

1 **216-RICR-40-20-8**

2 **TITLE 216 – DEPARTMENT OF HEALTH**

3 **CHAPTER 40 – PROFESSIONAL LICENSING & FACILITIES REGULATION**

4 **SUBCHAPTER 20 - RADIATION**

5 **PART 8 – PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2**
6 **QUANTITIES OF RADIOACTIVE MATERIAL**

7 **8.1 Authority**

8 A. This Part is promulgated pursuant to the authority conferred under R.I. Gen.
9 Laws § [23-1.3-5\(f\)](#), as amended.

10 B. This Part has been established to provide the requirements for the physical
11 protection program for any licensee that possesses an aggregated category 1 or
12 category 2 quantity of radioactive material listed in § 8.8 of this Part. These
13 requirements provide reasonable assurance of the security of category 1 or
14 category 2 quantities of radioactive material by protecting these materials from
15 theft or diversion. Specific requirements for access to material, use of material,
16 transfer of material, and transport of material are included. No provision of this
17 Part authorizes possession of licensed material.

18 C. §§ 8.4 and 8.5 of this Part apply to any person who, under the regulations in this
19 Part, possesses or uses at any site, an aggregated category 1 or category 2
20 quantity of radioactive material.

21 D. § 8.6 of this Part applies to any person who, under the regulations of this Part:

22 1. Transports or delivers to a carrier for transport in a single shipment, a
23 category 1 or category 2 quantity of radioactive material; or

24 2. Imports or exports a category 1 or category 2 quantity of radioactive
25 material; the provisions only apply to the domestic portion of the transport.

26 E. Specific exemptions to the provisions of this Part are defined by 10 CFR §
27 37.11(c).

28 **8.2 Incorporated Material**

29 A. Except as provided in this Part, the requirements of 10 CFR Part 37 (2018)
30 <https://www.nrc.gov/reading-rm/doc-collections/cfr/part037/> are incorporated by
31 reference, not including any further editions or amendments thereof and only to
32 the extent that the provisions therein are not inconsistent with this Part.

- 1 B. Notwithstanding the provisions of § 8.2(A) of this Part, §§ 37.1, 37.3, 37.7, 37.9,
2 37.11(a) & (b), 37.13, 37.77(f), 37.101, 37.105, 37.107 and 37.109 are not
3 incorporated by reference.
- 4 C. Effect of incorporation of 10 CFR Part 37. To reconcile differences between this
5 Part and the incorporated sections of 10 CFR Part 37, the following words and
6 phrases shall be substituted for the language in 10 CFR Part 37 as follows:
- 7 1. Any reference to NRC or the Commission shall be deemed to be a
8 reference to the Agency, except:
- 9 a. § 37.5 Definitions: Agreement State, Byproduct material,
10 Commission, Fingerprint orders, Person;
- 11 b. § 37.25(b);
- 12 c. § 37.27(a) and (c);
- 13 d. § 37.29(a);
- 14 e. § 37.71 referring to NRC's license verification system.
- 15 f. § 37.71 licensee of the Commission or an Agreement State shall be
16 deemed to be a reference to licensee of the Agency, NRC or an
17 Agreement State.
- 18 2. Any reference to byproduct material shall be deemed to be a reference to
19 radioactive material.
- 20 3. Except as specifically directed in § 8.2(C)(1) of this Part, or as specifically
21 noted in this Part, any notifications, reports or correspondence referenced
22 in the incorporated parts of 10 CFR 37 shall be directed to the Agency
23 using contact information specified in § 1.4 of this Subchapter.

24 **8.3 Definitions**

- 25 A. In addition to the definitions contained in 10 CFR § 37.5, whenever used in this
26 Part, the following terms shall be construed as follows:

27 "Act" means Title 23, Chapter 1.3 of the General Laws of the State of Rhode
28 Island entitled "Radiation Control".

29 "Agency" means Rhode Island Radiation Control Agency (RCA), Center for
30 Health Facilities Regulation - Radiation Control Program, Rhode Island
31 Department of Health.

32 "Radioactive material" means any material (solid, liquid, or gas) which emits
33 radiation spontaneously.

1 “R.I. Gen. Laws” means the General Laws of Rhode Island, as amended.

2 **8.4 Background Investigations and Access Control Program**

3 **8.4.1 Personnel Access Authorization Requirements for Category 1 or Category** 4 **2 Quantities of Radioactive Material**

5 For the purpose of this Part, personnel access authorization requirements for
6 category 1 or category 2 quantities of radioactive material are defined by 10 CFR
7 § 37.21.

