

Kansas Department of Health and Environment
Radiation Control Section

Differences between Increase Controls (IC) (Orders) and
NEW Part 37 Rules (final rule).

<p>§ 37.21 Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material.</p>	<p>Difference: PART 37 requires the reviewing official (formerly (the T&R official) to be subject to the full background investigation, including fingerprinting, and be granted unescorted access to materials.</p>
<p>§ 37.23 Access authorization program requirements. (b) Reviewing officials.</p>	<p>Differences. The T&R official must now be fingerprinted under PART 37. The fingerprints must be taken by a law enforcement agency, Federal or State agency that provides fingerprinting services to the public or commercial fingerprinting services authorized by the State to take fingerprints. PART 37 states the licensee must approve the reviewing official and submit the name under oath or affirmation. The reviewing official must be recertified every 10 years. The reviewing official(s) must be screened to the degree that permits access to category 1 and 2 material, but is not required to have physical access to category 1 and 2 material.</p>
<p>§ 37.23 Access authorization program requirements. (c) Informed consent.</p>	<p>Differences: PART 37 requires a signed consent from the individual before beginning any aspect of the background investigation. PART 37 also addresses the situation where an individual withdraws their consent.</p>
<p>§ 37.23 Access authorization program requirements. (e) Determination basis.</p>	<p>Difference: PART 37 relaxes the record retention of the determination basis for an individual from 3 years after the individual's employment ends to 3 years after the individual no longer required unescorted access.</p>

<p>§ 37.23 Access authorization program requirements. (g) Right to correct and complete information.</p>	<p>Difference: PART 37 allows the individual to provide corrected information on any aspect of the background investigation and not just the criminal history records.</p>
<p>§ 37.25 Background investigations. (a) Initial Investigation.</p>	<p>Difference: PART 37 goes back the last 7 years instead of 3 years and the background investigation elements are the same whether the individual is a long-time employee or a new hire.</p>
<p>§ 37.25 Background investigations. (a) Initial Investigation. (2) Verification of true identity.</p>	<p>Difference: Only the IC Orders addressed verification of true identity. This is a new requirement for all other licensees.</p>
<p>§ 37.25 Background investigations. (a) Initial Investigation. (6) The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual);</p>	<p>Difference: The requirement to obtain independent information is now a requirement for all background investigations.</p>
<p>§ 37.25 Background investigations. (b) Grandfathering.</p>	<p>Difference: PART 37 grandfathers additional individuals as the rule applies to a broader category of licensees.</p>
<p>§ 37.29 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 or other property.</p>	<p>Difference: PART 37 provides relief for additional categories of individuals (emergency response personnel, commercial vehicle drivers, and package handlers at transportation facilities).</p>
<p>3701: 1-37-15 General security program requirements. (a) Security plan.</p>	<p>Difference: PART 37 requires a security plan while the IC Orders require a documented program. PART 37 requires the plan to be approved by the individual with responsibility for the security program while the IC Orders did not specify any approval. PART 37 also requires instruction of the plan before implementation.</p>
<p>§ 37.43 General security program</p>	<p>Difference: PART 37 does not provide the</p>

requirements. (d) Protection of information.	specificity contained in the IC Orders.
§ 37.45 LLEA coordination.	Difference: PART 37 relaxes the requirement to have a pre-arranged plan and only requires coordination with the LLEA. PART 37 also requires annual coordination.
§ 37.47 Security zones.	Difference: IC Orders did not contain a requirement for security zones; however, the IC Orders did require the licensee to monitor, detect and respond to unauthorized access. No substantive difference from the IC Orders.
§ 37.47 Security zones. (d) For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.	Difference: PART 37 does not require the LLEA to be notified for source exchanges as the LLEA does not need the information. In the case of an attempted theft, the LLEA would be notified.
§ 37.49 Monitoring, detection, and assessment. (a) Monitoring and detection.	Difference: PART 37 provides additional detail on what is acceptable for the monitoring and detection system.
§ 37.53 Requirements for mobile devices.	Difference: PART 37 allows for relief from disabling mechanism in cases where the health and safety requirements prevent disabling the vehicle.
§ 37.71 Additional requirements for transfer of category 1 and category 2 quantities of radioactive material.	Difference: PART 37 includes use of the license verification system. PART 37 also requires verification for each shipment and not just for new recipients and unusual orders.
§ 37.75 Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material.	Difference: PART 37 does not require licensees to share position information on a shipment. PART 37 also doesn't contain provisions on identification of HRCQ

