

Readopt with amendment He-P 4037, effective 12-24-09 (Document #9621), to read as follows:

PART He-P 4037 TRANSPORTATION OF RADIOACTIVE MATERIAL

He-P 4037.01 Purpose. The purpose of this rule is to set forth the requirements for packaging, preparation for shipment, and transportation of licensed material. The requirements of this section are in addition to, and not in substitution for, the requirements of He-P 4003, 4019, 4020, 4021, 4022, 4023, 4024, and 4030 of this chapter.

He-P 4037.02 Scope. This part shall apply to any person who transports radioactive material or delivers radioactive material to a carrier for transport, including common and contract carriers not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service, as specified in Title 10, Code of Federal Regulations (CFR), Part 71, "Packaging and Transportation of Radioactive Material."

(a) The rules in He-P 4037 shall apply to any licensee authorized by specific or general license issued by DHHS/RHS to receive, possess, use or transfer licensed material if the licensee:

- (1) Delivers that material to a carrier for transport;
- (2) Transports the material outside the site of usage as specified in the license; or
- (3) Transports that material on public highways.

(b) No provision of He-P 4037 authorizes possession of licensed material.

He-P 4037.03 Definitions. To reconcile differences between this part and the incorporated sections of 10 CFR Part 71 relating to packaging, preparation for shipment, and transportation of radioactive material, the following words and phrases shall be substituted for the language in 10 CFR Part 71 as follows:

- (a) "Communications" means all communications, reports, and applications described in He-P 4001.08.
- (b) "Licensed material" means "licensed material" as defined in He-P 4003 of this chapter.
- (c) "NRC", "Commission", or "Authority" mean the department of health and human services, radiological health section as defined in He-P 4003 of this chapter (DHHS/RHS).
- (d) "Sealed source" means "sealed source" as defined in He-P 4003.01 of this chapter.

He-P 4037.04 Incorporation of 10 CFR Part 71.

(a) Except for the sections noted in (b) below and He-P 4037.03 above, all persons or any licensee authorized by specific or general license issued by DHHS/RHS who transports radioactive material or delivers radioactive material to a carrier for transport, including common and contract carriers not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service, shall comply with Title 10, Code of Federal Regulations (CFR), Part 71, "Relating to Packaging and Transportation of Radioactive Material."

(b) The following sections of the Title 10 CFR Part 71 shall not apply to persons or any licensee authorized by specific or general license issued by DHHS/RHS who transports radioactive material or

delivers radioactive material to a carrier for transport, including common and contract carriers not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service:

- (1) Title 10 CFR Part 71.2, relating to interpretations;
- (2) Title 10 CFR Part 71.6, relating to information collection;
- (3) Title 10 CFR Part 71.11, relating to protection of safeguards information;
- (4) Title 10 CFR Part 71.14(b), relating to low level material exemption;
- (5) Title 10 CFR Part 71.19, relating to previously approved packages;
- (6) Title 10 CFR Part 71 Subpart D, relating to application for package approval;
- (7) Title 10 CFR Parts 71.41, 71.43, 71.45, 71.51, 71.55, 71.59, 71.61, 71.63, 71.64, and 71.65, relating to package approval standards;
- (8) Title 10 CFR Part 71 Subpart F, relating to package, special form, and LSA-III tests;
- (9) Title 10 CFR Part 71.85(a)-(c) relating to preliminary determinations;
- (10) Title 10 CFR 71.91(b), relating to records;
- (11) Title 10 CFR Part 71.99, relating to violations;
- (12) Title 10 CFR Part 71.100, relating to criminal penalties;
- (13) Title 10 CFR Part 71.101(c)(2), (d), and (e), relating to quality assurance requirements; and
- (14) Title 10 CFR Parts 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123, and 71.125, relating to quality assurance.

Appendix

Rule	State or Federal Statute or Federal Regulation Implemented
He-P 4037.01	RSA 125-F:1, RSA 125-F:2, & RSA 125-F:5 II and V; Section 274 of the Atomic Energy Act of 1954, as amended; and Title 10 CFR, Part 71, Section 71.0
He-P 4037.02	RSA 125-F:1, RSA 125-F:2, & RSA 125-F:5 II and V; Section 274 of the Atomic Energy Act of 1954, as amended; and Title 10 CFR, Part 71, Section 71.0
He-P 4037.03	RSA 125-F:1, RSA 125-F:2, & RSA 125-F:5 II and V; Section 274 of the Atomic Energy Act of 1954, as amended; and Title 10 CFR 71.4
He-P 4037.04	RSA 125-F:1, RSA 125-F:2, & RSA 125-F:5 II and V; Section 274 of the Atomic Energy Act of 1954, as amended; and Title 10 CFR, Part 71 (effectively, Sections 10 CFR 71.1-71.3, 71.5-71.137 and Appendix A to Part 71.)