8 **8.4.2 Access Authorization Program Requirements**

9 For the purpose of this Part, access authorization program requirements are
10 defined by 10 CFR § 37.23.

11 **8.4.3 Background Investigations**

12 For the purpose of this Part, background investigations requirements are defined
13 by 10 CFR § 37.25.

14 **8.4.4 Requirements for Criminal History Records Checks of Individuals Granted** 15 **Unescorted Access to Category 1 Or Category 2 Quantities of Radioactive** 16 **Material**

17 A. For the purpose of this Part, requirements for criminal history records checks of
18 individuals granted unescorted access to category 1 or category 2 quantities of
19 radioactive material are defined by 10 CFR § 37.27.

20 B. In lieu of the address given in 10 CFR § 37.27(c), licensees shall submit
21 fingerprint cards or records to Director, Division of Facilities and Security, U.S.
22 NRC, 11545 Rockville Pike, Rockville, Maryland 20852-2738, ATTN: Criminal
23 History Program, Mail Stop T- 03B46M.

24 **8.4.5 Relief from Fingerprinting, Identification, and Criminal History Records** 25 **Checks and Other Elements of Background Investigations for Designated** 26 **Categories of Individuals Permitted Unescorted Access to Certain** 27 **Radioactive Materials**

28 For the purpose of this Part, requirements for relief from fingerprinting,
29 identification, and criminal history records checks and other elements of
30 background investigations for designated categories of individuals permitted
31 unescorted access to certain radioactive materials are defined by 10 CFR §
32 37.29.

33 **8.4.6 Protection of Information**

1 For the purpose of this Part, requirements for protection of information are
2 defined by 10 CFR § 37.31.

3 **8.4.7 Access Authorization Program Review**

4 For the purpose of this Part, requirements for access authorization program
5 review are defined by 10 CFR § 37.33.

6 **8.5 Physical Protection Requirements During Use**

7 **8.5.1 Security Program**

8 For the purpose of this Part, requirements for a security program are defined by
9 10 CFR § 37.41.

10 **8.5.2 General Security Program Requirements**

11 For the purpose of this Part, General security program requirements are defined
12 by 10 CFR § 37.43.

13 **8.5.3 LLEA Coordination**

14 For the purpose of this Part, requirements for LLEA coordination are defined by
15 10 CFR § 37.45.

16 **8.5.4 Security Zones**

17 For the purpose of this Part, security zone requirements are defined by 10 CFR §
18 37.47.

19 **8.5.5 Monitoring, Detection, and Assessment**

20 For the purpose of this Part, requirements for monitoring, detection, and
21 assessment are defined by 10 CFR § 37.49.

22 **8.5.6 Maintenance and Testing**

23 For the purpose of this Part, security program requirements for maintenance and
24 testing are defined by 10 CFR § 37.51.

25 **8.5.7 Requirements for Mobile Devices**

26 For the purpose of this Part, requirements for mobile devices are defined by 10
27 CFR § 37.53.

28 **8.5.8 Security Program Review**

29 For the purpose of this Part, security program review requirements are defined
30 by 10 CFR § 37.55.

1 **8.6 Physical Protection in Transit**

2 **8.6.1 Additional Requirements for Transfer of Category 1 and Category 2**
3 **Quantities of Radioactive Material**

4 For the purpose of this Part, additional requirements for transfer of category 1
5 and category 2 quantities of radioactive material are defined by 10 CFR § 37.71.

6 **8.6.2 Applicability of Physical Protection of Category 1 and Category 2**
7 **Quantities of Radioactive Material During Transit**

8 For the purpose of this Part, applicability of physical protection of category 1 and
9 category 2 quantities of radioactive material during transit is defined by 10 CFR §
10 37.73.

11 **8.6.3 Preplanning and Coordination of Shipment of Category 1 or Category 2**
12 **Quantities of Radioactive Material**

13 For the purpose of this Part, requirements for preplanning and coordination of
14 shipment of category 1 or category 2 quantities of radioactive material are
15 defined by 10 CFR § 37.75.

16 **8.6.4 Advance Notification of Shipment of Category 1 Quantities of Radioactive**
17 **Material**

18 For the purpose of this Part, requirements for advance notification of shipment of
19 category 1 quantities of radioactive material are defined by 10 CFR § 37.77
20 [excluding 10 CFR § 37.77(f)].

21 **8.6.5 Requirements for Physical Protection of Category 1 and Category 2**
22 **Quantities of Radioactive Material During Shipment**

23 For the purpose of this Part, requirements for physical protection of category 1
24 and category 2 quantities of radioactive material during shipment are defined by
25 10 CFR § 37.79.

26 **8.6.6 Reporting of Events**

27 For the purpose of this Part, requirements for reporting of events are defined by
28 10 CFR § 37.81.

29 **8.7 Records Retention**

30 For the purpose of this Part, record retention requirements are defined by 10
31 CFR § 37.103.

1 **8.8 Threshold Values for Category 1 and Category 2 Radioactive**
2 **Materials**

3 For the purpose of this Part, threshold values for Category 1 and Category 2
4 radioactive materials are established by Appendix A to 10 CFR Part 37.

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