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February 18, 2016

RCP Information Notice: 2016-01

Title: Preparation for 10 CFR Part 37 Type
Physical Protection Requirements

Addressees: Increased Controls Licensees and Certain Licensees Subject to U.S. NRC Security Orders:

The Radiation Control Program has completed the rules for the enhanced physical security of radioactive materials compatible with 10 CFR Part 37, which is 105 CMR 120.050 through 120.080. The final rules are expected to be published and become effective February 26, 2016.

These 105 CMR 120.050 through 120.080 rules, compatible with and essentially identical to 10 CFR Part 37, upon effective date, take the place of the Increased Control and Fingerprinting orders previously issued by the Agency in license conditions and, as may be determined by NRC, security orders issued by NRC to certain other Massachusetts licensees.

Draft of 105 CMR 120.050 through 120.080 is currently available at [://www.mass.gov/eohhs/gov/laws-regs/dph/proposed-regulations/radiation-control-regulations.html](http://www.mass.gov/eohhs/gov/laws-regs/dph/proposed-regulations/radiation-control-regulations.html) and the final official regulations are expected to be available for purchase at the State Bookstore in Boston at (617) 727-2834 on or after February 26, 2016.

Enclosed are four checklists, a crosswalk between 10 CFR Part 37 and 105 CMR 120.000, a difference chart between current and expected requirements, and a list of frequently asked questions, that we hope you will find useful for transitioning towards meeting the requirements.

Additionally, we accept the implementation guidance contained in U.S. NRC's NUREG-2155, Rev. 1, Implementation Guidance for 10 CFR Part 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material". This guidance may be used by both licensees and regulators and is available at [://pbadupws.nrc.gov/docs/ML1501/ML15016A172.pdf](http://pbadupws.nrc.gov/docs/ML1501/ML15016A172.pdf).

No reply to this notice is required. Thank you for your cooperation in this matter.

Sincerely,

John M. Priest, Jr., Director
Radiation Control Program

Enclosures: As stated



Massachusetts Department of Public Health
Radiation Control Program

**105 CMR 120.050 through 120.080
Compliance Checklist # 1**



The new rules for the enhanced physical security of radioactive materials compatible with 10 CFR Part 37, which is 105 CMR 120.050 through 120.080, is expected to go into effect on February 26, 2016. These rules will take the place of the Increased Control and Fingerprinting orders previously issued by the Agency in license conditions and security orders issued by NRC to certain other Massachusetts licensees. To assist licensees in preparing for the changes, we are providing four “Part 37 Compliance Checklists” with information on changes between the new rules and the previously issued orders, and what licensees should be considering. This first checklist will focus on requirements for your unescorted access authorization program.

1 - Your Unescorted Access Authorization Program

1. Designation of “Reviewing Official”, including requirement for that individual to have background check and fingerprinting. 120.057

The previous orders required a written designation of a “T&R 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 **AND** the Reviewing Official **MUST** also be granted unescorted access.

2. Preparation of written procedures to be followed to implement the unescorted access authorization program. 120.058

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
- Background checks conducted at 10-year intervals
- Review of information from the previous 7 years
- Maintenance of records generated as part of background checks
- Training of individuals prior to granting unescorted access
- Periodic review of the access authorization program

3. Scheduling background checks & fingerprinting for current employees who have previously been granted unescorted access. 120.058

The previous orders did not specify a time frame for reinvestigations. In the new rules, background investigations and fingerprinting are required to be re-done every 10 years. This does **NOT** mean that all reinvestigations of current employees will be due in ten years from the effective date of these requirements. Reinvestigations should be completed within ten years of the date of the most recent background investigation. For example, if an employee’s initial background investigation was completed in February 2009, they should have a reinvestigation done in February 2019.

