

CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division

78 **22.6 Specific Exemptions.**

79 **22.6.1** The Department may, upon application of any interested person or upon its own initiative, grant
80 such exemptions from the requirements of the regulations in this Part as it determines are
81 authorized by law and will not endanger life or property or the ~~common defense and~~
82 ~~security~~**physical protection of material**, and are otherwise in the public interest.

Commented [JSJ26]: Language revised as Colorado may not have the authority specified in the original language.

83 **22.6.2** A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of
84 radioactive material is exempt from the requirements of ~~22.8 through 22.29~~**sections B, C and D**
85 **of this part**. Except that any radioactive waste that contains discrete sources, ion-exchange
86 resins, or activated material that weighs less than 2,000 kg (4,409 lbs) is not exempt from the
87 requirements of this Part. The licensee shall implement the following requirements to secure the
88 radioactive waste:

- 89 A. Use continuous physical barriers that allow access to the radioactive waste only through
90 established access control points;
- 91 B. Use a locked door or gate with monitored alarm at the access control point;
- 92 C. Assess and respond to each actual or attempted unauthorized access to determine
93 whether an actual or attempted theft, sabotage, or diversion occurred; and
- 94 D. Immediately notify the LLEA and request an armed response from the LLEA upon
95 determination that there was an actual or attempted theft, sabotage, or diversion of the
96 radioactive waste that contains category 1 or category 2 quantities of radioactive
97 material.

98 **22.7 Reserved**

99 ~~Background Investigations and Access Authorization Program~~**Section B – Background investigations**
100 ~~and access authorization program~~

101 **22.8 Personnel Access Authorization Requirements for Category 1 or Category 2 Quantities of**
102 **Radioactive Material.**

103 **22.8.1 General.**

- 104 A. Each licensee that possesses an aggregated quantity of radioactive material at or above
105 the category 2 threshold shall establish, implement, and maintain its access authorization
106 program in accordance with the requirements of **section B** of this Part.
- 107 B. An applicant for a new license and each licensee that would become newly subject to the
108 requirements of this ~~Part~~**section B** upon application for modification of its license shall
109 implement the requirements of this ~~section B~~**Part**, as appropriate, before taking
110 possession of an aggregated category 1 or category 2 quantity of radioactive material.
- 111 C. Any licensee that has not previously implemented the NRC Security Orders or been
112 subject to the provisions of ~~22.8 through 22.14~~**this section B** shall implement the
113 provisions of ~~22.8 through 22.14~~**this section B** before aggregating radioactive material to
114 a quantity that equals or exceeds the category 2 threshold.

115 * * *

- 116 D. Licensees may include individuals needing access to safeguards information-modified
117 handling under 10 CFR Part 73 in the access authorization program under **section B** of
118 ~~this Part~~**22.8 through 22.14**.

*CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division*

- 119 **22.9 Access Authorization Program Requirements.**
- 120 22.9.1 Granting unescorted access authorization.
- 121 A. Licensees shall implement the requirements of **section B** of this Part for granting initial
122 or reinstated unescorted access authorization.
- 123 B. Individuals who have been determined to be trustworthy and reliable shall also complete
124 the security training required by 22.16.3 before being allowed unescorted access to
125 category 1 or category 2 quantities of radioactive material.
- 126 22.9.2 Reviewing officials.
- 127 A. Reviewing officials are the only individuals who may make trustworthiness and reliability
128 determinations that allow individuals to have unescorted access to category 1 or category
129 2 quantities of radioactive materials possessed by the licensee.
- 130 **B.** Each licensee shall name one or more individuals to be reviewing officials. After
131 completing the background investigation on the reviewing official, the licensee shall
132 provide under oath or affirmation, a certification that the reviewing official is deemed
133 trustworthy and reliable by the licensee. **Provide oath or affirmation certifications to**
134 **the Department.** The fingerprints of the named reviewing official must be taken by a law
135 enforcement agency, Federal or State agencies that provide fingerprinting services to the
136 public, or commercial fingerprinting services authorized by a State to take fingerprints.
137 The licensee shall re-certify that the reviewing official is deemed trustworthy and reliable
138 every 10 years in accordance with 22.10.3.
- 139 **1. The oath or affirmation certifications required by 22.9.2.B shall be provided**
140 **to the Department within 30 days of naming a new or additional individual**
141 **as a reviewing official.**
- 142 **2. The licensee shall notify the Department in writing within 30 days of**
143 **revoking a reviewing official certification.**
- 144 C. Reviewing officials must be permitted to have unescorted access to category 1 or
145 category 2 quantities of radioactive materials or access to safeguards information or
146 safeguards information-modified handling, if the licensee possesses safeguards
147 information or safeguards information modified handling.
- 148 D. Reviewing officials cannot approve other individuals to act as reviewing officials.
- 149 E. A reviewing official does not need to undergo a new background investigation before
150 being named by the licensee as the reviewing official if:
- 151 1. The individual has undergone a background investigation that included
152 fingerprinting and an FBI criminal history records check and has been
153 determined to be trustworthy and reliable by the licensee; or
- 154 2. The individual is subject to a category listed in 22.12.1.
- 155 22.9.3 Informed consent.
- 156 A. Licensees may not initiate a background investigation without the informed and signed
157 consent of the subject individual. This consent must include authorization to share
158 personal information with other individuals or organizations as necessary to complete the
159 background investigation. Before a final adverse determination, the licensee shall provide
160 the individual with an opportunity to correct any inaccurate or incomplete information that

