

Decommissioning Recordkeeping and License Termination: Documentation Additions
(58 FR 39628) RATS ID 1993-1 Effective 10/25/93

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
§40.36 (f) (3)	Financial assurance and recordkeeping for decommissioning	R12-1-323(F)	H&S	<p>The Following text is added to the sections listed at the left:</p> <p>Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or byproduct materials having only half-lives of less than 65 days, a list contained in a single document and updated every 2 years, of the following:</p> <p>(i) All areas designated and formerly designated restricted areas as defined in 10 CFR 20.1003 (For requirements prior to January 1, 1994, see 10 CFR 20.3 as contained in the CFR edition revised as of January 1, 1993.);</p> <p>(ii) All areas outside of restricted areas that require documentation under §30.35(g)(1).</p> <p>(iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under 10 CFR 20.2108; and</p> <p>(iv) All areas outside of restricted</p>			

				<p>areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in 10 CFR part 20, subpart E, or apply for approval for disposal under 10 CFR 20.2002.</p>			
<p>§70.25 (g) (3)</p>	<p>Financial assurance and recordkeeping for decommissioning</p>	<p>AZ does not have any of these Licenses but would adopt the rules is a uranium enrichment facility were authorized.</p>	<p>H&S</p>	<p>The Following text is added to the sections listed at the left:</p> <p>Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or byproduct materials having only half-lives of less than 65 days, a list contained in a single document and updated every 2 years, of the following:</p> <p>(i) All areas designated and formerly designated restricted areas as defined in 10 CFR 20.1003 (For requirements prior to January 1, 1994, see 10 CFR 20.3 as contained in the CFR edition revised as of January 1, 1993.);</p> <p>(ii) All areas outside of restricted areas that require documentation under §30.35(g)(1).</p> <p>(iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under 10 CFR 20.2108; and</p> <p>(iv) All areas outside of restricted areas that contain material such that, if the license expired, the</p>			

				licensee would be required to either decontaminate the area to meet the criteria for decommissioning in 10 CFR part 20, subpart E, or apply for approval for disposal under 10 CFR 20.2002.			
30.36 (c)(2)(iii) (d)&(e) 40.42 (c)(2)(iii) (d)&(e) 70.36 (c)(2)(iii) (d)	Expiration and termination of licenses	States should not adopt this section	H&S	This section has been superseded, these requirements are not required. States should not adopt this section.			
30.36 (c)(3) 40.36 (c)(3) 70.25 (c)(3)	Expiration and termination of licenses	States should not adopt this section	H&S	This section has been superseded, these requirements are not required. States should not adopt this section.			

**Frequency of Medical Examinations for Use of Respiratory Protection Equipment
(60 FR 7900) RATS ID 1995-2 Effective 3/13/95**

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
§20.1703	Use of	Previou	H&S	Sec. 20.1703, should read as			

	individual respiratory protection equipment	sly adopted as R12-1-425		<p>follows: If the licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,(a) The licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH) except as otherwise noted in this part. * * * * * (c) The licensee shall implement and maintain a respiratory protection program that includes: * * * * * (c)(5) Determination by a physician that the individual user is medically fit to use respiratory protection equipment: (i) Before the initial fitting of a face sealing respirator;(ii) Before the first field use of non-face sealing respirators, and (iii) Either every 12 months thereafter, or periodically at a frequency determined by a physician.</p>			
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Decommissioning Planning, Parts 20, 30, 40, and 70
 (76 FR 35512, Published June 17, 2011) RATS ID # 2011-1 Effective date 12/17/2012
 Date Due for State Adoption 12/17/2015

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
§20.1403(c)	Criteria for license		C	In § 20.1403, paragraph (c)(2) is removed, paragraph (c)(3) is			

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	termination under restricted conditions	R12-1-452(C)(3)		<p>redesignated as paragraph (c)(2), and paragraph (c)(4) is redesignated as paragraph (c)(3), and paragraph (c)(1) is revised to read as follows:</p> <p>(c) *** (1) Funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment;</p>			
§20.1404(a)	Alternate criteria for license termination	R12-1-452(D)(1)(e)	C	<p>In § 20.1404, paragraph (a)(5) is added to read as follows:</p> <p>(a) *** (5) Has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.</p>			

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§20.1406(c)	Minimization of contamination	R12-1-452(F)(2)	C	<p>In § 20.1406, paragraph (c) is added to read as follows:</p> <p>(c) Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in Subpart B and radiological criteria for license termination in Subpart E of this part.</p>			
§20.1501(a)	General	R12-1-418(A)(2)	H&S	<p>In § 20.1501, paragraphs (b) and (c) are redesignated as paragraphs (c) and(d), paragraphs (a) introductory text,(a)(2)(ii) and (a)(2)(iii) are revised, and a new paragraph (b) is added to read as follows:</p> <p>a) Each licensee shall make or cause to be made, surveys of areas, including the subsurface, that --</p> <p>(2) ***</p> <p>(ii) Concentrations or quantities of residual radioactivity; and</p> <p>(iii) The potential radiological hazards of the radiation levels and residual radioactivity detected.</p>			

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§20.1501(b)	General	R12-1-418(E)	H&S	<p>In § 20.1501, paragraphs (b) and (c) are redesignated as paragraphs (c) and(d), paragraphs (a) introductory text,(a)(2)(ii) and (a)(2)(iii) are revised, and a new paragraph (b) is added to read as follows:</p> <p>(b) Notwithstanding § 20.2103(a) of this part, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning, and such records must be retained in accordance with §§ 30.35(g), 40.36(f), 50.75(g), 70.25(g), or 72.30(d), as applicable.</p>			
§ 30.34(b)	Terms and conditions of licenses	R12-1-313(B)	C	<p>In § 30.34, paragraph (b) is redesignated as paragraph (b)(1) and a new paragraph (b)(2) is added to read as follows:</p> <p>(b) *** (2) An application for transfer of license must include: (i) The identity, technical and financial qualifications of the proposed transferee; and (ii) Financial assurance for decommissioning information required by § 30.35.</p>			

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§30.35(c)(6)	Financial assurance and recordkeeping for decommissioning.		D	N/A			
§30.35(d)	Financial assurance and recordkeeping for decommissioning.		D (**please note 10 CFR 30.35(d) was changed from a Compatibility Category H&S to a Compatibility Category D)	No Change to the text of §30.35(d)	N/A		
§ 30.35(e)	Financial assurance and recordkeeping for decommissioning.	R12-1-323(H)	H&S (**please note 10 CFR 30.35(e) was changed from a Compatibility Category D to a Compatibility Category H&S)	In § 30.35, paragraphs (e), is revised: (e)(1) Each decommissioning funding plan must be submitted for review and approval and must contain – (i) A detailed cost estimate for decommissioning, in an amount reflecting: (A) The cost of an independent contractor to perform all decommissioning activities; (B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to			

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				<p>meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria;</p> <p>(C) The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and</p> <p>(D) An adequate contingency factor.</p> <p>(ii) Identification of and justification for using the key assumptions contained in the DCE;</p> <p>(iii) A description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;</p> <p>(iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and</p> <p>(v) A signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).</p> <p>(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as</p>			

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				<p>necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:</p> <ul style="list-style-type: none"> (i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material; (ii) Waste inventory increasing above the amount previously estimated; (iii) Waste disposal costs increasing above the amount previously estimated; (iv) Facility modifications; (v) Changes in authorized possession limits; (vi) Actual remediation costs that exceed the previous cost estimate; (vii) Onsite disposal; and (viii) Use of a settling pond. 			
§ 30.35(f)	Financial assurance and recordkeeping for decommissioning.		D	N/A	N/A		
§ 30.35(h)	Financial assurance and recordkeeping		D	N/A	N/A		

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	for decommissioning.						
Appendix A to Part 30	Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning		D	N/A	N/A		
Appendix C to Part 30	Criteria Relating to Use of Financial Tests and Self Guarantees for Providing Reasonable Assurance of Funds for Decommissioning		D	N/A	N/A		
Appendix D to Part 30	Criteria Relating to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Commercial Companies That Have no Outstanding Rated Bonds		D	N/A	N/A		

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Appendix E to Part 30	Criteria Relating to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Nonprofit Colleges, Universities, and Hospitals		D	N/A	N/A		
§40.36(c)(5)	Financial assurance and recordkeeping for decommissioning.		D	N/A	N/A		
§ 40.36(d)	Financial assurance and recordkeeping for decommissioning.		H&S	<p>In § 40.36, paragraph (d) is revised to read as follows:</p> <p>(d)(1) Each decommissioning funding plan must be submitted for review and approval and must contain –</p> <p>(i) A detailed cost estimate for decommissioning, in an amount reflecting:</p> <p>(A) The cost of an independent contractor to perform all decommissioning activities;</p> <p>(B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be</p>			

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				<p>based on meeting the 10 CFR 20.1403 criteria;</p> <p>(C) The volume of onsite subsurface material containing residual radioactivity that will require remediation; and</p> <p>(D) An adequate contingency factor.</p> <p>(ii) Identification of and justification for using the key assumptions contained in the DCE;</p> <p>(iii) A description of the method of assuring funds for decommissioning from paragraph (e) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;</p> <p>(iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and</p> <p>(v) A signed original, or if permitted, a copy, of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).</p> <p>(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination.</p>			

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				<p>If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:</p> <ul style="list-style-type: none"> (i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material; (ii) Waste inventory increasing above the amount previously estimated; (iii) Waste disposal costs increasing above the amount previously estimated; (iv) Facility modifications; (v) Changes in authorized possession limits; (vi) Actual remediation costs that exceed the previous cost estimate; (vii) Onsite disposal; and (viii) Use of a settling pond. 			
§40.36(e)	Financial assurance and recordkeeping for decommissioning.		D	N/A	N/A		
§40.36(g)	Financial assurance and recordkeeping for decommissioning.		D	N/A	N/A		
§ 40.46	Inalienability of		C	In § 40.46, the current paragraph is			

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	licenses.			<p>designated as paragraph (a) and a new paragraph (b) is added to read as follows:</p> <p>(b) An application for transfer of license must include: (1) The identity, technical and financial qualifications of the proposed transferee; and (2) Financial assurance for decommissioning information required by § 40.36 or Appendix A to this part, as applicable.</p>			
Appendix A to Part 40 Criterion 9	Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily for Their Source Material Content		<p>C for States with authority to regulate uranium mill activities</p> <p>D- States without authority</p>	<p>In Appendix A to Part 40, Section II, Criterion 9 is revised to read as follows:</p> <p>(a) Financial surety arrangements must be established by each mill operator before the commencement of operations to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the mill and site and for the reclamation of any tailings or waste disposal areas. The amount of funds to be ensured by such surety arrangements must be based on Commission-approved cost estimates in a Commission-approved plan, or a proposed revision to the plan submitted to the Commission for approval, if the proposed revision contains a higher cost estimate, for</p> <p>(1) Decontamination and decommissioning of mill buildings</p>			

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				<p>and the milling site to levels which allow unrestricted use of these areas upon decommissioning, and</p> <p>(2) The reclamation of tailings and/or waste areas in accordance with technical criteria delineated in Section I of this appendix.</p> <p>(b) Each cost estimate must contain –</p> <p>(1) A detailed cost estimate for decontamination, decommissioning, and reclamation, in an amount reflecting:</p> <p>(i) The cost of an independent contractor to perform the decontamination, decommissioning and reclamation activities; and</p> <p>(ii) An adequate contingency factor;</p> <p>(2) An estimate of the amount of radioactive contamination in onsite subsurface material;</p> <p>(3) Identification of and justification for using the key assumptions contained in the DCE; and</p> <p>(4) A description of the method of assuring funds for decontamination, decommissioning, and reclamation.</p> <p>(c) The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings</p>			

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				<p>reclamation, and evaluates alternatives for mitigating these impacts. The plan must include a signed original of the financial instrument obtained to satisfy the surety arrangement requirements of this criterion (unless a previously submitted and approved financial instrument continues to cover the cost estimate for decommissioning). The surety arrangement must also cover the cost estimate and the payment of the charge for long-term surveillance and control required by Criterion 10 of this section.</p> <p>(d) To avoid unnecessary duplication and expense, the Commission may accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other Federal or state agencies and/or local governing bodies for decommissioning, decontamination, reclamation, and long-term site surveillance and control, provided such arrangements are considered adequate to satisfy these requirements and that the portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the long-term funding charge is clearly identified and committed for use in accomplishing these activities.</p> <p>(e) The licensee's surety mechanism</p>			

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				<p>will be reviewed annually by the Commission to assure, that sufficient funds would be available for completion of the reclamation plan if the work had to be performed by an independent contractor.</p> <p>(f) The amount of surety liability should be adjusted to recognize any increases or decreases resulting from:</p> <ul style="list-style-type: none"> (1) Inflation; (2) Changes in engineering plans; (3) Activities performed; (4) Spills, leakage or migration of radioactive material producing additional contamination in onsite subsurface material that must be remediated to meet applicable remediation criteria; (5) Waste inventory increasing above the amount previously estimated; (6) Waste disposal costs increasing above the amount previously estimated; (7) Facility modifications; (8) Changes in authorized possession limits; (9) Actual remediation costs that exceed the previous cost estimate; (10) Onsite disposal; and (11) Any other conditions affecting costs. <p>(g) Regardless of whether reclamation is phased through the life</p>			

