



Part 37

Compliance Checklist

The Wisconsin Department of Health Services (DHS) Radioactive Materials Program is implementing new rules, found in 10 CFR 37, for the enhanced physical security of radioactive materials. These rules will be implemented by license condition and become effective on January 31, 2016. Your license will be administratively amended, and these rules will replace the Increased Control license conditions previously issued by DHS. To assist licensees in complying with the changes, we are providing "Part 37 Compliance Checklists." These give licensees information on changes between the new rules and the previously issued Increased Controls, and what licensees should consider for implementation. The following checklists should assist in ensuring compliance with the new federal regulations.

A) Your Unescorted Access Authorization Program

1. Designation of "Reviewing Official," including requirement for that individual to have background check and fingerprinting. 37.23(b)(2)

The previous orders required a written designation of a "Trustworthy and Reliable Official" who was responsible for making the final determination of an employee's trustworthiness and reliability for unescorted access. The new rules require that this person, now called the "Reviewing Official," undergo the same background check and fingerprinting as employees having unescorted access to materials.

2. Preparation of written procedures to be followed to implement the unescorted access authorization program. 37.23(f)

Document the processes to be followed to ensure you are meeting all the requirements, which include:

- Signed consent from individuals undergoing a background check and fingerprinting
- Review process for denial of unescorted access
- Fingerprinting and criminal background checks conducted at 10-year intervals
- Review of information from the previous seven years
- Maintenance of records generated as part of background checks
- Training of individuals prior to granting unescorted access
- The appropriate response to security alarms.

3. Scheduling background checks and fingerprinting for current employees who have previously been granted unescorted access. 37.25 (C)

The previous orders did not specify a time frame for reinvestigations. In the new rules, fingerprinting and FBI criminal history records check are required to be redone every 10 years. This does **NOT** mean that all reinvestigations of current employees will be due 10 years from the implementation date on January 31, 2016. Reinvestigations should be completed within 10 years of the date that the individual was granted unescorted access. For example, if an employee's initial background investigation resulted in the employee being granted access in February 2009, that employee should have a reinvestigation done in February 2019.

B) Implementing Your Security Plan and Maintenance and Testing of System Components

4. **“The licensee must develop and maintain written procedures that document how the requirements of Subpart C and the security plan will be met.” 37.43(b)(1)**

How you intend to establish, implement and maintain your security program **MUST** be set out in writing, through formal procedures, that cover all aspects of the program. The initial version of the procedures, as well as any revisions that are made over time, must be approved **IN WRITING** by the individual with overall responsibility for your security program (typically the Reviewing Official). Copies of procedures that are revised and/or discontinued need to be maintained for three years. Training on security plan procedures is required for those individuals who have responsibility for implementing the plan.

5. **“Each licensee ...must implement a maintenance and testing program to ensure that security system components are maintained in operable condition...” 37.51(a)**

Your maintenance and testing program should include intrusion alarms, communication systems, video cameras, locking devices, and any other associated physical components of your security system if these components are used to secure the category 1 and 2 radioactive materials or detect the unauthorized access to those materials. Testing and maintenance should be performed in accordance with the manufacturer’s suggested methods and frequency. If the manufacturer has no such recommendations, then testing should be done annually, not to exceed 12 months between checks. The testing and maintenance must be documented, with records maintained for three years.

6. **“Each licensee must be responsible for the continuing effectiveness of the security program.” 37.55(a)**

You must periodically review the operation and effectiveness of your security program, and this must be done on at least an annual basis. If you identify any portion(s) of your plan or program that do not meet the requirements of the security rules, you must take prompt corrective action to address those deficiencies, and then reassess that portion(s) of your program to ensure the effectiveness of your corrective actions. As with most other requirements, you must document your annual reviews and any corrective actions and outcomes, and retain the records for three years.

C) Transportation and Logistics

- 7. Licensee must verify that they are shipping category 1 and 2 radioactive materials to an individual who is licensed to possess those materials, and provide advance notice of the shipment. 37.71**

Licensees nationwide are responsible to ensure that materials they are transferring are received only by those individuals who are licensed to receive them. This verification is typically done by receiving a copy of the recipient's license, and verifying the provisions of that license with the NRC's license verification system. Keep documentation of the verification for three years. Additionally, if shipping category 1 sources, the location of delivery must also be specifically verified as an authorized location of use on the license.

- 8. Shipments of affected quantities of radioactive materials are subject to physical security requirements during transportation. 37.73**

Generally, the shipping licensee is responsible for ensuring the physical security of affected radioactive materials while in transit. This responsibility may be passed to the recipient if the recipient has agreed in writing to accept that responsibility.

- 9. Licensees must pre-plan and coordinate shipments of radioactive materials that are subject to physical security requirements and provide notification of shipment departure, arrival, and/or any problems that arise during transit. 37.75**

All shipments must be coordinated between the shipper and the recipient, with prescribed timeframes for reporting that a shipment has reached its destination. There are some additional requirements for shipment of Category 1 materials, which are outlined in the regulations. All coordination and reporting is to be documented, with those records retained for at least three years.

- 10. Shipments of Category 1 quantities of affected radioactive materials require advance notification to various state and/or federal entities. 37.77**

The licensee is required to provide advance notice to the governor (or designee) of each state through which the shipment will pass while in transit, including the state of final destination. This notification must include contact information of shipper and recipient as well as estimated times/dates of departure, when the shipment will pass through state boundaries, and arrival at the final destination. Changes and/or cancellations of the original advance notification must also be made, and all records kept for three years.

D) Training

- 11. Individuals who have been determined to be trustworthy and reliable must also complete the security training required ... before being allowed unescorted access to category one or category two quantities of radioactive material. 37.43(c)**

Training on the licensee's security plan must be completed **BEFORE** you grant unescorted access.

- 12. Each licensee must 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. 37.43 (c)**

If you have employees you are relying on to implement some aspect of your security plan, you must conduct training for those employees on their responsibilities. Training should include:

- The licensee's security program and procedures.
- The purposes and functions of the security measures employed.
- The responsibility to report promptly to the licensee any condition that causes or may cause a violation of department requirements.
- The responsibility of the licensee to report promptly to the local law enforcement agency (LLEA) any actual or attempted theft, sabotage, or diversion of material.
- The appropriate response to security alarms.

- 13. Refresher training must be provided at a frequency not to exceed twelve months and when significant changes have been made to the security program. 37.43 (c)(3)**

Just as the rule says, refresher training must be provided every 12 months or when significant changes are made to the program.

- 14. The licensee must maintain records of the initial and refresher training for three 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. 37.43 (c)(4)**

As with most other rules, all training records must be kept for three years.