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This provision is updated to add clarifying language regarding submission of documentation, consistent with the intent of the 2018 amendments to [10 CFR Part 37.23\(b\)\(2\)](#).

Although the proposed language is new to Part 22, the requirement for submission of the reviewing official documentation and notification to the department has been in effect for a number of years through existing licensing activities.

NRC Compatibility B
NRC [RATS 2018-3](#)

*CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division*

- 161 is developed during the background investigation. Licensees do not need to obtain
162 signed consent from those individuals that meet the requirements of 22.10.2. A signed
163 consent must be obtained prior to any reinvestigation.
- 164 B. The subject individual may withdraw his or her consent at any time. Licensees shall
165 inform the individual that:
- 166 1. If an individual withdraws his or her consent, the licensee may not initiate any
167 elements of the background investigation that were not in progress at the time
168 the individual withdrew his or her consent; and
- 169 2. The withdrawal of consent for the background investigation is sufficient cause for
170 denial or termination of unescorted access authorization.
- 171 22.9.4 Personal history disclosure.
- 172 A. Any individual who is applying for unescorted access authorization shall disclose the
173 personal history information that is required by the licensee's access authorization
174 program for the reviewing official to make a determination of the individual's
175 trustworthiness and reliability. Refusal to provide, or the falsification of, any personal
176 history information required by **section B** of this Part is sufficient cause for denial or
177 termination of unescorted access.
- 178 22.9.5 Determination basis.
- 179 A. The reviewing official shall determine whether to permit, deny, unfavorably terminate,
180 maintain, or administratively withdraw an individual's unescorted access authorization
181 based on an evaluation of all of the information collected to meet the requirements of
182 **section B** of this Part.
- 183 B. The reviewing official may not permit any individual to have unescorted access until the
184 reviewing official has evaluated all of the information collected to meet the requirements
185 of **section B** of this Part and determined that the individual is trustworthy and reliable.
186 The reviewing official may deny unescorted access to any individual based on
187 information obtained at any time during the background investigation.
- 188 * * *
- 189 22.9.6 Procedures.
- 190 A. Licensees shall develop, implement, and maintain written procedures for implementing
191 the access authorization program. The procedures must include provisions for the
192 notification of individuals who are denied unescorted access. The procedures must
193 include provisions for the review, at the request of the affected individual, of a denial or
194 termination of unescorted access authorization. The procedures must contain a provision
195 to ensure that the individual is informed of the grounds for the denial or termination of
196 unescorted access authorization and allow the individual an opportunity to provide
197 additional relevant information.
- 198 22.9.7 Right to correct and complete information.
- 199 A. Prior to any final adverse determination, licensees shall provide each individual subject to
200 **section B of this Part**~~22.8 through 22.14~~ with the right to complete, correct, and explain
201 information obtained as a result of the licensee's background investigation. Confirmation
202 of receipt by the individual of this notification must be maintained by the licensee for a
203 period of 1 year from the date of the notification.

CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division

204 B. If, after reviewing his or her criminal history record, an individual believes that it is
 205 incorrect or incomplete in any respect and wishes to change, correct, update, or explain
 206 anything in the record, the individual may initiate challenge procedures. These
 207 procedures include direct application by the individual challenging the record to the law
 208 enforcement agency that contributed the questioned information or a direct challenge as
 209 to the accuracy or completeness of any entry on the criminal history record to the Federal
 210 Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN:
 211 SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR
 212 **Part** 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will
 213 forward the challenge to the agency that submitted the data, and will request that the
 214 agency verify or correct the challenged entry. Upon receipt of an official communication
 215 directly from the agency that contributed the original information, the FBI Identification
 216 Division makes any changes necessary in accordance with the information supplied by
 217 that agency. Licensees must provide at least 10 days for an individual to initiate action to
 218 challenge the results of an FBI criminal history records check after the record being made
 219 available for his or her review. The licensee may make a final adverse determination
 220 based upon the criminal history records only after receipt of the FBI's confirmation or
 221 correction of the record.

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223 **22.10 Background Investigations.**224 **22.10.1** Initial investigation.

225 A. Before allowing an individual unescorted access to category 1 or category 2 quantities of
 226 radioactive material or to the devices that contain the material, licensees shall complete a
 227 background investigation of the individual seeking unescorted access authorization. The
 228 scope of the investigation must encompass at least the 7 years preceding the date of the
 229 background investigation or since the individual's eighteenth birthday, whichever is
 230 shorter. The background investigation must include at a minimum:

- 231 1. Fingerprinting and an FBI identification and criminal history records check in
 232 accordance with 22.11;
- 233 2. Verification of true identity. Licensees shall verify the true identity of the individual
 234 who is applying for unescorted access authorization to ensure that the applicant
 235 is who he or she claims to be. A licensee shall review official identification
 236 documents (e.g., driver's license; passport; government identification; certificate
 237 of birth issued by the state, province, or country of birth) and compare the
 238 documents to personal information data provided by the individual to identify any
 239 discrepancy in the information. Licensees shall document the type, expiration,
 240 and identification number of the identification document, or maintain a photocopy
 241 of identifying documents on file in accordance with 22.13. Licensees shall certify
 242 in writing that the identification was properly reviewed, and shall maintain the
 243 certification and all related documents for review upon inspection;
- 244 3. Employment history verification. Licensees shall complete an employment history
 245 verification, including military history. Licensees shall verify the individual's
 246 employment with each previous employer for the most recent 7 years before the
 247 date of application;
- 248 4. Verification of education. Licensees shall verify that the individual participated in
 249 the education process during the claimed period;
- 250 5. Character and reputation determination. Licensees shall complete reference
 251 checks to determine the character and reputation of the individual who has

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Section 22.10.1 is modified for formatting to remove unneeded spaces.

Note that these changes are not shown by strikeout or other indicators.

CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division

- 252 applied for unescorted access authorization. Unless other references are not
 253 available, reference checks may not be conducted with any person who is known
 254 to be a close member of the individual's family, including but not limited to the
 255 individual's spouse, parents, siblings, or children, or any individual who resides in
 256 the individual's permanent household. Reference checks under **section B** of this
 257 Part must be limited to whether the individual has been and continues to be
 258 trustworthy and reliable;
- 259 6. The licensee shall also, to the extent possible, obtain independent information to
 260 corroborate that provided by the individual (e.g., seek references not supplied by
 261 the individual); and
- 262 7. If a previous employer, educational institution, or any other entity with which the
 263 individual claims to have been engaged fails to provide information or indicates
 264 an inability or unwillingness to provide information within a time frame deemed
 265 appropriate by the licensee but at least after 10 business days of the request or if
 266 the licensee is unable to reach the entity, the licensee shall document the refusal,
 267 unwillingness, or inability in the record of investigation; and attempt to obtain the
 268 information from an alternate source.
- 269 **22.10.2** Grandfathering.
- 270 A. Individuals who have been determined to be trustworthy and reliable for unescorted
 271 access to category 1 or category 2 quantities of radioactive material under the fingerprint
 272 Orders or equivalent Agreement State requirements may continue to have unescorted
 273 access to category 1 and category 2 quantities of radioactive material without further
 274 investigation. These individuals shall be subject to the reinvestigation requirement.
- 275 B. Individuals who have been determined to be trustworthy and reliable under the provisions
 276 of 10 CFR Part 73 or the security orders for access to safeguards information,
 277 safeguards information-modified handling, or risk-significant material may have
 278 unescorted access to category 1 and category 2 quantities of radioactive material without
 279 further investigation. The licensee shall document that the individual was determined to
 280 be trustworthy and reliable under the provisions of 10 CFR Part 73 or a security order.
 281 Security order, in this context, refers to any order that was issued by the NRC that
 282 required fingerprints and an FBI criminal history records check for access to safeguards
 283 information, safeguards information-modified handling, or risk significant material such as
 284 special nuclear material or large quantities of uranium hexafluoride. These individuals
 285 shall be subject to the reinvestigation requirement.
- 286 **22.10.3** Reinvestigations.
- 287 A. Licensees shall conduct a reinvestigation every 10 years for any individual with
 288 unescorted access to category 1 or category 2 quantities of radioactive material. The
 289 reinvestigation shall consist of fingerprinting and an FBI identification and criminal history
 290 records check in accordance with 22.11. The reinvestigations must be completed within
 291 10 years of the date on which these elements were last completed.
- 292 **22.11 Requirements for Criminal History Records Checks of Individuals Granted Unescorted**
 293 **Access to Category 1 or Category 2 Quantities of Radioactive Material.**
- 294 **22.11.1** General performance objective and requirements.
- 295 A. Except for those individuals listed in 22.12 and those individuals grandfathered under
 296 22.10.2., each licensee subject to the provisions of **section B** of this Part shall fingerprint
 297 each individual who is to be permitted unescorted access to category 1 or category 2
 298 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the