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				<p>of the operation or takes place at the end of operations, an appropriate portion of surety liability must be retained until final compliance with the reclamation plan is determined.</p> <p>(h) The appropriate portion of surety liability retained until final compliance with the reclamation plan is determined will be at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended, unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance would be provided with a surety instrument which is written for a specified time (e.g., 5 years) and which must be automatically renewed unless the surety notifies the beneficiary (the Commission or the State regulatory agency) and the principal (the licensee) with reasonable time (e.g., 90 days) before the renewal date of their intention not to renew. In such a situation the surety requirement still exists and the licensee would be required to submit an acceptable replacement surety within a brief time to allow at least 60 days for the regulatory agency to collect.</p> <p>(i) Proof of forfeiture must not be</p>			

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				<p>necessary to collect the surety. In the event that the licensee cannot provide an acceptable replacement surety within the required time, the surety shall be automatically collected before its expiration. The surety instrument must provide for collection of the full face amount immediately on demand without reduction for any reason, except for trustee fees and expenses provided for in a trust agreement, and that the surety will not refuse to make full payment. The conditions described previously would have to be clearly stated on any surety instrument which is not open-ended, and must be agreed to by all parties. Financial surety arrangements generally acceptable to the Commission are:</p> <ul style="list-style-type: none"> (1) Trust funds; (2) Surety bonds; (3) Irrevocable letters of credit; and (4) Combinations of the financial surety arrangements or other types of arrangements as may be approved by the Commission. If a trust is not used, then a standby trust must be set up to receive funds in the event the Commission or State regulatory agency exercises its right to collect the surety. The surety arrangement and the surety or trustee, as applicable, must be acceptable to the Commission. Self insurance, or any arrangement which essentially 			

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				constitutes self insurance (e.g., a contract with a State or Federal agency), will not satisfy the surety requirement because this provides no additional assurance other than that which already exists through license requirements.			
§70.25(c)(5)	Financial assurance and recordkeeping for decommissioning.		D	N/A	N/A		
§70.25(d)	Financial assurance and recordkeeping for decommissioning.		D (***please note 10 CFR 70.25(d) was changed from a Compatibility Category H&S to a Compatibility Category D)	No Change to the text of §70.25(d)			
§ 70.25(e)	Financial assurance and recordkeeping for decommissioning.		H&S (***please note 10 CFR 70.25(e) was changed from a Compatibility Category D to a Compatibili	In § 70.25, paragraph (e) is revised as follows: (e)(1) Each decommissioning funding plan must be submitted for review and approval and must contain – (i) A detailed cost estimate for decommissioning, in an amount reflecting: (A) The cost of an independent contractor to perform all decommissioning activities;			

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			ty Category H&S)	<p>(B) The cost of meeting the 10 CFR 20.1402 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 10 CFR 20.1403, the cost estimate may be based on meeting the 10 CFR 20.1403 criteria;</p> <p>(C) The volume of onsite subsurface material containing residual radioactivity that will require remediation; and</p> <p>(D) An adequate contingency factor.</p> <p>(ii) Identification of and justification for using the key assumptions contained in the DCE;</p> <p>(iii) A description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;</p> <p>(iv) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and</p> <p>(v) A signed original, or, if permitted, a copy, of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).</p>			

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				<p>(2) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:</p> <ul style="list-style-type: none"> (i) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material; (ii) Waste inventory increasing above the amount previously estimated; (iii) Waste disposal costs increasing above the amount previously estimated; (iv) Facility modifications; (v) Changes in authorized possession limits; (vi) Actual remediation costs that exceed the previous cost estimate; (vii) Onsite disposal; and (viii) Use of a settling pond. 			
§70.25(f)	Financial assurance and recordkeeping		D	N/A	N/A		

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	for decommissioning.						
§70.25(h)	Financial assurance and recordkeeping for decommissioning.		D	N/A	N/A		
§ 70.36	Inalienability of licenses		C	<p>In § 70.36, the current paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:</p> <p>(b) An application for transfer of license must include: (1) The identity, technical and financial qualifications of the proposed transferee; and (2) Financial assurance for decommissioning information required by § 70.25.</p>			

12/19/14

**76 FR 56951 Licenses, Certifications, and Approvals for Materials Licensees
(76 FR 56951) RATS ID # 2011-2 Effective date 11/14/2011
Date Due for State Adoption 11/14/2014**

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

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§ 30.4	Definition: Commencement of construction,	No Actions Required	D	In § 30.4, the definition for the term “commencement of construction” is revised as			

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	Paragraph 1			<p>follows:</p> <p><i>Commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to: (1) Radiological health and safety; or</p>			
§ 30.4	Definition Commencement of construction, Paragraph 2		NRC	<p>In § 30.4, the definition for the term “commencement of construction” is revised as follows:</p> <p>(2) Common defense and security.</p>			
§ 30.4	Definition Construction, Paragraph 1-8, 9(i)		D	<p>In § 30.4, the definition for the term “construction” is added in alphabetical order to read as follows:</p> <p><i>Construction</i> means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that are related to radiological safety or security. The term “construction” does not include: (1) Changes for temporary use of the land for public recreational</p>			

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
				<p>purposes;</p> <p>(2) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;</p> <p>(3) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;</p> <p>(4) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part;</p> <p>(5) Excavation;</p> <p>(6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water</p>			

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
				<p>systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or</p> <p>(9) Taking any other action that has no reasonable nexus to:</p> <p style="padding-left: 20px;">(i) Radiological health and safety, or .</p>			
§ 30.4	Definition Construction, Paragraph 9(ii)		NRC	<p>In § 30.4, the definition for the term “construction” is added in alphabetical order to read as follows:</p> <p style="padding-left: 20px;">(ii) Common defense and security.</p>			
§ 30.33	General requirements for issuance of specific licenses.		D	<p>In § 30.33, paragraph (a)(5) is revised.</p>	N/A		
§ 36.2	Definition: Commencement of construction, Paragraph 1		D	<p>In § 36.2, definitions for the terms “commencement of construction” is added in alphabetical order to read as follows:</p> <p><i>Commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to:</p>			

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
				(1) Radiological health and safety; or			
§ 36.2	Definition Commencement of construction, Paragraph 2		NRC	<p>In § 36.2, definitions for the terms “commencement of construction” is added in alphabetical order to read as follows:</p> <p>(2) Common defense and security.</p>			
§ 36.2	Definition Construction, Paragraph 1-8, 9(i)		D	<p>In § 36.2, definitions for the terms “construction” is added in alphabetical order to read as follows:</p> <p><i>Construction</i> means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that are related to radiological safety or security. The term “construction” does not include:</p> <p>(1) Changes for temporary use of the land for public recreational purposes;</p> <p>(2) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of</p>			

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
				<p>construction or operation, or the protection of environmental values;</p> <p>(3) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;</p> <p>(4) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part;</p> <p>(5) Excavation;</p> <p>(6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in</p> <p>connection with the construction of the facility;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other</p>			

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
				than the final, in-place location at the facility; or (9) Taking any other action that has no reasonable nexus to: (i) Radiological health and safety, or .			
§ 36.2	Definition Construction, Paragraph 9(ii)		NRC	In § 36.2, definitions for the terms “construction” is added in alphabetical order to read as follows: (ii) Common defense and security.			
§ 36.13(a)	Specific licenses for irradiators		H&S	In § 36.13, paragraph (a) is revised to read as follows: ***** (a) The applicant shall satisfy the general requirements specified in §§ 30.33(a)(1)-(4) and 30.33(b) of this chapter and the requirements contained in this part.			
§ 36.15	Commencement of construction		D	N/A			
§ 39.13	Specific licenses for well logging.		H&S	In § 39.13, paragraph (a) is revised to read as follows: ***** (a) The applicant shall satisfy the general requirements specified in § 30.33 of this chapter for byproduct material, in § 40.32 of this chapter for source 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
				and in § 70.23 of this chapter for special nuclear material, as appropriate, and any special requirements contained in this part.			
§ 40.4	Definition: Commencement of construction, Paragraph 1		C - States with authority to regulate uranium mill activities (11e.(2) byproduct material) D - States without authority	In § 40.4, the definition for the term “commencement of construction” is revised as follows: <i>Commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to: (1) Radiological health and safety; or			
§ 40.4	Definition: Commencement of construction, Paragraph 2		NRC	In § 40.4, the definition for the term “commencement of construction” is revised as follows: (2) Common defense and security.			
§ 40.4	Definition Construction, Paragraph 1-8, 9(i)		C - States with authority to regulate uranium mill activities (11e.(2) byproduct material) D - States without authority	In § 40.4, the definition for the term “construction” is added in alphabetical order to read as follows: <i>Construction</i> means the installation of wells associated with radiological operations (e.g., production, injection, or monitoring well networks associated with in-situ recovery or other facilities), the installation of			

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
				<p>foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that are</p> <p>related to radiological safety or security. The term “construction” does not include:</p> <ul style="list-style-type: none"> (1) Changes for temporary use of the land for public recreational purposes; (2) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values; (3) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas; (4) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part; (5) Excavation; 			

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
				<p>(6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or</p> <p>(9) Taking any other action that has no reasonable nexus to:</p> <p style="padding-left: 20px;">(i) Radiological health and safety, or .</p>			
§ 40.4	Definition Construction, Paragraph 9(ii)		NRC	<p>In § 40.4, the definition for the term “construction” is added in alphabetical order to read as follows:</p> <p style="padding-left: 20px;">(ii) Common defense and security.</p>			
§ 40.32	General requirements for issuance of specific licenses		H&S - States with authority to regulate uranium mill activities	<p>In § 40.32, paragraph (e) is revised to read as follows:</p> <p>(e) In the case of an application for a license for a uranium</p>			

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
			<p>(11e.(2) byproduct material)</p> <p>NRC - States without authority</p>	<p>enrichment facility, or for a license to possess and use source and byproduct material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the NRC determines will significantly affect the quality of the environment, the Director, Office of Federal and State Materials and Environmental Management Programs or his/her designee, before commencement of construction, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values.</p> <p>Commencement of construction prior to this conclusion is grounds for denial of a license to possess and use source and byproduct material in the plant or facility.</p> <p>Commencement of construction as defined in section 40.4 may include non-construction activities if the activity has a reasonable nexus to radiological safety and security.</p>			

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
§ 70.4	Definition: Commencement of construction, Paragraph 1		D	<p>In § 70.4, the definition for the term “commencement of construction” is revised as follows:</p> <p><i>Commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to:</p> <p>(1) Radiological health and safety; or</p>			
§ 70.4	Definition: Commencement of construction, Paragraph 2		NRC	<p>In § 70.4, the definition for the term “commencement of construction” is revised as follows:</p> <p>(2) Common defense and security.</p>			
§ 70.4	Definition Construction, Paragraph 1-8, 9(i)		D	<p>In § 70.4, the definition for the term “construction” is added in alphabetical order to read as follows:</p> <p><i>Construction</i> means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that are related to radiological safety or security. The term “construction” does not include:</p> <p>(1) Changes for temporary use of the land for public recreational</p>			

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
				<p>purposes;</p> <p>(2) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;</p> <p>(3) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;</p> <p>(4) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part;</p> <p>(5) Excavation;</p> <p>(6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water</p>			

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
				<p>systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or</p> <p>(9) Taking any other action that has no reasonable nexus to:</p> <p style="padding-left: 20px;">(i) Radiological health and safety, or .</p>			
§ 70.4	Definition Construction, Paragraph 9(ii)		NRC	<p>In § 70.4, the definition for the term “construction” is added in alphabetical order to read as follows:</p> <p style="padding-left: 20px;">(ii) Common defense and security.</p>			
§ 70.23	Requirements for the approval of applications		NRC	<p>In § 70.23, paragraph (a)(7) is revised to read as follows:</p> <p>(a) * * *</p> <p>(7) Where the proposed activity is processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, uranium enrichment facility construction and operation, or any other activity which the NRC determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his/her designee, before commencement of</p>			

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
				<p>construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values.</p> <p>Commencement of construction prior to this conclusion is grounds for denial to possess and use special nuclear material in the plant or facility. Commencement of construction as defined in section 70.4 may include non-construction activities if the activity has a reasonable nexus to radiological safety and security.</p>			
§ 150.31 (b)(3)(iv)	Requirements for Agreement State regulation of byproduct material.		<p>C - States with authority to regulate uranium mill activities (11e.(2) byproduct material)</p> <p>D - States without</p>	<p>In § 150.31, paragraph (b)(3)(iv) is revised to read as follows:</p> <p>(b) * * *</p> <p>(3) * * *</p> <p>(iv) Prohibit commencement of construction with respect to such material prior to complying with the provisions of paragraph (b)(3)(C)(iii) of this section. As used in this paragraph:</p>			

