic Energy Act of 1954, as amended; (2) Title II of the Energy Reorganization Act of 1974, as amended; or			

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
				(3) A regulation or order issued pursuant to those Acts. (b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act: (1) For violations of -- (i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended: (ii) Section 206 of the Energy Reorganization Act; (iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section; (iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section. (2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.			
§37.109	Criminal penalties.	As already published in 105 CMR 120.016	D	(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or			

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
		(Attached)		conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in this part 37 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section. (b) The regulations in this part 37 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 37.1, 37.3, 37.5, 37.7, 37.9, 37.11, 37.13, 37.107, and 37.109.			
Appendix A to Part 37	Category 1 and Category 2 Radioactive Materials	105 CMR 120.080	B	See table at end of document			
§39.1	Purpose and scope	As already published in 105 CMR 120.101 (Attached)	D	N/A			
§51.22	Criterion for categorical exclusion; identification of licensing and regulatory actions eligible	N/A	NRC	N/A			

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
	for categorical exclusion or otherwise not requiring environmental review.						
§71.97	Advance notification of shipment of irradiated reactor fuel and nuclear waste.	105 CMR 120.789(B) Introductory text as already included with revision of 120.789 (Attached) previously submitted with RATS ID 2012-2.	B	**In § 71.97, the introductory text of paragraph (b) is revised to read as follows:** (b) Advance notification is also required under this section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:			
§73.35	Requirements for physical protection of irradiated reactor fuel (100 grams or less) in transit	N/A	NRC	N/A			

Table 1 – Category 1 and Category 2 Threshold

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.

Radioactive material	**Category 1 (TBq)**	**Category 1 (Ci)**	**Category 2 (TBq)**	**Category 2 (Ci)**
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

Note: Calculations Concerning Multiple Sources or Multiple Radionuclides

The ”sum of fractions” methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this part.

I. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides must be determined to verify whether the activity at the location is less than the category 1 or

category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this part apply.

II. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation. Calculations must be performed in metric values (i.e., TBq) and the numerator and denominator values must be in the same units.

R_1 = total activity for radionuclide 1
R_2 = total activity for radionuclide 2
R_N = total activity for radionuclide n
AR_1 = activity threshold for radionuclide 1
AR_2 = activity threshold for radionuclide 2
AR_N = activity threshold for radionuclide n

$$\sum_{1}^{n}\left[\frac{R_1}{AR_1}+\frac{R_2}{AR_2}+\frac{R_n}{AR_n}\right]\geq 1.0$$