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CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division

299 U.S. Nuclear Regulatory Commission for transmission to the FBI. The licensee shall use
 300 the information received from the FBI as part of the required background investigation to
 301 determine whether to grant or deny further unescorted access to category 1 or category 2
 302 quantities of radioactive materials for that individual.

303 * * *

304 D. Fingerprints do not need to be taken if an individual who is an employee of a licensee,
 305 contractor, manufacturer, or supplier has been granted unescorted access to category 1
 306 or category 2 quantities of radioactive material, access to safeguards information, or
 307 safeguards information-modified handling by another licensee, based upon a background
 308 investigation conducted under **section B** of this Part, the Fingerprint Orders, or 10 CFR
 309 Part 73. An existing criminal history records check file may be transferred to the licensee
 310 asked to grant unescorted access in accordance with the provisions of 22.13.3.

311 * * *

312 22.11.2 Prohibitions.

313 * * *

314 B. Licensees may not use information received from a criminal history records check
 315 obtained under **section B** of this Part in a manner that would infringe upon the rights of
 316 any individual under the First Amendment to the Constitution of the United States, nor
 317 shall licensees use the information in any way that would discriminate among individuals
 318 on the basis of race, religion, national origin, gender, or age.

319 22.11.3 Procedures for processing of fingerprint checks.

320 ~~A. For the purpose of complying with this Part, licensees shall submit to the U.S. Nuclear~~
 321 ~~Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville~~
 322 ~~Pike, Rockville, MD 20852-2738, ATTN: Criminal History Program, Mail Stop TWB-05~~
 323 ~~B32M, one completed, legible standard fingerprint card (Form FD-258,~~
 324 ~~ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint~~
 325 ~~record for each individual requiring unescorted access to category 1 or category 2~~
 326 ~~quantities of radioactive material. Copies of these forms may be obtained by writing the~~
 327 ~~Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission,~~
 328 ~~Washington, DC 20555-0001, by calling 1-630-829-9565, or by email to~~
 329 ~~FORMS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found~~
 330 ~~at http://www.nrc.gov/site-help/e-submittals.html. For the purposes of complying with~~
 331 ~~this section B, licensees shall use an appropriate method listed in 10 CFR Part 37.7~~
 332 ~~to submit to the U.S. Nuclear Regulatory Commission, Director, Division of~~
 333 ~~Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History~~
 334 ~~Program/Mail Stop T-8B20, Rockville, MD 20852, one completed, legible standard~~
 335 ~~fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or,~~
 336 ~~where practicable, other fingerprint record for each individual requiring unescorted~~
 337 ~~access to category 1 or category 2 quantities of radioactive material. Copies of~~
 338 ~~these forms may be obtained by emailing MAILSVS.Resource@nrc.gov. Guidance~~
 339 ~~on submitting fingerprints can be found at https://www.nrc.gov/security/chp.html.~~

