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**3701:1-37-08 Access authorization program requirements.**

(A) Granting unescorted access authorization:

- (1) Licensees shall implement the requirements of this rule for granting initial or reinstated unescorted access authorization.
- (2) Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by paragraph (C) of rule 3701:1-37-15 of the Administrative Code before being allowed unescorted access to category one or category two quantities of radioactive material.

(B) Reviewing officials:

- (1) Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category one or category two quantities of radioactive materials possessed by the licensee.
- (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 certification that the reviewing official is deemed trustworthy and reliable by the licensee. [Provide oath or affirmation certifications to the director at the address specified in rule 3701:1-37-04 of the Administrative Code.](#) 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 ten years in accordance with paragraph (C) of rule 3701:1-37-09 of the Administrative Code.
- (3) Reviewing officials must be permitted to have unescorted access to category one or category two 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.
- (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:
  - (a) The individual has undergone a background investigation that included fingerprinting and a federal bureau of investigation (FBI) criminal history records check and has been determined to be trustworthy and reliable by the licensee; or
  - (b) The individual is subject to a category listed in paragraph (A) of rule 3701:1-37-11 of the Administrative Code.

(C) Informed consent:

- (1) Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any

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inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of paragraph (B) of rule 3701:1-37-09 of the Administrative Code. A signed consent must be obtained prior to any reinvestigation.

(2) The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:

(a) If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and

(b) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.

(D) Personal history disclosure: Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by rules 3701:1-37-07 to 3701:1-37-13 of the Administrative Code is sufficient cause for denial or termination of unescorted access.

(E) Determination basis:

(1) The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of rules 3701:1-37-07 to 3701:1-37-13 of the Administrative Code.

(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 rules 3701:1-37-07 to 3701:1-37-13 of the Administrative Code and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.

(3) The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

(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 has been granted unescorted access authorization.

(5) Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

(F) Procedures: licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must

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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.

### **(G) Right to correct and complete information:**

- (1) Prior to any final adverse determination, licensees shall provide each individual subject to rules 3701:1-37-07 to 3701:1-37-13 of the Administrative Code 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 one year from the date of the notification.
- (2) If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the "Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306" as published in 28 CFR 16.30 through 16.34 (in effect on the effective date of this rule). In the latter case, the 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 ten 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.

### **(H) Records:**

- (1) The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years from the date the individual no longer requires unescorted access to category one or category two quantities of radioactive material.
- (2) The licensee shall retain a copy of the current access authorization program procedures as a record for three years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for three years after the record is superseded.
- (3) The licensee shall retain the list of persons approved for unescorted access authorization for three years after the list is superseded or replaced.