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
			authority	<p>(A) The term <i>commencement of construction</i> means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to radiological health and safety.</p> <p>(B) The term <i>construction</i> means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that have a reasonable nexus to radiological safety or security. The term “construction” does not include:</p> <ul style="list-style-type: none"> (1) Changes for temporary use of the land for public recreational purposes; (2) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values; (3) Preparation of the site for construction of the facility, including clearing of the site, 			

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
				<p>grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;</p> <p>(4) Erection of fences and other access control measures that are not related to the safe use of or security of radiological materials subject to this part;</p> <p>(5) Excavation;</p> <p>(6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;</p> <p>(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);</p> <p>(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or</p> <p>(9) Taking any other action which has no reasonable nexus to radiological health and safety.</p>			

**Change of Compatibility of 10 CFR 31.5 and 31.6
in the Withdrawal of Proposed Rule and Closure of Petition For Rulemaking:
Organization of Agreement States and Florida Department of Health, Bureau of Radiation Control
(77 FR 3640, Published January 25, 2012) RATS ID: 2012-1 Effective: 1/25/2012
Date Due for State Adoption 1/25/2015**

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
§31.5	Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere	R12-1-306(B)(1)	C*** (***please note 10 CFR 31.5 was changed from Compatibility Category B to Compatibility Category C)	NO TEXT CHANGE TO 10 CFR 31.5. Text for 10CFR 31.5 can be found in <i>Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material</i> , (65 FR 79162, Published December 18, 2000) RATS ID: 2001-1, Effective: 2/16/01.			
§31.6	General license to install devices generally licensed in § 31.5	R12-1-306(B)(4)	C*** (***please note 10 CFR 31.6 was changed from Compatibility Category B to Compatibility Category C)	NO TEXT CHANGE TO 10 CFR 31.6. Text for 10CFR 31.6 can be found in <i>Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material</i> , (65 FR 79162, Published December 18, 2000) RATS ID: 2001-1, Effective: 2/16/01.			

12/19/14

Advance Notification to Native American tribes of Transportation of Certain Types of Nuclear Waste

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
§71.4	Definition: Indian tribe	R12-1-102	B	<p>In § 71.4, the new definition for the term “Indian tribe” was added as follows:</p> <p><i>Indian tribe</i> means an Indian or Alaska native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.</p>			
§71.4	Definition: Tribal official	R12-1-102	B	<p>In § 71.4, the new definition for the term “Tribal official” was added as follows:</p> <p><i>Tribal official</i> means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.</p>			

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
§71.97(a)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	R12-1-1512	B	<p>In § 71.97, paragraph (a) is revised to read as follows:</p> <p>(a)(1) As specified in paragraphs (b), (c), and (d) of this section, each licensee shall provide advance notification to the governor of a State, or the governor's designee, of the shipment of licensed material, within or across the boundary of the State, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.</p> <p>(2) As specified in paragraphs (b), (c), and (d) of this section, after June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of this section, or the official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.</p>			

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
§71.97(c)(1)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	R12-1-1512	B	<p>In § 71.97, paragraph (c)(1) is revised to read as follows:</p> <p><i>(c) Procedures for submitting advance notification.</i></p> <p>(1) The notification must be made in writing to:</p> <p>(i) The office of each appropriate governor or governor’s designee;</p> <p>(ii) The office of each appropriate Tribal official or Tribal official’s designee; and</p> <p>(iii) The Director, Division of Security Policy, Office of Nuclear Security and Incident Response.</p>			
§71.97(c)(3)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	R12-1-1512	B	<p>In § 71.97, paragraph (c)(3) is revised to read as follows:</p> <p>(c) * * *</p> <p>(3) A notification delivered by any other means than mail must reach the office of the governor or of the governor's designee or the Tribal official or Tribal official's designee at least 4 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur.</p> <p>(i) A list of the names and mailing addresses of the governors' designees receiving advance notification of</p>			

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
				<p>transportation of nuclear waste was published in the <i>Federal Register</i> on June 30, 1995 (60 FR 34306).</p> <p>(ii) The list of governor's designees and Tribal official's designees of participating Tribes will be published annually in the <i>Federal Register</i> on or about June 30th to reflect any changes in information.</p> <p>(iii) A list of the names and mailing addresses of the governors' designees and Tribal officials' designees of participating Tribes is available on request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.</p>			
§71.97(d)(4)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	R12-1-1512	B	<p>In § 71.97, paragraph (d)(4) is revised to read as follows:</p> <p>(d) * * *</p> <p>(4) The 7-day period during which arrival of the shipment at State boundaries or Tribal reservation boundaries is estimated to occur;</p>			
§71.97(e)	Advance notification of	R12-1-1512	B	<p>In § 71.97, paragraph (e) is revised to read as follows:</p>			

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
	shipment of irradiated reactor fuel and nuclear waste			(e) <i>Revision notice.</i> A licensee who finds that schedule information previously furnished to a governor or governor's designee or a Tribal official or Tribal official's designee, in accordance with this section, will not be met, shall telephone a responsible individual in the office of the governor of the State or of the governor's designee or the Tribal official or the Tribal official's designee and inform that individual of the extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for 3 years.			
§71.97(f)(1)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	R12-1-1512	B	<p>In § 71.97, paragraph (f)(1) is revised to read as follows:</p> <p>(f) <i>Cancellation notice.</i> (1) Each licensee who can cancel an irradiated reactor fuel or nuclear waste 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, each Tribal official or to the Tribal official's designee previously notified, and the Director, Division of Security Policy, Office of Nuclear Security and Incident Response.</p>			

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
§ 73.2	Definition: Indian tribe		NRC	In § 73.2, the new definition for the term “Indian tribe” was added:			
§ 73.2	Definition: Tribal official		NRC	In § 73.2, the new definition for the term “Tribal official” was added:			
§ 73.21	Protection of Safeguards Information: Performance Requirements.		NRC	In § 73.21, paragraph (a)(2) is revised:			
§ 73.37	Requirements for physical protection of irradiated reactor fuel in transit		NRC	In § 73.37, paragraphs (f) and (g) are revised:			
§ 73.59	Relief from fingerprinting, identification and criminal history records checks and other elements of background checks for designated categories of		NRC	In § 73.59, new paragraph (l) is added:			

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
	individuals						

Technical Corrections – Parts 30, 34, 40, and 71
(77 FR 39899, Published July 6, 2012) RATS ID: 2012-3 Effective: August 6, 2012
Date Due for State Adoption August 6, 2015

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
§30.34(h)(1)(ii)	Terms and conditions of licenses	R12-1-313(H)	H&S	<p>In §30.34, paragraph (h)(1)(ii) was revised to remove the reference “11 U.S.C. 101(14)” and add, in its place, the reference “11 U.S.C. 101(15).”</p> <p>(ii) An entity (as that term is defined in 11 U.S.C. 101(15)) controlling the licensee or listing the license or licensee as property of the estate; or</p>			
§34.20(a)(1)	Performance requirements for industrial radiography equipment	R12-1-503(A)	B	<p>In §34.20(a)(1), the address for the American National Standards Institute is updated as follows:</p> <p>(a)(1) * * * This publication may be purchased from the American National Standards Institute, Inc., 25 West 43rd Street, New York,</p>			

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
				New York 10036; Telephone: (212) 642-4900. * * *			
Part 40, Appendix A, section I, Criterion 4(d)	Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings for Wastes Produced by the Extraction or Concentration of Source material from ores processed primarily for their Source Material Content	No Actions Required	C for States with authority for Uranium Mills/tailings; D for States without authority	<p>The eight paragraph of Criterion 4(d) is revised to read as follows:</p> <p>Criterion 4. * * *</p> <p>(d) *** Rock covering of slopes may be unnecessary where top covers are very thick (on the order of 10 m or greater); impoundment slopes are very gentle (on the order of 10 h:1v or less); bulk cover materials have inherently favorable erosion resistance characteristics; and, there is negligible drainage catchment area upstream of the pile and good wind protection as described in points (a) and (b) of this Criterion.</p>			

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
Part 40, Appendix A, section I, Criterion 8A	Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings for Wastes Produced by the Extraction or Concentration of Source material from ores processed primarily for their Source Material Content	No Actions Required	C for States with authority for Uranium Mills/Tailings; D for States without authority	The third sentence of Criterion 8A is revised to read as follows: Criterion 8A. * * * The appropriate NRC regional office as indicated in appendix D to 10 CFR part 20 of this chapter, or the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, must be immediately notified of any failure in a tailings or waste retention system that results in a release of tailings or waste into unrestricted areas, or of any unusual conditions (conditions not contemplated in the design of the retention system) that if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.			
Part 71, Appendix A, Table A-1	Packaging and Transportation of Radioactive Material, A ₁ and A ₂ Values for Radionuclides	R12-1-102 "A1" and "A2"	[B]	In Table A-1, the entries for Bi-205, Cm-248, Eu-150 (long lived), and Te-132(a) and footnote b were revised to read as follows: See the table at the end of the document.			

Table A-1—A₁ and A₂ VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A ₁ (TBq)	A ₁ (Ci) ^b	A ₂ (TBq)	A ₂ (Ci) ^b	Specific activity	
						(TBq/g)	(Ci/g)
*	*	*	*	*	*	*	*
Bi-205	Bismuth (83)	7.0×10 ⁻¹	1.9×10 ¹	7.0×10 ⁻¹	1.9×10 ¹	1.5×10 ³	4.2×10 ⁴
*	*	*	*	*	*	*	*
Cm-248		2.0×10 ⁻²	5.4×10 ⁻¹	3.0×10 ⁻⁴	8.1×10 ⁻³	1.6×10 ⁻⁴	4.2×10 ⁻³
*	*	*	*	*	*	*	*
Eu-150 (long lived)		7.0×10 ⁻¹	1.9×10 ¹	7.0×10 ⁻¹	1.9×10 ¹	6.1×10 ⁴	1.6×10 ⁶
*	*	*	*	*	*	*	*
Te-132 (a)		5.0×10 ⁻¹	1.4×10 ¹	4.0×10 ⁻¹	1.1×10 ¹	1.1×10 ⁴	3.0×10 ⁵
*	*	*	*	*	*	*	*

* * * * *

^b The values of A₁ and A₂ in Curies (Ci) are approximate and for information only; the regulatory standard units are Terabecquerels (TBq) (see Appendix A to part 71—Determination of A₁ and A₂, Section I).

12/19/14

Requirements for Distribution of Byproduct Material, Parts 30, 31, 32, 40, and 70
(77 FR 43666, Published July 25, 2012) RATS ID: 2012-4 Effective: October 23, 2012
Date Due for State Adoption: October 23, 2015

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
§30.6(b)(1)(iv)	Communications	No Actions Required	D	N/A			
§30.8(c)(1)	Information collection requirements: OMB approval	No Actions Required	D	N/A			
§30.15(a)(2)	Certain items containing byproduct material	Previously adopted as R12-1-303(B)(1)(b)	B	<p>In § 30.15, paragraph (a)(2) is added to read as follows:</p> <p>(a) * * *</p> <p>(2)(i) Static elimination devices which contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq (500 µCi) of polonium-210 per device.</p> <p>(ii) Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq (500 µCi) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.</p> <p>(iii) Such devices authorized before October 23, 2012 for use under the general license then provided in § 31.3 and equivalent regulations of Agreement States and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the Commission.</p>			

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
§30.19(b)	Self-luminous products containing tritium, krypton-85, or promethium-147	R12-1-303(B)(2)	B	<p>In § 30.19, paragraph (b) is revised to read as follows:</p> <p>(b) Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under paragraph (a) of this section, should apply for a license under § 32.22 of this chapter and for a certificate of registration in accordance with § 32.210 of this chapter.</p>			
§30.20	Gas and aerosol detectors containing byproduct material	R12-1-303(B)(3)	B	<p>Section 30.20 is revised to read as follows:</p> <p>(a) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing byproduct material, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in parts 19, 20, 21, and 30 through 36 and 39 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material in gas and aerosol detectors designed to protect health, safety, or property, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under § 32.26 of this chapter, which license authorizes the initial transfer of the product</p>			

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
				<p>for use under this section. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007, in accordance with a specific license issued by a State under comparable provisions to § 32.26 of this chapter authorizing distribution to persons exempt from regulatory requirements.</p> <p>(b) Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer such products for use under paragraph (a) of this section, should apply for a license under § 32.26 of this chapter and for a certificate of registration in accordance with § 32.210 of this chapter.</p>			
§30.22	Certain industrial devices	R12-1-303(B)(4)	B	<p>Section 30.22 is added under the undesignated heading Exemptions to read as follows:</p> <p>(a) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth</p>			