If you have any questions about the new rules, please contact one of the following individuals:

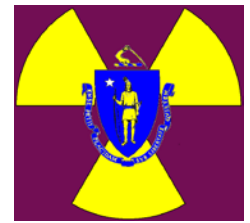
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Massachusetts Department of Public Health
Radiation Control Program



105 CMR 120.050 through 120.080
Compliance Checklist # 2

The new rules for the enhanced physical security of radioactive materials compatible with 10 CFR Part 37, which is 105 CMR 120.050 through 120.080, is expected to go into effect on February 26, 2016. These rules will take the place of the Increased Control and Fingerprinting orders previously issued by the Agency in license conditions and security orders issued by NRC to certain other Massachusetts licensees. To assist licensees in preparing for the changes, we are providing four “Part 37 Compliance Checklists” with information on changes between the new rules and the previously issued orders, and what licensees should be considering. This second checklist will focus on requirements for implementing your security plan and maintenance and testing of system components.

2 - Implementing Your Security Plan and Maintenance and Testing of System Components

- 1. The licensee shall develop and maintain written procedures that document how the requirements of [105 CMR 120.063 through 120.071] and the security plan will be met. 120.064**

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.

- 2. “Each licensee ...shall implement a maintenance and testing program to ensure that [security system components] are maintained in operable condition...” 120.068**

Obviously, if a part of your security system fails to operate as designed, it has little use to you to your security efforts. 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 affected 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.

- 3. “Each licensee shall be responsible for the continuing effectiveness of the security program.” 120.070**

You should periodically review the operation and effectiveness of your security program, and this should be done on at least an annual basis. If you identify any portions 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 of your program to ensure the effectiveness of your corrective actions. Like with most other requirements, you must document your annual reviews, any corrective actions and outcomes, and retain the records for three years.

If you have any questions about the new rules, please contact one of the following individuals:

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Massachusetts Department of Public Health
Radiation Control Program

105 CMR 120.050 through 120.080
Compliance Checklist # 3



The new rules for the enhanced physical security of radioactive materials compatible with 10 CFR Part 37, which is 105 CMR 120.050 through 120.080, is expected to go into effect on February 26, 2016. These rules will take the place of the Increased Control and Fingerprinting orders previously issued by the Agency in license conditions and security orders issued by NRC to certain other Massachusetts licensees. To assist licensees in preparing for the changes, we are providing four “Part 37 Compliance Checklists” with information on changes between the new rules and the previously issued orders, and what licensees should be considering. This first checklist will focus on requirements for your unescorted access authorization program.

3 - Transportation and Logistics

- 1. Licensees shall verify that they are shipping affected radioactive materials to an individual who is licensed to possess those materials, and provide advance notice of the shipment. 120.072**

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 issuing regulatory authority (Agreement State or NRC). Keep documentation of the verification for three years.

- 2. Shipments of affected quantities of radioactive materials are subject to physical security requirements during transportation. 120.073**

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.

- 3. Licensees shall pre-plan and coordinate shipments of radioactive materials subject to physical security requirements and provide notification of shipment departure, arrival, and/or any problems that arise during transit. 120.074**

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.

- 4. Shipments of Category 1 quantities of affected radioactive materials require advance notification to various state. 120.075**

The licensee is required to provide advance notice to the Agency and 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.

If you have any questions about the new rules, please contact one of the following individuals:

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Kenath Traegde

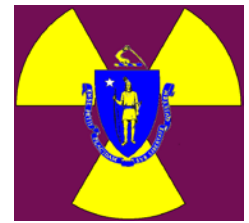
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Massachusetts Department of Public Health
Radiation Control Program

105 CMR 120.050 through 120.080
Compliance Checklist # 4



The new rules for the enhanced physical security of radioactive materials compatible with 10 CFR Part 37, which is 105 CMR 120.050 through 120.080, is expected to go into effect on February 26, 2016. These rules will take the place of the Increased Control and Fingerprinting orders previously issued by the Agency in license conditions and security orders issued by NRC to certain other Massachusetts licensees. To assist licensees in preparing for the changes, we are providing four "Part 37 Compliance Checklists" with information on changes between the new rules and the previously issued orders, and what licensees should be considering. This fourth checklist will focus on requirements for your training.

