

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

## **TITLE 216 – DEPARTMENT OF HEALTH**

### **CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION**

#### **SUBCHAPTER 20 – RADIATION**

**PART 8 – Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material**

#### **8.1 Authority**

- A. This Part is promulgated pursuant to the authority conferred under R.I. Gen. Laws § 23-1.3-5.
- B. 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 § 8.8 of 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.
- C. §§ 8.4 and 8.5 of this Part apply to any person who, under the regulations in this Part, possesses or uses at any site, an aggregated category 1 or category 2 quantity of radioactive material.
- D. § 8.6 of this Part applies to any person who, under the regulations of this Part:
  - 1. Transports or delivers to a carrier for transport in a single shipment, a category 1 or category 2 quantity of radioactive material; or
  - 2. Imports or exports a category 1 or category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.
- E. Specific exemptions to the provisions of this Part are defined by 10 C.F.R. § 37.11(c).

#### **8.2 Incorporated Material**

- A. Except as provided in this Part, the requirements of 10 C.F.R. Part 37 (2018) are incorporated by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with this Part.

- B. Notwithstanding the provisions of § 8.2(A) of this Part, §§ 37.1, 37.3, 37.7, 37.9, 37.11(a) & (b), 37.13, 37.101, 37.105, 37.107 and 37.109 are not incorporated by reference.
- C. Effect of incorporation of 10 C.F.R. Part 37. To reconcile differences between this Part and the incorporated sections of 10 C.F.R. Part 37, the following words and phrases shall be substituted for the language in 10 C.F.R. Part 37 as follows:
1. Any reference to NRC or the Commission shall be deemed to be a reference to the Agency, except:
    - a. § 37.5 Definitions: Agreement State, Byproduct material, Commission, Person;
    - b. § 37.27(a) and (c);
    - c. § 37.29(a);
    - d. § 37.71 referring to NRC's license verification system.
    - e. § 37.71 licensee of the Commission or an Agreement State shall be deemed to be a reference to licensee of the Agency, NRC or an Agreement State.
  2. Any reference to byproduct material shall be deemed to be a reference to radioactive material.
  3. Except as specifically directed in § 8.2(C)(1) of this Part, or as specifically noted in this Part, any notifications, reports or correspondence referenced in the incorporated parts of 10 C.F.R. Part 37 shall be directed to the Agency using contact information specified in § 1.4 of this Subchapter.

### **8.3 Definitions**

- A. In addition to the definitions contained in 10 C.F.R. § 37.5, whenever used in this Part, the following terms shall be construed as follows:
1. "Act" means R.I. Gen. Laws Chapter 23-1.3 entitled "Radiation Control".
  2. "Agency" means Rhode Island Radiation Control Agency (RCA), Center for Health Facilities Regulation - Radiation Control Program, Rhode Island Department of Health.
  3. "Radioactive material" means any material (solid, liquid, or gas) which emits radiation spontaneously.

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

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

For the purpose of this Part, personnel access authorization requirements for category 1 or category 2 quantities of radioactive material are defined by 10 C.F.R. § 37.21.

### **8.4.2 Access Authorization Program Requirements**

For the purpose of this Part, access authorization program requirements are defined by 10 C.F.R. § 37.23.

### **8.4.3 Background Investigations**

For the purpose of this Part, background investigations requirements are defined by 10 C.F.R. § 37.25.

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

- A. For the purpose of this Part, requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material are defined by 10 C.F.R. § 37.27.
- B. In lieu of the address given in 10 C.F.R. § 37.27(c), licensees shall submit fingerprint cards or records to Director, Division of Facilities and Security, U.S. NRC, 11545 Rockville Pike, Rockville, Maryland 20852-2738, ATTN: Criminal History Program, Mail Stop T- 03B46M.

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

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

### **8.4.6 Protection of Information**

For the purpose of this Part, requirements for protection of information are defined by 10 C.F.R. § 37.31.

#### **8.4.7 Access Authorization Program Review**

For the purpose of this Part, requirements for access authorization program review are defined by 10 C.F.R. § 37.33.

### **8.5 Physical Protection Requirements During Use**

#### **8.5.1 Security Program**

For the purpose of this Part, requirements for a security program are defined by 10 C.F.R. § 37.41.

#### **8.5.2 General Security Program Requirements**

For the purpose of this Part, General security program requirements are defined by 10 C.F.R. § 37.43.

#### **8.5.3 LLEA Coordination**

For the purpose of this Part, requirements for LLEA coordination are defined by 10 C.F.R. § 37.45.

#### **8.5.4 Security Zones**

For the purpose of this Part, security zone requirements are defined by 10 C.F.R. § 37.47.

#### **8.5.5 Monitoring, Detection, and Assessment**

For the purpose of this Part, requirements for monitoring, detection, and assessment are defined by 10 C.F.R. § 37.49.

#### **8.5.6 Maintenance and Testing**

For the purpose of this Part, security program requirements for maintenance and testing are defined by 10 C.F.R. § 37.51.

#### **8.5.7 Requirements for Mobile Devices**

For the purpose of this Part, requirements for mobile devices are defined by 10 C.F.R. § 37.53.

#### **8.5.8 Security Program Review**

For the purpose of this Part, security program review requirements are defined by 10 C.F.R. § 37.55.

## **8.6 Physical Protection in Transit**

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

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

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

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

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

For the purpose of this Part, requirements for preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material are defined by 10 C.F.R. § 37.75.

### **8.6.4 Advance Notification of Shipment of Category 1 Quantities of Radioactive Material**

For the purpose of this Part, requirements for advance notification of shipment of category 1 quantities of radioactive material are defined by 10 C.F.R. § 37.77.

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

For the purpose of this Part, requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment are defined by 10 C.F.R. § 37.79.

### **8.6.6 Reporting of Events**

For the purpose of this Part, requirements for reporting of events are defined by 10 C.F.R. § 37.81.

## **8.7 Records Retention**

For the purpose of this Part, record retention requirements are defined by 10 C.F.R. § 37.103.

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

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