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
				<p>in section 81 of the Act and from the regulations in parts 19, 20, 21, 30 through 36, and 39 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under § 32.30 of this chapter, which license authorizes the initial transfer of the device for use under this section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.</p> <p>(b) Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material for use under paragraph (a) of this section, should apply for a license under § 32.30 of this chapter and for a certificate of registration in accordance with § 32.210 of this chapter.</p>			
§30.32(g)	Application for specific licenses	Previously adopted as R12-1-311(A)	C	<p>In § 30.32, paragraph (g) is revised to read as follows:</p> <p>(g)(1) Except as provided in paragraphs (g)(2), (g)(3), and (g)(4) of this section, an application for a specific license to use</p>			

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
				<p>byproduct material in the form of a sealed source or in a device that contains the sealed source must either--</p> <p>(i) Identify the source or device by manufacturer and model number as registered with the Commission under § 32.210 of this chapter, with an Agreement State, or for a source or a device containing radium-226 or accelerator-produced radioactive material with a State under provisions comparable to § 32.210 of this chapter; or</p> <p>(ii) Contain the information identified in § 32.210(c) of this chapter.</p> <p>(2) For sources or devices manufactured before October 23, 2012 that are not registered with the Commission under § 32.210 of this chapter or with an Agreement State, and for which the applicant is unable to provide all categories of information specified in § 32.210(c) of this chapter, the application must include:</p> <p>(i) All available information identified in § 32.210(c) of this chapter concerning the source, and, if applicable, the device; and</p> <p>(ii) Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life</p>			

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
				<p>and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.</p> <p>(3) For sealed sources and devices allowed to be distributed without registration of safety information in accordance with § 32.210(g)(1) of this chapter, the applicant may supply only the manufacturer, model number, and radionuclide and quantity.</p> <p>(4) If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.</p>			
§30.38	Application for amendment of licenses and registration certificates	No Actions Required	D	N/A			
§30.39	Commission action on applications to renew or amend	No Actions Required	D	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
§30.61	Modification and revocation of licenses and registration certificates	No Actions Required	D	N/A			
§31.3	Certain devices and equipment	R12-1-306(A) (language marked for removal)	B	Section 31.3 is removed and reserved			
§31.23(b)	Criminal penalties	No Actions Required	D	N/A			
§32.1(a)	Purpose and scope	No Actions Required	D	N/A			
§32.2	Definition: Committed dose	No Actions Required	D	N/A			
§32.2	Definition: Sealed source and device registry	No Actions Required	D	N/A			
§32.8(b)	Information collection requirements: OMB approval	No Actions Required	D	N/A			
§32.14(b)(4) & (b)(5)	Certain items containing byproduct material; requirements for license to apply or initially transfer	No Actions Required	NRC	<p>In § 32.14, paragraphs (b)(4) and (b)(5) are revised to read as follows:</p> <p>(b) * * *</p> <p>(4) Except for electron tubes and ionization chamber smoke detectors and</p>			

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
				<p>timepieces containing promethium-147 or tritium in the form of gaseous tritium light sources, procedures for and results of prototype testing to demonstrate that the byproduct material will not become detached from the product and that the byproduct material will not be released to the environment under the most severe conditions likely to be encountered in normal use of the product;</p> <p>(5) In the case of ionizing radiation measuring instruments and timepieces containing tritium in the form of paint, quality control procedures to be followed in the fabrication of production lots of the product and the quality control standards the product will be required to meet;</p>			
§ 32.15	Same: Quality assurance, prohibition of transfer, and labeling.	No Actions Required	NRC	<p>In § 32.15, paragraph (c) is removed and reserved and paragraphs (a) and (b) are revised to read as follows:</p> <p>(a) Each person licensed under § 32.14 for products for which quality control procedures are required shall:</p> <p>(1) Maintain quality assurance systems in the manufacture of the part or product, or the installation of the part into the product, in a manner sufficient to provide reasonable assurance that the safety-related components of the distributed products are capable of performing their intended functions;</p>			

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
				<p>(2) Subject inspection lots to acceptance sampling procedures, by procedures specified in the license issued under § 32.14, to provide at least 95 percent confidence that the Lot Tolerance Percent Defective of 5.0 percent will not be exceeded; and</p> <p>(3) Visually inspect each unit in inspection lots. Any unit which has an observable physical defect that could adversely affect containment of the byproduct material must be considered a defective unit.</p> <p>(b) No person licensed under § 32.14 shall transfer to other persons for use under § 30.15 of this chapter or equivalent regulations of an Agreement State:</p> <p>(1) Any part or product tested and found defective under the criteria and procedures specified in the license issued under § 32.14, unless the defective part or product has been repaired or reworked, retested, and found by an independent inspector to meet the applicable acceptance criteria; or</p> <p>(2) Any part or product contained within any lot that has been sampled and rejected as a result of the procedures in paragraph (a)(2) of this section, unless:</p> <p>(i) A procedure for defining sub-lot size, independence, and additional testing procedures is contained in the license issued under § 32.14; and</p> <p>(ii) Each individual sub-lot is</p>			

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
				<p>sampled, tested, and accepted in accordance with the procedures specified in paragraphs (a)(2) and (b)(2)(i) of this section and any other criteria that may be required as a condition of the license issued under § 32.14.</p> <p>(c) [Reserved]</p>			
§32.22(a)(3)	Self-luminous products containing tritium, krypton-85 or promethium-147: Requirements for license to manufacture, process, produce, or initially transfer	No Actions Required	NRC	<p>In § 32.22, paragraph (a)(3) is added to read as follows:</p> <p>(a) * * *</p> <p>(3)(i) The Commission determines that the product meets the safety criteria in § 32.23; and</p> <p>(ii) The product has been evaluated by the NRC and registered in the Sealed Source and Device Registry.</p>			
§32.26	Gas and aerosol detectors containing byproduct material: Requirements for license to manufacture, process, produce, or initially transfer	No Actions Required	NRC	<p>In § 32.26, the introductory text is revised and paragraph (c) is added to read as follows:</p> <p>An application for a specific license to manufacture, process, or produce gas and aerosol detectors containing byproduct material and designed to protect health, safety, or property, or to initially transfer such products for use under § 30.20 of this chapter or equivalent regulations of an Agreement State, will be approved if:</p> <p>* * * * *</p>			

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				<p>(c)(1) The Commission determines that the product meets the safety criteria in § 32.27; and</p> <p>(2) The product has been evaluated by the NRC and registered in the Sealed Source and Device Registry.</p>			
§32.30	Certain industrial devices containing byproduct material: Requirements for license to manufacture, process, produce, or initially transfer	No Actions Required	NRC	<p>Section 32.30 is added under subpart A to read as follows:</p> <p>An application for a specific license to manufacture, process, produce, or initially transfer for sale or distribution devices containing byproduct material for use under § 30.22 of this chapter or equivalent regulations of an Agreement State will be approved if:</p> <p>(a) The applicant satisfies the general requirements of § 30.33 of this chapter: However, the requirements of § 30.33(a)(2) and (a)(3) do not apply to an application for a license to transfer byproduct material in such industrial devices manufactured, processed, or produced under a license issued by an Agreement State;</p> <p>(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, and conditions of handling, storage, use, and disposal of the industrial devices to</p>			

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
				<p>demonstrate that the device will meet the safety criteria set forth in § 32.31. The information should include:</p> <ul style="list-style-type: none"> (1) A description of the device and its intended use or uses; (2) The type and quantity of byproduct material in each unit; (3) Chemical and physical form of the byproduct material in the device and changes in chemical and physical form that may occur during the useful life of the device; (4) Solubility in water and body fluids of the forms of the byproduct material identified in paragraphs (b)(3) and (b)(12) of this section; (5) Details of construction and design of the device as related to containment and shielding of the byproduct material and other safety features under normal and severe conditions of handling, storage, use, and disposal of the device; (6) Maximum external radiation levels at 5 and 30 centimeters from any external surface of the device, averaged over an area not to exceed 10 square centimeters, and the method of measurement; (7) Degree of access of human beings to the device during normal handling and use; (8) Total quantity of byproduct material expected to be distributed in the devices annually; 			

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
				<p>(9) The expected useful life of the device;</p> <p>(10) The proposed methods of labeling or marking the device and its point-of-sale package to satisfy the requirements of § 32.32(b);</p> <p>(11) Procedures for prototype testing of the device to demonstrate the effectiveness of the containment, shielding, and other safety features under both normal and severe conditions of handling, storage, use, and disposal of the device;</p> <p>(12) Results of the prototype testing of the device, including any change in the form of the byproduct material contained in the device, the extent to which the byproduct material may be released to the environment, any increase in external radiation levels, and any other changes in safety features;</p> <p>(13) The estimated external radiation doses and committed doses resulting from the intake of byproduct material in any one year relevant to the safety criteria in § 32.31 and the basis for these estimates;</p> <p>(14) A determination that the probabilities with respect to the doses referred to in § 32.31(a)(4) meet the criteria of that paragraph;</p> <p>(15) Quality control procedures to be followed in the fabrication of production lots of the devices and the quality control standards the devices will be required to meet; and</p>			

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
				<p>(16) Any additional information, including experimental studies and tests, required by the Commission.</p> <p>(c)(1) The Commission determines that the device meets the safety criteria in § 32.31.</p> <p>(2) The device is unlikely to be routinely used by members of the general public in a non-occupational environment.</p> <p>(3) The device has been registered in the Sealed Source and Device Registry.</p>			
§32.31	Certain industrial devices containing byproduct material: Safety criteria	No Actions Required	NRC	<p>Section 32.31 is added under subpart A to read as follows:</p> <p>(a) An applicant for a license under § 32.30 shall demonstrate that the device is designed and will be manufactured so that:</p> <p>(b)</p> <p>(1) In normal use, handling, and storage of the quantities of exempt units likely to accumulate in one location, including during marketing, distribution, installation, and servicing of the device, it is unlikely that the external radiation dose in any one year, or the committed dose resulting from the intake of radioactive material in any one year, to a suitable sample of the group of individuals expected to be most highly exposed to radiation or radioactive material from the device will exceed 200 μSv (20 mrem).</p> <p>(2) It is unlikely that the external radiation</p>			

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
				<p>dose in any one year, or the committed dose resulting from the intake of radioactive material in any one year, to a suitable sample of the group of individuals expected to be most highly exposed to radiation or radioactive material from disposal of the quantities of units likely to accumulate in the same disposal site will exceed 10 μSv (1 mrem).</p> <p>(3) It is unlikely that there will be a significant reduction in the effectiveness of the containment, shielding, or other safety features of the device from wear and abuse likely to occur in normal handling and use of the device during its useful life.</p> <p>(4) In use, handling, storage, and disposal of the quantities of exempt units likely to accumulate in one location, including during marketing, distribution, installation, and servicing of the device, the probability is low that the containment, shielding, or other safety features of the device would fail under such circumstances that a person would receive an external radiation dose or committed dose in excess of 5 mSv (500 mrem), and the probability is negligible that a person would receive an external radiation dose or committed dose of 100 mSv (10 rem) or greater. ¹</p> <p>(b) An applicant for a license under § 32.30</p>			

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
				<p>shall demonstrate that, even in unlikely scenarios of misuse, including those resulting in direct exposure to the unshielded source removed from the device for 1,000 hours at an average distance of 1 meter and those resulting in dispersal and subsequent intake of 10^{-4} of the quantity of byproduct material (or in the case of tritium, an intake of 10 percent), a person will not receive an external radiation dose or committed dose in excess of 100 mSv (10 rem), and, if the unshielded source is small enough to fit in a pocket, that the dose to localized areas of skin averaged over areas no larger than 1 square centimeter from carrying the unshielded source in a pocket for 80 hours will not exceed 2 Sv (200 rem).</p> <p>¹It is the intent of this paragraph that as the magnitude of the potential dose increases above that permitted under normal conditions, the probability that any individual will receive such a dose must decrease. The probabilities have been expressed in general terms to emphasize the approximate nature of the estimates that are to be made. The following values may be used as guides in estimating compliance with the criteria: Low--not more than one such failure/incident per year for each 10,000 exempt units distributed. Negligible--not more than one such failure/incident per year for each one million exempt units distributed.</p>			

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
§32.32	Conditions of licenses issued under § 32.30: Quality control, labeling, and reports of transfer	No Actions Required	NRC	<p>Section 32.32 is added under subpart A to read as follows:</p> <p>Each person licensed under § 32.30 shall:</p> <p>(a) Carry out adequate control procedures in the manufacture of the device to ensure that each production lot meets the quality control standards approved by the Commission;</p> <p>(b) Label or mark each device and its point-of-sale package so that:</p> <p>(1) Each item has a durable, legible, readily visible label or marking on the external surface of the device containing:</p> <p>(i) The following statement: "CONTAINS RADIOACTIVE MATERIAL";</p> <p>(ii) The name of the radionuclide(s) and quantity(ies) of activity;</p> <p>(iii) An identification of the person licensed under § 32.30 to transfer the device for use under § 30.22 of this chapter or equivalent regulations of an Agreement State; and</p> <p>(iv) Instructions and precautions necessary to assure safe installation, operation, and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information).</p> <p>(2) The external surface of the</p>			