4 - Training

- 1. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required ... before being allowed unescorted access to category one or category two quantities of radioactive material. 120.057(A)(2)**
- Training on the licensee's security plan must be completed **BEFORE** you grant unescorted access.
- 2. Each licensee shall 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. 120.064(C)(2)**
- If you have an employee who you are relying on to implement some aspect of your security plan you must conduct training for those employees on their responsibilities, to include:
- The licensee's security program and procedures
 - 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; and
 - The appropriate response to security alarms.
- 3. Refresher training must be provided at a frequency not to exceed twelve months and when significant changes have been made to the security program. 120.064(C)(3)**
- Just like the rule says, every 12 months or when significant changes are made to the program.
- 4. The licensee shall 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. 120.064(C)(4)**
- Like most other rules, all training records must be kept for three years.

If you have any questions about the new rules, please contact one of the following individuals:

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New 105 CMR 120.050 through 120.080

105 CMR 120.000 to NRC 10 CFR Part 37 abbreviated cross reference

| 105 CMR Rule | Rule Title | 10 CFR 37 Equivalent |
|--------------|---|----------------------|
| | General Provisions | Subpart A |
| 120.051 | Purpose | 37.1 |
| 120.052 | Scope | 37.3 |
| 120.053 | Definitions | 37.5 |
| 120.054 | Communications | 37.7 |
| 120.055 | Specific exemptions | 37.11 |
| | Background Investigations and Access Control Program | Subpart B |
| 120.056 | Personnel access authorization requirements for category one or category two quantities of radioactive material | 37.21 |
| 120.057 | Access authorization program requirements | 37.23 |
| 120.058 | Background investigations | 37.25 |
| 120.059 | Requirements for criminal history records checks of individuals granted unescorted access to category one or category two quantities of radioactive material | 37.27 |
| 120.060 | 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 | 37.29 |
| 120.061 | Protection of information | 37.31 |
| 120.062 | Access authorization program review | 37.33 |
| | Physical Protection Requirements During Use | Subpart C |
| 120.063 | Security program | 37.41 |
| 120.064 | General security program requirements | 37.43 |
| 120.065 | LLEA coordination | 37.45 |
| 120.066 | Security zones | 37.47 |
| 120.067 | Monitoring, detection, and assessment | 37.49 |
| 120.068 | Maintenance and testing | 37.51 |
| 120.069 | Requirements for mobile devices | 37.53 |
| 120.070 | Security program review | 37.55 |
| 120.071 | Reporting of events | 37.57 |
| | Physical Protection in Transit | Subpart D |
| 120.072 | Additional requirements for transfer of category one and category two quantities of radioactive material | 37.71 |
| 120.073 | Applicability of physical protection of category one and category two quantities of radioactive material during transit | 37.73 |
| 120.074 | Preplanning and coordination of shipment of category one or category two quantities of radioactive material | 37.75 |
| 120.075 | Advance notification of shipment of category one quantities of radioactive material | 37.77 |
| 120.076 | Requirements for physical protection of category one and category two quantities of radioactive material during shipment | 37.79 |

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| 120.077 | Reporting of transportation events | 37.81 |
| | Reserved | Subpart E |
| | Records | Subpart |
| 120.078 | Form of records | 37.101 |
| 120.079 | Record retention | 37.103 |
| | Enforcement | Subpart G |
| 120.010 | Inspections | 37.105 |
| 120.016 | Violations | 37.107 |
| 120.080: Appendix A | Appendix A: Category 1 and Category 2 Radioactive Material | Append |