	shipments.
<p>§ 37.75 Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material.</p> <p>(c) Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.</p>	<p>Difference: PART 37 requires the receiving licensee to notify the shipping licensee if the shipment has not arrived by the no-later-than arrival time instead of the expected arrival time.</p>
<p>§ 37.77 Advanced notification of shipment of category 1 quantities of radioactive material.</p>	<p>Difference: No substantive difference between PART 37 and the IC Orders. Note that for Agreement State licensees (such as Kansas), the notifications will be provided to the State and not the NRC, the State will need to provide the information to the NRC.</p>
<p>§ 37.79 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.</p> <p>(a) Shipments by road.</p>	<p>Differences: PART 37 does not require training of the individuals instead requiring the individuals to have access to the procedures. PART 37 does not require that the licensee assure the trustworthiness and reliability of drivers of document that the carrier employs the measures.</p>
<p>§ 37.79 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.</p> <p>(b) Shipments by rail.</p>	<p>Differences: PART 37 doesn't require procedures or training as the railroad will have its own training and procedures that must be followed. PART 37 does not require that the licensee assure the trustworthiness and reliability of drivers or document that the carrier employs the measures.</p>
<p>§ 37.79 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.</p> <p>(c) Investigations.</p>	<p>Difference: PART 37 requires the investigation to begin if the shipment does not arrive by the no-later-than arrival time instead of the expected arrival time. For category 1 shipments, the investigation begins when it is determined that the material is lost or missing.</p>
<p>§ 37.103 Record retention.</p>	<p>Difference: PART 37 does not require records to be maintained after the license is</p>

	terminated.
Appendix A to Chapter 37–Category 1 and Category 2 Radioactive Materials.	Difference: The radioactive material and thresholds are the same, however, the rule provides the curie value to 3 figures.

Part 37 Frequently Asked Questions

1. If a T&R Official has already been through the fingerprint and background check process, is it necessary for that individual to undergo a new check/fingerprinting to be named the Reviewing Official?

Answer: No, that person may be named as the Reviewing Official, but must have the background check re-evaluated within ten years from the date of the original check.

2. If a background check and fingerprinting is performed by another licensee for a new employee, may that be sufficient to consider someone eligible for unescorted access at my facility?

Answer: The short answer is “YES”; but you as the licensee must ensure that you have received sufficient information from that other licensee to be able to document your decision to grant that person access at your facility.

3. We use Transportation Worker Identification Credentialing (TWIC), TWIC system for verification of our employee’s trustworthiness and reliability. Are we still able to use this method under the new rules?

Answer: Yes, with the understanding that a TWIC certification must be renewed every 5 years to remain valid and current.

4. Are we required to test alarms every three months or every year?

Answer: The requirement to test components of the security system is at the manufacturer's suggested frequency, or no less than every twelve months if there is no such recommendation.

5. If I have materials located in the same room, but they are separated in different safes or other devices so that no single safe/storage device holds a category 1 or category 2 quantity of materials, would these be considered co-located?

Answer: No, as long as the storage room had a secure locking device and each individual safe and/or storage container had its own individual secure locking device.

License Condition to implement 10 CFR Part 37

The licensee shall comply with Title 10 Code of Federal Regulations, Part 37, except as follows:

- (a) Sections 37.1, 37.3, 37.7, 37.9, 37.11(a) and (b), 37.13, 37.43(d) (9), 37.81(g) third sentence, 37.105, 37.107, and 37.109 are excluded.
- (b) In 10 C.F.R. 37.5, the following terms shall use the definition provided in K.A.R. 28-35-135(a) through K.A.R. 28-35-135(y): “act”; “agreement state”; “becquerel”; “byproduct material”; “commission”; “curie”; “government agency”; “license”; “lost or missing licensed material”; “person”; “state”; and “United States.”
- (c) Wherever the following terms occur within the portions of 10 C.F.R. part 37 adopted in this license condition, these terms shall be replaced with “department”:
 - (1) “Commission,” except secs. 37.5, 37.27(a) and (c), 37.29(a), and 37.71;
 - (2) “NRC,” except secs. 37.25(b) (2), 37.27(c), 37.29(a), and 37.71;
 - (3) “NRC’s Operations center”;
 - (4) “appropriate NRC regional office listed in §30.6(a) (2) of this chapter”;
 - (5) “NRC’s Operations Center (301-816-5100)”;
 - (6) “NRC regional office specified in §30.6 of this chapter”
- (d) The following changes shall be made wherever the following phrases occur within the portions of 10 C.F.R. part 37 adopted in this license condition:
 - (1) “Part 73 of this chapter” shall be replaced with “10 C.F.R. 73.”
 - (2) “71.97(b) of this chapter” and “71.97 of this chapter” shall be replaced with “K.A.R 28-35-504(b).”