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
				<p>point-of-sale package has a legible, readily visible label or marking containing:</p> <ul style="list-style-type: none"> (i) The name of the radionuclide and quantity of activity; (ii) An identification of the person licensed under § 32.30 to transfer the device for use under § 30.22 of this chapter or equivalent regulations of an Agreement State; and (iii) The following or a substantially similar statement: “THIS DEVICE CONTAINS RADIOACTIVE MATERIAL AND HAS BEEN MANUFACTURED IN COMPLIANCE WITH U.S. NUCLEAR REGULATORY COMMISSION SAFETY CRITERIA IN 10 CFR 32.31. THE PURCHASER IS EXEMPT FROM ANY REGULATORY REQUIREMENTS.” <p>(3) Each device and point-of-sale package contains such other information as may be required by the Commission; and</p> <p>(c) Maintain records of all transfers and file a report with the Director of the Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 30.6(a) of this chapter, including in the address: ATTN: Document Control Desk/Exempt Distribution.</p> <p>(1) The report must clearly identify the specific licensee submitting the report and include the license number of the specific</p>			

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
				<p>licensee.</p> <p>(2) The report must indicate that the devices are transferred for use under § 30.22 of this chapter or equivalent regulations of an Agreement State.</p> <p>(3) The report must include the following information on devices transferred to other persons for use under § 30.22 or equivalent regulations of an Agreement State:</p> <p>(i) A description or identification of the type of each device and the model number(s);</p> <p>(ii) For each radionuclide in each type of device and each model number, the total quantity of the radionuclide; and</p> <p>(iii) The number of units of each type of device transferred during the reporting period by model number.</p> <p>(4)(i) The licensee shall file the report, covering the preceding calendar year, on or before January 31 of each year.</p> <p>(ii) Licensees who permanently discontinue activities authorized by the license issued under § 32.30 shall file a report for the current calendar year within 30 days after ceasing distribution.</p> <p>(5) If no transfers of byproduct material have been made under § 32.30 during the reporting period, the report must so indicate.</p> <p>(6) The licensee shall maintain the record of a transfer for a period of one year after the transfer is included in a report to the Commission.</p>			

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
§32.51(a)(6)	Byproduct material contained in devices for use under § 31.5; requirements for license to manufacture, or initially transfer	12-1-311(A)(1)(g)	B	<p>In § 32.51, paragraph(a)(6) is added to read as follows:</p> <p>(a) * * *</p> <p>(6) The device has been registered in the Sealed Source and Device Registry.</p>			
§32.53(b)(5)	Luminous safety devices for use in aircraft: Requirements for license to manufacture, assemble, repair or initially transfer	R12-1-311(B)	B	<p>In § 32.53, paragraph (b)(5) is revised as follows:</p> <p>(b) * * *</p> <p>(5) Quality assurance procedures to be followed that are sufficient to ensure compliance with § 32.55;</p>			
§32.53(d)(4)	Luminous safety devices for use in aircraft: Requirements for license to manufacture, assemble, repair or initially transfer	R12-1-311(B)	B	<p>In § 32.53, paragraph (d)(4) is revised follows:</p> <p>(d) * * *</p> <p>(4) Prototypes of the device have been subjected to and have satisfactorily passed the tests required by paragraph (e) of this section.</p>			
§32.53(e)	Luminous safety devices for use in aircraft: Requirements for license to manufacture, assemble, repair	R12-1-311(B)	B	<p>In § 32.53, paragraph (e) is added to read as follows:</p> <p>(e) The applicant shall subject at least five prototypes of the device to tests as follows:</p> <p>(1) The devices are subjected to tests that adequately take into account the individual,</p>			

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
	or initially transfer			<p>aggregate, and cumulative effects of environmental conditions expected in service that could adversely affect the effective containment of tritium or promethium-147, such as temperature, moisture, absolute pressure, water immersion, vibration, shock, and weathering.</p> <p>(2) The devices are inspected for evidence of physical damage and for loss of tritium or promethium-147, after each stage of testing, using methods of inspection adequate for determining compliance with the criteria in paragraph (e)(3) of this section.</p> <p>(3) Device designs are rejected for which the following has been detected for any unit:</p> <ul style="list-style-type: none"> (i) A leak resulting in a loss of 0.1 percent or more of the original amount of tritium or promethium-147 from the device; or (ii) Surface contamination of tritium or promethium-147 on the device of more than 2,200 disintegrations per minute per 100 square centimeters of surface area; or (iii) Any other evidence of physical damage. 			

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
§32.53(f)	Luminous safety devices for use in aircraft: Requirements for license to manufacture, assemble, repair or initially transfer	R12-1-311(B)	B	<p>In § 32.53, paragraph (f) is added to read as follows:</p> <p>(f) The device has been registered in the Sealed Source and Device Registry.</p>			
§32.55	Same: Quality assurance, prohibition of transfer	R12-1-311(B)	B	<p>Section 32.55 is revised to read as follows:</p> <p>(a) Each person licensed under § 32.53 shall visually inspect each device and shall reject any that has an observable physical defect that could adversely affect containment of the tritium or promethium-147.</p> <p>(b) Each person licensed under § 32.53 shall:</p> <p>(1) Maintain quality assurance systems in the manufacture of the luminous safety device in a manner sufficient to provide reasonable assurance that the safety-related components of the distributed devices are capable of performing their intended functions; and</p> <p>(2) Subject inspection lots to acceptance sampling procedures, by procedures specified in paragraph (c) of this section and in the license issued under § 32.53, to provide at least 95 percent confidence that the Lot Tolerance Percent Defective of 5.0 percent will not be exceeded.</p> <p>(c) The licensee shall subject each</p>			

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
				<p>inspection lot to:</p> <p>(1) Tests that adequately take into account the individual, aggregate, and cumulative effects of environmental conditions expected in service that could adversely affect the effective containment of tritium or promethium-147, such as absolute pressure and water immersion.</p> <p>(2) Inspection for evidence of physical damage, containment failure, or for loss of tritium or promethium-147 after each stage of testing, using methods of inspection adequate for applying the following criteria for defective:</p> <p>(i) A leak resulting in a loss of 0.1 percent or more of the original amount of tritium or promethium-147 from the device;</p> <p>(ii) Levels of radiation in excess of 5 microgray (0.5 millirad) per hour at 10 centimeters from any surface when measured through 50 milligrams per square centimeter of absorber, if the device contains promethium-147; and</p> <p>(iii) Any other criteria specified in the license issued under § 32.53.</p> <p>(d) No person licensed under § 32.53 shall transfer to persons generally licensed under § 31.7 of this chapter, or under an equivalent general license of an Agreement State:</p> <p>(1) Any luminous safety device tested and found defective under any condition of a</p>			

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
				<p>license issued under § 32.53, or paragraph (b) of this section, unless the defective luminous safety device has been repaired or reworked, retested, and determined by an independent inspector to meet the applicable acceptance criteria; or</p> <p>(2) Any luminous safety device contained within any lot that has been sampled and rejected as a result of the procedures in paragraph (b)(2) of this section, unless:</p> <p>(i) A procedure for defining sub-lot size, independence, and additional testing procedures is contained in the license issued under § 32.53; and</p> <p>(ii) Each individual sub-lot is sampled, tested, and accepted in accordance with paragraphs (b)(2) and (d)(2)(i) of this section and any other criteria that may be required as a condition of the license issued under § 32.53.</p>			
§32.56	Same: Material transfer reports	R12-1-311(B)	B	<p>Section 32.56 is revised to read as follows:</p> <p>(a) Each person licensed under § 32.53 shall file an annual report with the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: Document Control Desk/GLTS, by an appropriate method listed in § 30.6(a) of this chapter, which must state the total quantity of tritium or promethium-147 transferred to persons generally licensed under § 31.7 of this chapter. The report must</p>			

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
				<p>identify each general licensee by name, state the kinds and numbers of luminous devices transferred, and specify the quantity of tritium or promethium-147 in each kind of device. Each report must cover the year ending June 30 and must be filed within thirty (30) days thereafter. If no transfers have been made to persons generally licensed under § 31.7 of this chapter during the reporting period, the report must so indicate.</p> <p>(b) Each person licensed under § 32.53 shall report annually all transfers of devices to persons for use under a general license in an Agreement State's regulations that are equivalent to § 31.7 of this chapter to the responsible Agreement State agency. The report must state the total quantity of tritium or promethium-147 transferred, identify each general licensee by name, state the kinds and numbers of luminous devices transferred, and specify the quantity of tritium or promethium-147 in each kind of device. If no transfers have been made to a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State agency upon request of the agency.</p>			
§32.57(d)(2)	Calibration or reference sources containing	R12-1-311(C)	B	In § 32.57, paragraph (d)(2) is revised as follows:			

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
	americium-241 or radium-226: Requirements for license to manufacture or initially transfer			(d) * * * (2) The source has been subjected to and has satisfactorily passed appropriate tests required by paragraph (e) of this section.			
§32.57(e)	Calibration or reference sources containing americium-241 or radium-226: Requirements for license to manufacture or initially transfer	R12-1-311(C)	B	<p>In § 32.57 paragraph (e) is added to read as follows:</p> <p>(e) The applicant shall subject at least five prototypes of each source that is designed to contain more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226 to tests as follows:</p> <p>(1) The initial quantity of radioactive material deposited on each source is measured by direct counting of the source.</p> <p>(2) The sources are subjected to tests that adequately take into account the individual, aggregate, and cumulative effects of environmental conditions expected in service that could adversely affect the effective containment or binding of americium-241 or radium-226, such as physical handling, moisture, and water immersion.</p> <p>(3) The sources are inspected for evidence of physical damage and for loss of americium-241 or radium-226, after each stage of testing, using methods of inspection adequate for determining compliance with the criteria in paragraph (e)(4) of this section.</p> <p>(4) Source designs are rejected for which</p>			

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				the following has been detected for any unit: removal of more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226 from the source or any other evidence of physical damage.			
§32.59	Same: Leak testing of each source	R12-1-311(C)	B	<p>Section 32.59 is revised to read as follows:</p> <p>Each person licensed under § 32.57 shall perform a dry wipe test upon each source containing more than 3.7 kilobecquerels (0.1 microcurie) of americium-241 or radium-226 before transferring the source to a general licensee under § 31.8 of this chapter or under equivalent regulations of an Agreement State. This test must be performed by wiping the entire radioactive surface of the source with a filter paper with the application of moderate finger pressure. The radioactivity on the filter paper must be measured using methods capable of detecting 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226. If a source has been shown to be leaking or losing more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226 by the methods described in this section, the source must be rejected and must not be transferred to a general licensee under § 31.8 of this chapter, or equivalent regulations of an Agreement State.</p>			

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
§32.61(e)(4)	Ice detection devices containing strontium-90; requirements for license to manufacture or initially transfer	R12-1-311(F)	B	<p>In § 32.61, paragraph (e)(4) is revised as follows:</p> <p>e) * * *</p> <p>(4) Prototypes of the device have been subjected to and have satisfactorily passed the tests required by paragraph (f) of this section.</p>			
§32.61(f)	Ice detection devices containing strontium-90; requirements for license to manufacture or initially transfer	R12-1-311(F)	B	<p>In § 32.61, paragraph (f) is added to read as follows:</p> <p>(f) The applicant shall subject at least five prototypes of the device to tests as follows:</p> <p>(1) The devices are subjected to tests that adequately take into account the individual, aggregate, and cumulative effects of environmental conditions expected in service that could adversely affect the effective containment of strontium-90, such as temperature, moisture, absolute pressure, water immersion, vibration, shock, and weathering.</p> <p>(2) The devices are inspected for evidence of physical damage and for loss of strontium-90 after each stage of testing, using methods of inspection adequate for determining compliance with the criteria in paragraph (f)(3) of this section.</p> <p>(3) Device designs are rejected for which the following has been detected for any unit:</p> <p>(i) A leak resulting in a loss of 0.1 percent or more of the original amount of strontium-90 from the device; or</p>			

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
				(ii) Surface contamination of strontium-90 on the device of more than 2,200 disintegrations per minute per 100 square centimeters of surface area; or (iii) Any other evidence of physical damage.			
§32.61(g)	Ice detection devices containing strontium-90; requirements for license to manufacture or initially transfer	R12-1-311(F)	B	In § 32.61, paragraph (f) is added to read as follows: (g) The device has been registered in the Sealed Source and Device Registry.			
§32.62(c), (d), & (e)	Same: Quality assurance; prohibition of transfer	R12-1-311(F)	B	In § 32.62, paragraphs (c), (d), and (e) are revised to read as follows: (c) Each person licensed under § 32.61 shall: (1) Maintain quality assurance systems in the manufacture of the ice detection device containing strontium-90 in a manner sufficient to provide reasonable assurance that the safety-related components of the distributed devices are capable of performing their intended functions; and (2) Subject inspection lots to acceptance sampling procedures, by procedures specified in paragraph (d) of this section and in the license issued under § 32.61, to provide at least 95 percent confidence that the Lot Tolerance Percent Defective of 5.0 percent will not be exceeded.			