**Differences Between
IC / Fingerprint / M&D / Irradiator / RAM QC Orders and New 105 CMR
120.050 through 120.080**

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| <p>120.056 Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material.</p> | <p>Difference: The rule 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>120.057 Access authorization program requirements. (B) Reviewing officials.</p> | <p>Differences: The T&R official was not required to be fingerprinted under the IC Orders. The rule now allows the licensee to approve the reviewing official and submit the name under oath and affirmation. The orders did not contain a requirement for recertification of the reviewing official. Additionally, the rule requires the fingerprints for the reviewing official to be taken by a law enforcement agency, Federal or State agencies that provide finger printing services to the public, or commercial fingerprinting services authorized by a State to take fingerprints.</p> |
| <p>120.057 Access authorization program requirements. (C) Informed consent.</p> | <p>Differences: The rule requires a signed consent from the individual before beginning any aspect of the background investigation. The rule also addresses the situation where an individual withdraws their consent.</p> |
| <p>120.057 Access authorization program requirements. (E) Determination basis.</p> | <p>Difference: The rule 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>120.057 Access authorization program requirements. (G) Right to correct and complete information.</p> | <p>Difference: The rule allows the individual to provide corrected information on any aspect of the background investigation and not just the criminal history records.</p> |
| <p>120.058 Background investigations. (A) Initial Investigation.</p> | <p>Difference: The rule 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>120.58 Background investigations. (A) Initial Investigation. (2) Verification of true identity.</p> | <p>Difference: Only the RQ Order addressed verification of true identity. This is a new requirement for all other licensees.</p> |
| <p>120.058 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>120.058 Background investigations. (B) Grandfathering.</p> | <p>Difference: The rule grandfathers additional individuals as the rule applies to a broader category of licensees.</p> |
| <p>120.060 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: The rule provides relief for additional categories of individuals (emergency response personnel, commercial vehicle drivers, and package handlers at transportation facilities).</p> |

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| 120.064 General security program requirements. (A) Security plan. | Difference: The rule requires a security plan while the IC Orders required a documented program. The rule requires the plan to be approved by the individual with responsibility for the security program while the orders did not specify any approval. The rule also requires instruction on the plan before implementation. |
| 120.064 General security program requirements. (D) Protection of information. | Difference: The rule does not provide the specificity contained in the orders. |
| 120.065 LLEA coordination. | Difference: The rule relaxes the requirement to have a pre-arranged plan and only requires coordination with the LLEA. The rule also requires annual coordination. |
| 120.066 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 other orders. |
| 120.066 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: The rule 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. |
| 120.067 Monitoring, detection, and assessment. (A) Monitoring and detection. | Difference: The rule provides additional detail on what is acceptable for the monitoring and detection system. |
| 120.069 Requirements for mobile devices. | Difference: Rule allows for relief from the disabling mechanism in cases where the health and safety requirements prevent disabling the vehicle. |
| 120.072 Additional requirements for transfer of category 1 and category 2 quantities of radioactive material. | Difference: The rule includes use of the license verification system. The rule also requires verification for each shipment and not just for new recipients and unusual orders. |
| 120.074 Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material. | Difference: The rule does not require licensees to share position information on a shipment. The rule also doesn't contain provisions on identification of HRCQ shipments. |
| 120.074 Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material. (A) 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. | Difference: The rule 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. |
| 120.076 Requirements for physical protection of category 1 and category 2 quantities of radioactive | Differences: The rule does not require training of the individuals instead requiring the individuals to have |

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| material during shipment. (A) Shipments by road. | access to the procedures. The rule does not require that the licensee assure the trustworthiness and reliability of drivers or document that the carrier employs the measures. |
| 120.076 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment. (B) Shipments by rail. | Differences: The rule does not require procedures or training as the railroad will have its own training and procedures that must be followed. The rule does not require that the licensee assure the trustworthiness and reliability of drivers or document that the carrier employs the measures. |
| 120.076 Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment. (C) Investigations. | Difference: The rule 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. |
| 120.079 Record retention. | Difference: The rule does not require records to be maintained after the license is terminated. |
| 120.080: Appendix A - 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. |

New Requirements in 105 CMR 120.050 through 120.080

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| <p>120.057 Access authorization program requirements.</p> <p>(A) Granting unescorted access authorization.</p> <p>(1) Licensees shall implement the requirements of this rule for granting initial or reinstated unescorted access authorization.</p> <p>(2) Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by 105 CMR 120.064(C) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.</p> <p>...</p> <p>(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 this chapter is sufficient cause for denial or termination of unescorted access.</p> <p>(E) 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 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.</p> |
| <p>120.058 Background investigations.</p> <p>(A) Initial Investigation.</p> <p>(7) If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.</p> <p>...</p> |

(C) Reinvestigations. Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with 105 CMR 120.059. The reinvestigations must be completed within 10 years of the date on which these elements were last completed.

120.062 Access authorization program review.

(A) Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this chapter and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically (at least annually) review the access program content and implementation.

(B) The results of the reviews, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

(C) Review records must be maintained for 3 years.