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
				<p>(d) Each person licensed under § 32.61 shall subject each inspection lot to:</p> <p>(1) Tests that adequately take into account the individual, aggregate, and cumulative effects of environmental conditions expected in service that could possibly affect the effective containment of strontium-90, such as absolute pressure and water immersion.</p> <p>(2) Inspection for evidence of physical damage, containment failure, or for loss of strontium-90 after each stage of testing, using methods of inspection adequate to determine compliance with the following criteria for defective: a leak resulting in a loss of 0.1 percent or more of the original amount of strontium-90 from the device and any other criteria specified in the license issued under § 32.61.</p> <p>(e) No person licensed under § 32.61 shall transfer to persons generally licensed under § 31.10 of this chapter, or under an equivalent general license of an Agreement State:</p> <p>(1) Any ice detection device containing strontium-90 tested and found defective under the criteria specified in a license issued under § 32.61, unless the defective ice detection device has been repaired or reworked, retested, and determined by an independent inspector to meet the applicable acceptance criteria; or</p> <p>(2) Any ice detection device containing</p>			

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				<p>strontium-90 contained within any lot that has been sampled and rejected as a result of the procedures in paragraph (c)(2) of this section, unless:</p> <p>(i) A procedure for defining sub-lot size, independence, and additional testing procedures is contained in the license issued under § 32.61; and</p> <p>(ii) Each individual sub-lot is sampled, tested, and accepted in accordance with paragraphs (c)(2) and (e)(2)(i) of this section and any other criteria as may be required as a condition of the license issued under § 32.61.</p>			
§32.74(a)(4)	Manufacture and distribution of sources or devices containing byproduct material for medical use	R12-1-311(I)	B	<p>Section 32.74 is amended by adding paragraph (a)(4) to read as follows:</p> <p>(a) * * *</p> <p>(4) The source or device has been registered in the Sealed Source and Device Registry.</p>			
§32.101	Schedule B-- prototype tests for luminous safety devices for use in aircraft	Not previously adopted	B	Section 32.101 is removed.			
§32.102	Schedule C— prototype tests for calibration or reference sources containing	Not previously adopted	B	Section 32.102 is removed.			

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
	americium-241 or radium-226						
§32.103	Schedule D-- prototype tests for ice detection devices containing strontium-90	Not previously adopted	B	Section 32.103 is removed.			
§32.110	Acceptance sampling procedures under certain specific licenses	Not previously adopted	B	Section 32.110 is removed.			
§32.210(a)	Registration of product information	R12-1-308(G)	B - States with authority for sealed source and device (SS&D) evaluations D - States without SS&D authority	In § 32.210, paragraph (a) is revised as follows: (a) Any manufacturer or initial distributor of a sealed source or device containing a sealed source may submit a request to the NRC for evaluation of radiation safety information about its product and for its registration.			
§32.210(b)	Registration of product information	R12-1-308(G)	B - States with authority for sealed source and device (SS&D) evaluations D - States without SS&D authority	In § 32.210, paragraph (b) is revised as follows: (b) The request for review must be sent to the NRC's Office of Federal and State Materials and Environmental Management Programs, ATTN: SSDR by an appropriate method listed in § 30.6(a) of this chapter.			
§32.210(d)	Registration of	R12-1-308(G)	B - States with	In § 32.210, paragraph (d) is revised as			

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
	product information		<p>authority for sealed source and device (SS&D) evaluations</p> <p>D - States without SS&D authority</p>	<p>follows:</p> <p>(d) The NRC normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the NRC formulates reasonable standards and criteria with the help of the manufacturer or distributor. The NRC shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property. Subpart A of this part includes specific criteria that apply to certain exempt products and subpart B includes specific criteria applicable to certain generally licensed devices. Subpart C includes specific provisions that apply to certain specifically licensed items.</p>			
§32.210(e)	Registration of product information	R12-1-308(G)	<p>B - States with authority for sealed source and device (SS&D) evaluations</p> <p>D - States without SS&D authority</p>	<p>In § 32.210, paragraph (e) is revised as follows:</p> <p>(e) After completion of the evaluation, the Commission issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product, or concerning use under an exemption from</p>			

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
				licensing or general license as applicable for the category of certificate.			
§32.210(g)	Registration of product information	R12-1-308(G)	<p>B - States with authority for sealed source and device (SS&D) evaluations</p> <p>D - States without SS&D authority</p>	<p>In § 32.210, paragraph (g) is added to read as follows:</p> <p>(g) Authority to manufacture or initially distribute a sealed source or device to specific licensees may be provided in the license without the issuance of a certificate of registration in the following cases:</p> <p>(1) Calibration and reference sources containing no more than:</p> <p>(i) 37 MBq (1 mCi), for beta and/or gamma emitting radionuclides; or</p> <p>(ii) 0.37 MBq (10 µCi), for alpha emitting radionuclides; or</p> <p>(2) The intended recipients are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in any form in the case of unregistered sources or, for registered sealed sources contained in unregistered devices, are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in unshielded form, as specified in their licenses; and</p> <p>(i) The intended recipients are licensed under part 33 of this chapter or comparable provisions of an Agreement</p>			

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				State; or (ii) The recipients are authorized for research and development; or (iii) The sources and devices are to be built to the unique specifications of the particular recipient and contain no more than 740 GBq (20 Ci) of tritium or 7.4 GBq (200 mCi) of any other radionuclide.			
§32.210(h)	Registration of product information	R12-1-308(G)	C - States with authority for sealed source and device (SS&D) evaluations D - States without SS&D authority	In § 32.210, paragraph (h) is added to read as follows: (h) After the certificate is issued, the Commission may conduct an additional review as it determines is necessary to ensure compliance with current regulatory standards. In conducting its review, the Commission will complete its evaluation in accordance with criteria specified in this section. The Commission may request such additional information as it considers necessary to conduct its review and the certificate holder shall provide the information as requested.			
§32.211	Inactivation of certificates of registration of sealed sources and devices	R12-1-308(H)	B - States with authority for sealed source and device (SS&D) evaluations D - States without SS&D	Section 32.211 is added to read as follows: (a) A certificate holder who no longer manufactures or initially transfers any of the sealed source(s) or device(s) covered by a particular certificate issued by the Commission shall request inactivation of the registration certificate. Such a request must be made to the NRC's Office of Federal and State Materials and Environmental			

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			authority	<p>Management Programs, ATTN: SSDR by an appropriate method listed in § 30.6(a) of this chapter and must normally be made no later than two years after initial distribution of all of the source(s) or device(s) covered by the certificate has ceased. However, if the certificate holder determines that an initial transfer was in fact the last initial transfer more than two years after that transfer, the certificate holder shall request inactivation of the certificate within 90 days of this determination and briefly describe the circumstances of the delay.</p> <p>(b) If a distribution license is to be terminated in accordance with § 30.36 of this chapter, the licensee shall request inactivation of its registration certificates associated with that distribution license before the Commission will terminate the license. Such a request for inactivation of certificate(s) must indicate that the license is being terminated and include the associated specific license number.</p> <p>(c) A specific license to manufacture or initially transfer a source or device covered only by an inactivated certificate no longer authorizes the licensee to initially transfer such sources or devices for use. Servicing of devices must be in accordance with any conditions in the certificate, including in the case of an inactive certificate.</p>			

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
§32.303(b)	Criminal penalties	No Actions Required	D	N/A			
§40.5(b)(1)(iv)	Communications	No Actions Required	D	N/A			
§70.5(b)(1)(iv)	Communications	No Actions Required	D	N/A			

Revised 01/28/2015

**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	No Actions Required	D	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
§30.6(a)	Communications	No Actions Required	D	N/A			
§30.13	Carriers		B	<p>§30.13 is revised to read as follows:</p> <p>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.</p>			
§30.33	General requirements for issuance of specific licenses	No Actions Required	D	N/A			
§32.1(b)	Purpose and scope	No Actions Required	D	N/A			
§33.1	Purpose and scope	No Actions Required	D	N/A			
§34.1	Purpose and scope	No Actions Required	D	N/A			
§35.1	Purpose and scope	No Actions Required	D	N/A			
§36.1(a)	Purpose and scope	No Actions	D	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
		Required					
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	R12-1-1901	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	R12-1-1903	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 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			

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				category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.			
§37.5	Definition: Access control	R12-1-1905	C	<i>Access control</i> 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	R12-1-1905	D	<i>Act</i> means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.			
§37.5	Definition: Aggregated	R12-1-1905	C	<i>Aggregated</i> means accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.			
§37.5	Definition: Agreement State	R12-1-1905	[B]	<i>Agreement State</i> 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. <i>Non-agreement State</i> means any other State.			

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
§37.5	Definition: Approved individual	R12-1-1905	B	<i>Approved individual</i> 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	R12-1-1905	C	<i>Background investigation</i> means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.			
§37.5	Definition: Becquerel	R12-1-1905	[A]	<i>Becquerel (Bq)</i> means one disintegration per second.			

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
§37.5	Definition: Byproduct Material	R12-1-1905 (R12-1-102)	[H&S]	<p><i>Byproduct material</i> means—</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(ii) Any material that—</p> <p>(A) Has been made radioactive by use of a particle accelerator; and</p> <p>(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</p> <p>(4) Any discrete source of naturally occurring radioactive material, other than source material, that—</p> <p>(i) The Commission, in consultation with</p>			

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				<p>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</p> <p>(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.</p>			
§37.5	Definition: Carrier	R12-1-1905	[B]	<i>Carrier</i> means a person engaged in the transportation of passengers or property by land or water as a common, contract, 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
				private carrier, or by civil aircraft.			
§37.5	Definition: Category 1 quantity of radioactive material	R12-1-1905	B	<i>Category 1 quantity of radioactive material</i> 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 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	R12-1-1905	B	<i>Category 2 quantity of radioactive material</i> 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.			

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
§37.5	Definition: Commission	R12-1-1905	D	<i>Commission</i> means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.			
§37.5	Definition: Curie	R12-1-1905 (R12-1-102)	[A]	<i>Curie</i> means that amount of radioactive material which disintegrates at the rate of 37 billion atoms per second.			
§37.5	Definition: Diversion	R12-1-1905	C	<i>Diversion</i> 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	R12-1-1905	B	<i>Escorted access</i> 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	R12-1-1905	C	<i>Fingerprint orders</i> 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 material or safeguards information-modified handling.			

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§37.5	Definition: Government agency	R12-1-1905	D	<i>Government agency</i> 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	R12-1-1905	D	<i>License</i> , 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	R12-1-1905	D	<i>License issuing authority</i> 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	R12-1-1905	C	<i>Local law enforcement agency (LLEA)</i> means a public or private organization that has been approved by a federal, state, or local government to carry 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	R12-1-1905	[B]	<i>Lost or missing licensed material</i> means licensed material whose location is			

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
	licensed material			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	R12-1-1905	B	<i>Mobile device</i> 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	R12-1-1905	B	<i>Movement control center</i> means an operations center that is remote from transport activity and that maintains position information on the movement 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	R12-1-1905	B	<i>No-later-than arrival time</i> 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			

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
				material.			
§37.5	Definition: Person	R12-1-1905	[C]	<p><i>Person</i> means—</p> <p>(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 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</p> <p>(2) Any legal successor, representative, agent, or agency of the foregoing.</p>			
§37.5	Definition: Reviewing official	R12-1-1905	C	<p><i>Reviewing official</i> means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or</p>			

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
				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	R12-1-1905	C	<i>Sabotage</i> means deliberate damage, with malevolent intent, to a category 1 or category 2 quantity of radioactive 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	R12-1-1905	B	<i>Safe haven</i> means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.			
§37.5	Definition: Security zone	R12-1-1905	C	<i>Security zone</i> 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	R12-1-1905	D	<i>State</i> 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.			

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§37.5	Definition: Telemetric position monitoring system	R12-1-1905	B	<i>Telemetric position monitoring system</i> means a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.			
§37.5	Definition: Trustworthiness and reliability	R12-1-1905	B	<i>Trustworthiness and reliability</i> 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	R12-1-1905	B	<i>Unescorted access</i> 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	R12-1-1905	D	<i>United States</i> , when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.			
§37.7	Communications	R12-1-1907	D	Except where otherwise specified or covered under the regional licensing program as provided in § 30.6(b) of this chapter, all communications and reports concerning the			

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				<p>regulations in this part may be sent as follows:</p> <p>(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;</p> <p>(b) By hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland 20852;</p> <p>(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 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,</p>			

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				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	R12-1-1909	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	R12-1-1911(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, and are otherwise in the public interest.			
§ 37.11(b)	Specific exemptions	R12-1-1911(B)	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	R12-1-1911(C)	B	(c) A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material is exempt			

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				<p>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:</p> <ul style="list-style-type: none"> (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 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	R12-1-1913	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			

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				<p>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.</p> <p>(b) The approved information collection requirements contained in this part appear in §§ 37.11, 37.21, 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.</p>			
§37.21(a)	Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material	R12-1-1921(A)	C	<p>(a) <i>General.</i></p> <p>(1) Each licensee that possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this subpart.</p> <p>(2) An applicant for a new license and each licensee that would become newly subject to the requirements of this subpart upon application for modification of its license shall implement the requirements of this subpart, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.</p> <p>(3) Any licensee that has not previously implemented the Security Orders or been subject to the provisions of this subpart B</p>			

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				shall implement the provisions of this subpart B before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.			
§37.21(b)	Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material	R12-1-1921(B)	B	(b) <i>General performance objective.</i> The licensee's access authorization program must ensure that the individuals specified in paragraph (c)(1) of this section are trustworthy and reliable.			
§37.21(c)	Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material	R12-1-1921(C)	B	(c) <i>Applicability.</i> (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			

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				<p>quantities of radioactive material.</p> <p>(4) Licensees may include individuals needing access to safeguards information-modified handling under part 73 of this chapter in the access authorization program under this subpart B.</p>			
§37.23(a)	Access authorization program requirements	R12-1-1923(A)	B	<p>(a) <i>Granting unescorted access authorization.</i></p> <p>(1) Licensees shall implement the requirements of this subpart for granting initial or reinstated unescorted access authorization.</p> <p>(2) Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by § 37.43(c) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.</p>			
§37.23(b)(1) & (b)(2)	Access authorization program requirements	R12-1-1923(B)(1)&(2)	B	<p>(b) <i>Reviewing officials.</i></p> <p>(1) Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.</p> <p>(2) Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a</p>			

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				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	R12-1-1923(B)(3)	C	(b) <i>Reviewing officials.</i> **** (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.			
§37.23(b)(4) & (b)(5)	Access authorization program requirements	R12-1-1923(B)(4)&(5)	B	(b) <i>Reviewing officials.</i> **** (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:			

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				<p>(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</p> <p>(ii) The individual is subject to a category listed in § 37.29(a).</p>			
§37.23(c)	Access authorization program requirements	R12-1-1923(C)	B	<p>(c) <i>Informed consent.</i></p> <p>(1) Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of § 37.25(b). A signed consent must be obtained prior to any reinvestigation.</p> <p>(2) The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:</p> <p>(i) If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the</p>			

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				<p>individual withdrew his or her consent; and</p> <p>(ii) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.</p>			
§37.23(d)	Access authorization program requirements	R12-1-1923(D)	B	<p>(d) <i>Personal history disclosure.</i></p> <p>Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this subpart is sufficient cause for denial or termination of unescorted access.</p>			
§37.23(e)	Access authorization program requirements	R12-1-1923(E)	B	<p>(e) <i>Determination basis.</i></p> <p>(1) The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this subpart.</p> <p>(2) The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this subpart and determined that the individual is trustworthy and</p>			

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				<p>reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.</p> <p>(3) The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.</p> <p>(4) The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.</p> <p>(5) Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.</p>			
§37.23(f)	Access authorization program requirements	R12-1-1923(F)	C	(f) <i>Procedures.</i> Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals			

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				<p>who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.</p>			
§37.23(g)	Access authorization program requirements	R12-1-1923(G)	B	<p>(g) <i>Right to correct and complete information.</i></p> <p>(1) Prior to any final adverse determination, licensees shall provide each individual subject to this subpart with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of 1 year from the date of the notification.</p> <p>(2) If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the</p>			

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				<p>questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees must provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.</p>			
§37.23(h)	Access authorization program requirements	R12-1-1923(H)	C	<p>(h) <i>Records.</i> (1) The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the</p>			

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				<p>date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.</p> <p>(2) The licensee shall retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.</p> <p>(3) The licensee shall retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.</p>			
§37.25(a)	Background investigations	R12-1-1925(A)	B	<p>(a) <i>Initial investigation.</i> Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation must encompass at least the 7 years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation must include at a minimum:</p> <p>(1) Fingerprinting and an FBI identification and criminal history records check in accordance with § 37.27;</p> <p>(2) Verification of true identity. Licensees</p>			

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				<p>shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who he or she claims to be. A licensee shall review official identification documents (e.g., driver’s license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with § 37.31. Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;</p> <p>(3) Employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual’s employment with each previous employer for the most recent 7 years before the date of application;</p> <p>(4) Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;</p> <p>(5) Character and reputation determination.</p>			

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				<p>Licenses shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this subpart must be limited to whether the individual has been and continues to be trustworthy and reliable;</p> <p>(6) The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual); and</p> <p>(7) If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.</p>			

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§37.25(b)	Background investigations	R12-1-1925(B)	C	<p>(b) <i>Grandfathering.</i></p> <p>(1) Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the Fingerprint Orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.</p> <p>(2) Individuals who have been determined to be trustworthy and reliable under the provisions of part 73 of this chapter or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of part 73 of this chapter or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be</p>			

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				subject to the reinvestigation requirement.			
§37.25(c)	Background investigations	R12-1-1925(C)	B	<p>(c) <i>Reinvestigations.</i> Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with § 37.27. The reinvestigations must be completed within 10 years of the date on which these elements were last completed.</p>			
§37.27(a)	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material	R12-1-1927(A)	B	<p>(a) <i>General performance objective and requirements.</i> (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 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</p>			

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				<p>used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.</p> <p>(3) Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:</p> <p>(i) The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and</p> <p>(ii) The previous access was terminated under favorable conditions.</p> <p>(4) Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under this subpart, the Fingerprint Orders, or part 73 of this chapter. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of § 37.31(c).</p> <p>(5) Licensees shall use the information obtained as part of a criminal history records</p>			

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				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 category 2 quantities of radioactive material	R12-1-1927(B)	B	<p>(b) <i>Prohibitions.</i></p> <p>(1) Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:</p> <p>(i) An arrest more than 1 year old for which there is no information of the disposition of the case; or</p> <p>(ii) An arrest that resulted in dismissal of the charge or an acquittal.</p> <p>(2) Licensees may not use information received from a criminal history records check obtained under this subpart in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.</p>			

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§37.27(c)	Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material	R12-1-1927(C)	B	<p>(c) <i>Procedures for processing of fingerprint checks.</i></p> <p>(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, ORIMDNR0000Z), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 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.</p> <p>(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</p>			

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				<p>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 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.)</p> <p>(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.</p> <p><i>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.</i></p>			
§37.29(a)	Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated	R12-1-1929(A)	B	<p>(a) Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:</p> <p>(1) An employee of the Commission or of</p>			

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	categories of individuals permitted unescorted access to certain radioactive materials			<p>the Executive Branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;</p> <p>(2) A Member of Congress;</p> <p>(3) An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;</p> <p>(4) The Governor of a State or his or her designated State employee representative;</p> <p>(5) Federal, State, or local law enforcement personnel;</p> <p>(6) State Radiation Control Program Directors and State Homeland Security Advisors or their designated State employee representatives;</p> <p>(7) Agreement State employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act;</p> <p>(8) Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;</p> <p>(9) Emergency response personnel who are responding to an emergency;</p> <p>(10) Commercial vehicle drivers for road shipments of category 2 quantities of radioactive material;</p> <p>(11) Package handlers at transportation facilities such as freight terminals and</p>			

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				<p>railroad yards;</p> <p>(12) Any individual who has an active Federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that granted the Federal security clearance or reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and</p> <p>(13) Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider must be provided to the licensee. The licensee shall retain the documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.</p>			
§37.29(b)	Relief from fingerprinting, identification, and criminal history records checks and other	R12-1-1929(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			

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	elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials			<p>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:</p> <ul style="list-style-type: none"> (1) National Agency Check; (2) Transportation Worker Identification Credentials (TWIC) 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. 			

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§37.31(a)-(d)	Protection of information.	R12-1-1931(A)-(D)	B	<p>(a) Each licensee who obtains background information on an individual under this subpart shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.</p> <p>(b) The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.</p> <p>(c) The personal information obtained on an individual from a background investigation may be provided to another licensee:</p> <p>(1) Upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and</p> <p>(2) The recipient licensee verifies information such as name, date of</p>			

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				<p>birth, social security number, gender, and other applicable physical characteristics.</p> <p>(d) The licensee shall make background investigation records obtained under this subpart available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.</p>			
§37.31(e)	Protection of information.	R12-1-1931(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.	R12-1-1933	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			

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				<p>and implementation.</p> <p>(b) The results of the reviews, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.</p> <p>(c) Review records must be maintained for 3 years.</p>			
§37.41(a)	Security program	R12-1-1941(A)	B	<p>(a) <i>Applicability.</i></p> <p>(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.</p> <p>(2) An applicant for a new license and each licensee that would become newly subject to the requirements of this subpart upon application for modification of its license shall implement the requirements of this subpart, as appropriate, before taking possession of an aggregated category 1 or</p>			

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				<p>category 2 quantity of radioactive material.</p> <p>(3) Any licensee that has not previously implemented the Security Orders or been subject to the provisions of subpart 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.</p>			
§37.41(b)	Security program	R12-1-1941(B)	B	(b) <i>General performance objective.</i> 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	R12-1-1941(C)	C	(c) <i>Program features.</i> Each licensee's security program must include the program features, as appropriate, described in §§ 37.43, 37.45, 37.47, 37.49, 37.51, 37.53, and 37.55.			
§37.43(a)	General security program requirements	R12-1-1943(A)	B	<p>(a) <i>Security plan.</i></p> <p>(1) Each licensee identified in § 37.41(a) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this subpart. The security plan must, at a</p>			

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				<p>minimum:</p> <p>(i) Describe the measures and strategies used to implement the requirements of this subpart; and</p> <p>(ii) Identify the security resources, equipment, and technology used to satisfy the requirements of this subpart.</p> <p>(2) The security plan must be reviewed and approved by the</p> <p>individual with overall responsibility for the security program.</p> <p>(3) A licensee shall revise its security plan as necessary to ensure the effective implementation of Commission requirements. The licensee shall ensure that:</p> <p>(i) The revision has been reviewed and approved by the individual with overall responsibility for the security program; and</p> <p>(ii) The affected individuals are instructed on the revised plan before the changes are implemented.</p> <p>(4) The licensee shall retain a copy of the current security plan as a record for 3 years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.</p>			
§37.43(b)	General security program requirements	R12-1-1943(B)	C	<p>(b) <i>Implementing procedures.</i></p> <p>(1) The licensee shall develop and maintain written procedures that document how the requirements of this subpart and the security</p>			

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				<p>plan will be met.</p> <p>(2) The implementing procedures and revisions to these procedures must be approved in writing by the individual with overall responsibility for the security program.</p> <p>(3) The licensee shall retain a copy of the current procedure as a record for 3 years after the procedure is no longer needed. Superseded portions of the procedure must be retained for 3 years after the record is superseded.</p>			
§37.43(c)(1)-(c)(3)	General security program requirements	R12-1-1943(C)(1)-(3)	B	<p>(c) <i>Training.</i></p> <p>(1) Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training must include instruction in:</p> <p>(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;</p> <p>(ii) The responsibility to report promptly to the licensee any condition that causes or may cause a violation of Commission requirements;</p> <p>(iii) The responsibility of the licensee to report promptly to the local law enforcement</p>			

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				<p>agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and</p> <p>(iv) The appropriate response to security alarms.</p> <p>(2) In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training must be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.</p> <p>(3) Refresher training must be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training must include:</p> <p>(i) Review of the training requirements of paragraph (c) of this section and any changes made to the security program since the last training;</p> <p>(ii) Reports on any relevant security issues, problems, and lessons learned;</p> <p>(iii) Relevant results of NRC inspections; and</p> <p>(iv) Relevant results of the licensee's program review and testing and</p>			

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				maintenance.			
§37.43(c)(4)	General security program requirements	R12-1-1943(C)(4)	C	<p>(c) <i>Training.</i></p> <p style="text-align: center;">*****</p> <p>(4) The licensee shall maintain records of the initial and refresher training for 3 years from the date of the training. The training records must include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.</p>			
§37.43(d)(1)-(d)(8)	General security program requirements	R12-1-1943(D)(1)-(8)	C	<p>(d) <i>Protection of information.</i></p> <p>(1) Except as provided in paragraph (d)(9) of this section, licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.</p> <p>(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.</p> <p>(3) Before granting an individual access to the security plan or implementing procedures, licensees shall:</p> <p>(i) Evaluate an individual's need to know the security plan or implementing procedures; and</p>			

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				<p>(ii) If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee must complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in § 37.25(a)(2) through (a)(7).</p> <p>(4) Licensees need not subject the following individuals to the background investigation elements for protection of information:</p> <p>(i) The categories of individuals listed in § 37.29(a)(1) through (13); or</p> <p>(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.</p> <p>(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.</p> <p>(6) Licensees shall maintain a list of persons currently approved for access to the</p>			

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				<p>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.</p> <p>(7) When not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in nonremovable electronic form must be password protected.</p> <p>(8) The licensee shall retain as a record for 3 years after the document is no longer needed:</p> <p>(i) A copy of the information protection procedures; and</p> <p>(ii) The list of individuals approved for access to the security plan or implementing procedures.</p>			
§37.45(a) & (b)	LLEA coordination	R12-1-1945(A)-(B)	B	<p>(a) A licensee subject to this subpart shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA must include:</p> <p>(1) A description of the facilities and the</p>			

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				<p>category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with this subpart; and</p> <p>(2) A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.</p> <p>(b) The licensee shall notify the appropriate NRC regional office listed in § 30.6(a)(2) of this chapter within 3 business days if:</p> <p>(1) The LLEA has not responded to the request for coordination within 60 days of the coordination request; or</p> <p>(2) The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.</p>			
§37.45(c)	LLEA coordination	R12-1-1945(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	R12-1-1945(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.			