120.064 General security program requirements.

(B) Implementing procedures.

(1) The licensee shall develop and maintain written procedures that document how the requirements of this chapter and the security plan will be met.

(2) The implementing procedures and revisions to these procedures must be approved in writing by the individual with overall responsibility for the security program.

(3) The licensee shall retain a copy of the current procedure as a record for 3 years after the procedure is no longer needed. Superseded portions of the procedure must be retained for 3 years after the record is superseded.

(C) Training.

(1) Each licensee shall 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.

120.068 Maintenance and testing.

(A) Each licensee subject to this chapter shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition, are capable of performing their intended function when needed, and are inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested frequency, the testing must be performed at least annually, not to exceed 12 months.

(B) The licensee shall maintain records on the maintenance and testing activities for 3 years.

120.070 Security program review.

(A) Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this chapter and that comprehensive actions are taken to correct any noncompliance that is identified. The review must include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.

(B) The results of the review, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The

licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

(C) The licensee shall maintain the review documentation for 3 years.

120.071 Reporting of events.

(A) The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the Agency by telephone.

120.074 Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material.

(D) Each licensee, who transports or plans to transport a shipment of a category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to paragraph (b) of this rule, shall promptly notify the receiving licensee of the new no-later-than arrival time.

120.075 Advance notification of shipment of category 1 quantities of radioactive material.

(D) Cancellation notice. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the Agency and to the governor of each state or to the governor's designee previously notified. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.

120.077 Reporting of transportation events.

(C) The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the Agency by telephone upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of category 1 radioactive material.

(D) The shipping licensee shall notify the Agency by telephone as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material.

(E) The shipping licensee shall notify the Agency by telephone and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material.

(F) The shipping licensee shall notify the Agency by telephone as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material.

(G) The initial telephonic notification required by paragraphs (A) through (D) of this rule must be followed within a period of 30 days by a written report submitted to the Agency. The report must set forth the following information:

- (1) A description of the licensed material involved, including kind, quantity, and chemical and physical form;
- (2) A description of the circumstances under which the loss or theft occurred;
- (3) A statement of disposition, or probable disposition, of the licensed material involved;
- (4) Actions that have been taken, or will be taken, to recover the material; and
- (5) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

(H) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

120.078 Form of records.

Each record required by this part must be legible throughout the retention period specified in this chapter. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the

capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Rescission of Increased Controls and Fingerprinting License Conditions and NRC Security Orders

To ensure continual protection of radioactive material, the increased controls and fingerprinting license conditions and where applicable to some Massachusetts licensees, the NRC security orders, must remain in effect until the effective date of 105 CMR 120.050 through 120.080.

For Massachusetts licensees, the increased controls and fingerprinting license conditions are rescinded upon date that 105 CMR 120.050 through 120.080 regulations become effective. At that time, it is expected that NRC will also rescind its security orders issued to certain Massachusetts licensees. Massachusetts licensees must operate under the requirements of 105 CMR 120.050 through 120.080 upon effective date of the requirements. The increased controls and fingerprinting license conditions may be removed from licenses through an administrative amendment.

Part 37 Frequently Asked Questions

The following are questions (with answers) that have been anticipated based on other Agreement State experiences.

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 the 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. Will the security inspections be conducted separate from our regular health and safety inspections?
ANSWER: The inspections of a licensee's compliance with the new security rules will usually be conducted at the same time of the regular inspections conducted based on the priority for your license category. Separate inspection reports and letters may, however, be generated for security inspections to distinguish security related information withheld from public disclosure under MGL c. 4, §§7, cl. 26(n).
5. The NRC has issued inspection guidance for how to conduct security inspections. Will Massachusetts be developing an independent guidance document?
ANSWER: The intent will be to follow the methodology developed by the NRC, allowing for any unique situations that may be present at Massachusetts licensed locations. Massachusetts may develop its own version of security inspection guidance in the future.
(NOTE: NRC's inspection guidance available at: [://pbadupws.nrc.gov/docs/ML1403/ML14030A144](http://pbadupws.nrc.gov/docs/ML1403/ML14030A144).)
6. Are we required to test our 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.
7. 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.