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§37.47	Security zones	R12-1-1947	B	<p>(a) Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee-established security zones. Security zones may be permanent or temporary.</p> <p>(b) Temporary security zones must be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.</p> <p>(c) Security zones must, at a minimum, allow unescorted access only to approved individuals through:</p> <ul style="list-style-type: none"> (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. <p>(d) For category 1 quantities of radioactive material during periods of maintenance,</p>			

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				<p>source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.</p> <p>(e) Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material must be escorted by an approved individual when in a security zone.</p>			
§37.49(a)	Monitoring, detection, and assessment	R12-1-1949(A)	B	<p>(a) <i>Monitoring and detection.</i></p> <p>(1) Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.</p> <p>(2) Monitoring and detection must be performed by:</p> <p>(i) A monitored intrusion detection</p>			

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				<p>system that is linked to an onsite or offsite central monitoring facility; or</p> <p>(ii) Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or</p> <p>(iii) A monitored video surveillance system; or</p> <p>(iv) Direct visual surveillance by approved individuals located within the security zone; or</p> <p>(v) Direct visual surveillance by a licensee designated individual located outside the security zone.</p> <p>(3) A licensee subject to this subpart shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability must provide:</p> <p>(i) For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability must be provided by:</p> <p>(A) Electronic sensors linked to an alarm; or</p> <p>(B) Continuous monitored video surveillance; or</p> <p>(C) Direct visual surveillance.</p> <p>(ii) For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that</p>			

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				the radioactive material is present.			
§37.49(b)	Monitoring, detection, and assessment	R12-1-1949(B)	B	(b) <i>Assessment.</i> Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.			
§37.49(c)	Monitoring, detection, and assessment	R12-1-1949(C)	B	(c) <i>Personnel communications and data transmission.</i> For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall: (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 the primary systems.			
§37.49(d)	Monitoring, detection, and assessment	R12-1-1949(D)	B	(d) <i>Response.</i> Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material			

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				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	R12-1-1951	C	<p>(a) Each licensee subject to this subpart shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements 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.</p> <p>(b) The licensee shall maintain records on the maintenance and testing activities for 3 years.</p>			
§37.53	Requirements for mobile devices	R12-1-1953	B	Each licensee that possesses mobile devices containing category 1 or category 2			

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				<p>quantities of radioactive material must:</p> <p>(a) Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and</p> <p>(b) For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.</p>			
§37.55	Security program review	R12-1-1955	C	<p>(a) Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this subpart and that comprehensive actions are taken to correct any noncompliance that is identified. The review must include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.</p> <p>(b) The results of the review, along with any recommendations, must be documented.</p>			

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				<p>Each review report must identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.</p> <p>(c) The licensee shall maintain the review documentation for 3 years.</p>			
§37.57	Reporting of events	R12-1-1957	C	<p>(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.</p> <p>(b) The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify</p>			

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				<p>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).</p> <p>(c) The initial telephonic notification required by paragraph (a) of this section must be followed within a period of 30 days by a written report submitted to the NRC by an appropriate method listed in § 37.7. The report must include sufficient information for NRC analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.</p>			
§37.71, (a)-(c)	Additional requirements for transfer of category 1 and category 2 quantities of radioactive material	R12-1-1971(A)-(C)	B	<p>A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the Commission or an Agreement State shall meet the license verification provisions listed below instead of those listed in § 30.41(d) of this chapter:</p> <p>(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</p>			

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				<p>licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.</p> <p>(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.</p> <p>(c) In an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification must include the license number, current revision</p>			

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				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	R12-1-1971(D)	C	(d) The transferor shall keep a copy of the verification documentation as a record for 3 years.			

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§37.73(a) & (b)	Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit	R12-1-1973(A)& (B)	D	<p>(a) For shipments of category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in §§ 37.75(a) and (e); 37.77; 37.79(a)(1), (b)(1), and (c); and 37.81(a), (c), (e), (g) and (h).</p> <p>(b) For shipments of category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in §§ 37.75(b) through (e); 37.79(a)(2), (a)(3), (b)(2), and (c); and 37.81(b), (d), (f), (g), and (h). For those shipments of category 2 quantities of radioactive material that meet the criteria of § 71.97(b) of this chapter, the shipping licensee shall also comply with the advance notification provisions of § 71.97 of this chapter.</p>			
§37.73(c)	Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit	R12-1-1973(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	R12-1-1973(D)& (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			

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	category 2 quantities of radioactive material during transit			<p>in §§ 37.75(a)(2) and (e); 37.77; 37.79(a)(1), (b)(1), and (c); and 37.81(a), (c), (e), (g), and (h) for the domestic portion of the shipment.</p> <p>(e) Each licensee that imports or exports category 2 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in §§ 37.79(a)(2), (a)(3), and (b)(2); and 37.81(b), (d), (f), (g), and (h) for the domestic portion of the shipment.</p>			
§ 37.75(a)-(d)	Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material	R12-1-1975(A)-(D)	B	<p>(a) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:</p> <p>(1) Preplan and coordinate shipment arrival and departure times with the receiving licensee;</p> <p>(2) Preplan and coordinate shipment information with the governor or the governor's designee of any State through which the shipment will pass to:</p> <p>(i) Discuss the State's intention to provide law enforcement escorts; and</p> <p>(ii) Identify safe havens; and</p> <p>(3) Document the preplanning and coordination activities.</p> <p>(b) Each licensee that plans to transport, or deliver to a carrier for transport, licensed</p>			

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				<p>material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.</p> <p>(c) Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.</p> <p>(d) Each licensee, who transports or plans to transport a shipment of a category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to paragraph (b) of this section, shall promptly notify the receiving licensee of the new no-later-than arrival time.</p>			
§ 37.75(e)	Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material	R12-1-1975(E)	C	(e) The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for 3 years.			

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§37.77, (a)-(d)	Advance notification of shipment of category 1 quantities of radioactive material	R12-1-1977(A)-(D)	B	<p>As specified in paragraphs (a) and (b) of this section, each licensee shall provide advance notification to the NRC** and the governor of a State, or the governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the State, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.</p> <p><i>(a) Procedures for submitting advance notification.</i></p> <p>(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 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.</p>			

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				<p>The notification to the NRC may be made by e-mail to RAMQC_SHIPMENTS@nrc.gov or by fax to 301-816-5151.**</p> <p>(2) A notification delivered by mail must be postmarked at least 7 days before transport of the shipment commences at the shipping facility.</p> <p>(3) A notification delivered by any means other than mail must reach NRC at least 4 days before the transport of the shipment commences and must reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the State.</p> <p>(b) <i>Information to be furnished in advance notification of shipment.</i> Each advance notification of shipment of category 1 quantities of radioactive material must contain the following information, if available at the time of notification:</p> <p>(1) The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;</p> <p>(2) The license numbers of the shipper and receiver;</p> <p>(3) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;</p> <p>(4) The point of origin of the shipment and the estimated time and date that shipment will commence;</p> <p>(5) The estimated time and date that the</p>			

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				<p>shipment is expected to enter each State along the route;</p> <p>(6) The estimated time and date of arrival of the shipment at the destination; and</p> <p>(7) A point of contact, with a telephone number, for current shipment information.</p> <p>(c) <i>Revision notice.</i></p> <p>(1) The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the State or the governor's designee and to the NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001**.</p> <p>(2) A licensee shall promptly notify the governor of the State or the governor's designee of any changes to the information provided in accordance with paragraphs (b) and (c)(1) of this section. The licensee shall also immediately notify the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 of any such changes.**</p> <p>(d) <i>Cancellation notice.</i></p> <p>Each licensee who cancels a shipment for</p>			

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				<p>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, 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.</p> <p>**Please Note: For those shipments initially made by an Agreement State licensee, the NRC would not be notified as the notification would go to the Agreement State. FRN 78 FR 16922</p>			
§37.77(e)	Advance notification of shipment of category 1 quantities of radioactive material	R12-1-1977(E)	C	(e) <i>Records.</i> The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.			
§37.77(f)	Advance	R12-1-1977(F)	C	(f) <i>Protection of information.</i>			

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	notification of shipment of category 1 quantities of radioactive material		(*Please note that 37.77(f) was changed from Compatibility Category "NRC" to Compatibility Category "C", 79 FR 58664)	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 quantities of radioactive material during shipment.	R12-1-1979(A)	B	<p>(a) <i>Shipments by road.</i></p> <p>(1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:</p> <p>(i) Ensure that movement control centers are established that maintain position information from a remote location. These control centers must monitor shipments 24 hours a day, 7 days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.</p> <p>(ii) Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.</p> <p>(iii) Ensure that shipments are continuously and actively monitored by a</p>			

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				<p>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 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.</p> <p>(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.</p> <p>(v) Develop written normal and contingency procedures to address:</p> <p>(A) Notifications to the communication center and law enforcement agencies;</p> <p>(B) Communication protocols.</p> <p>Communication protocols must include a strategy for the use of authentication codes</p>			

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				<p>and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;</p> <p>(C) Loss of communications; and</p> <p>(D) Responses to an actual or attempted theft or diversion of a shipment.</p> <p>(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.</p> <p>(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.</p> <p>(3) Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:</p> <p>(i) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the</p>			

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				<p>package tracking system must allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.</p> <p>(ii) Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and</p> <p>(iii) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.</p>			
§37.79(b)	Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment	R12-1-1979(B)	B	<p>(b) <i>Shipments by rail.</i></p> <p>(1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:</p> <p>(i) Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures</p>			

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				<p>will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.</p> <p>(ii) Ensure that periodic reports to the communications center are made at preset intervals.</p> <p>(2) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:</p> <p>(i) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system must allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.</p> <p>(ii) Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and</p> <p>(iii) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.</p>			

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§37.79(c)	Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment	R12-1-1979(C)	B	<p>(c) <i>Investigations.</i> 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.</p>			
§37.81(a)-(f)	Reporting of events.	R12-1-1981 (A)- (F)	B	<p>(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 Center on the status of the investigation.</p> <p>(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,</p>			

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				<p>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.</p> <p>(c) The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the NRC'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.</p> <p>(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.</p> <p>(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</p>			

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				<p>quantities of radioactive material.</p> <p>(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.</p>			
§37.81(g) & (h)	Reporting of events.	R12-1-1981 (G) & (H)	C	<p>(g) The initial telephonic notification required by paragraphs (a) through (d) of this section must be followed within a period of 30 days by a written report submitted to the NRC by an appropriate method listed in § 37.7. A written report is not required for 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:</p> <p>(1) A description of the licensed material involved, including kind, quantity, and chemical and physical form;</p> <p>(2) A description of the circumstances under which the loss or theft occurred;</p> <p>(3) A statement of disposition, or probable disposition, of the licensed material</p>			

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				<p>involved;</p> <p>(4) Actions that have been taken, or will be taken, to recover the material; and</p> <p>(5) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.</p> <p>(h) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.</p>			
§37.101	Form of records	R12-1-19101	C	<p>Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.</p>			

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§37.103	Record retention.	R12-1-19103	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 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.	R12-1-19105	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	R12-1-19107	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			

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
				<p>Act of 1974, as amended; or</p> <p>(3) A regulation or order issued pursuant to those Acts.</p> <p>(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:</p> <p>(1) For violations of --</p> <p>(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended:</p> <p>(ii) Section 206 of the Energy Reorganization Act;</p> <p>(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;</p> <p>(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.</p> <p>(2) For any violation for which a license may be revoked under Section 186 of the Atomic Energy Act of 1954, as amended.</p>			
§37.109	Criminal penalties.	R12-1-19109	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 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,			

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
				<p>161i, or 161o, except for the sections listed in paragraph (b) of this section.</p> <p>(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.</p>			
Appendix A to Part 37	Category 1 and Category 2 Radioactive Materials	R12-1-Article 19, Appendix A	B	See table at end of document			
§39.1	Purpose and scope	No Actions Required	D	N/A			
§51.22	Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review.	No Actions Required	NRC	N/A			
§71.97	Advance notification of shipment of		B	In § 71.97, the introductory text of paragraph (b) is revised to read as follows:			

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
	irradiated reactor fuel and nuclear waste.			(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	No Actions Required	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

$$\sum_1^n \left[\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \frac{R_n}{AR_n} \right] \geq 1.0$$