340 B. Fees for the processing of fingerprint checks are due upon application. Licensees shall
 341 submit payment with the application for the processing of fingerprints through corporate
 342 check, certified check, cashier's check, money order, or electronic payment, made
 343 payable to "U.S. NRC." (For guidance on making electronic payments, contact the
 344 Security Branch, Division of Facilities and Security at 301-492-3531.) (For guidance on
 345 making electronic payments, contact the Division of Physical and Cyber Security
 346 Policy by e-mailing Crimhist.Resource@nrc.gov.) Combined payment for multiple

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 This provision is amended for consistency with the November 18, 2019 technical corrections to [10 CFR Part 37.27\(c\)\(1\)](#), due to changes in NRC organizational structure and contact information.
 Licensees will use this updated information in order to submit fingerprinting information to NRC.
 NRC Compatibility B
[NRC RATS 2019-1](#)

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 This provision is amended for consistency with the November 18, 2019 technical corrections to 10 CFR Part 37.27(c)(2), due to changes in NRC organizational structure and contact information.
 Licensees will require this updated information in order to submit payment for fingerprinting processing.
 NRC Compatibility B
[NRC RATS 2019-1](#)

CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division

347 applications is acceptable. The U.S. Nuclear Regulatory Commission publishes the
 348 amount of the fingerprint check application fee on the NRC's public Web site. ~~(To find the~~
 349 ~~current fee amount, go to the Electronic Submittals page at [http://www.nrc.gov/site-](http://www.nrc.gov/site-help/e-submittals.html)~~
 350 ~~help/e-submittals.html and see the link for the Criminal History Program under Electronic~~
 351 ~~Submission Systems.)(To find the current fee amount, go to the Licensee Criminal~~
 352 ~~History Records Checks & Firearms Background Check information page at~~
 353 ~~<https://www.nrc.gov/security/chp.html> and see the link for How do I determine how~~
 354 ~~much to pay for the request?).~~

355 C. The U.S. Nuclear Regulatory Commission will forward to the submitting licensee all data
 356 received from the FBI as a result of the licensee's application(s) for criminal history
 357 records checks.

358 **22.12 Relief from Fingerprinting, Identification, and Criminal History Records Checks and Other**
 359 **Elements of Background Investigations for Designated Categories of Individuals Permitted**
 360 **Unescorted Access to Certain Radioactive Materials.**

- 361 22.12.1 Fingerprinting, and the identification and criminal history records checks required by
 362 section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the
 363 background investigation are not required for the following individuals prior to granting
 364 unescorted access to category 1 or category 2 quantities of radioactive materials:
- 365 A. An employee of the Commission or of the Executive Branch of the U.S. Government who
 366 has undergone fingerprinting for a prior U.S. Government criminal history records check;
- 367 B. A Member of Congress;
- 368 C. An employee of a member of Congress or Congressional committee who has undergone
 369 fingerprinting for a prior U.S. Government criminal history records check;
- 370 D. The Governor of a State or his or her designated State employee representative;
- 371 E. Federal, State, or local law enforcement personnel;
- 372 F. State Radiation Control Program Directors and State Homeland Security Advisors or their
 373 designated State employee representatives;
- 374 G. Agreement State employees conducting security inspections on behalf of the NRC under
 375 an agreement executed under section 274.i. of the Atomic Energy Act;
- 376 H. Representatives of the International Atomic Energy Agency (IAEA) engaged in activities
 377 associated with the U.S./IAEA Safeguards Agreement who have been certified by the
 378 NRC;
- 379 I. Emergency response personnel who are responding to an emergency;
- 380 J. Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of
 381 radioactive material;
- 382 K. Package handlers at transportation facilities such as freight terminals and railroad yards;
- 383 L. Any individual who has an active Federal security clearance, provided that he or she
 384 makes available the appropriate documentation. Written confirmation from the
 385 agency/employer that granted the Federal security clearance or reviewed the criminal
 386 history records check must be provided to the licensee. The licensee shall retain this
 387 documentation for a period of 3 years from the date the individual no longer requires
 388 unescorted access to category 1 or category 2 quantities of radioactive material; and

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*CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division*

- 389 M. Any individual employed by a service provider licensee for which the service provider
390 licensee has conducted the background investigation for the individual and approved the
391 individual for unescorted access to category 1 or category 2 quantities of radioactive
392 material. Written verification from the service provider must be provided to the licensee.
393 The licensee shall retain the documentation for a period of 3 years from the date the
394 individual no longer requires unescorted access to category 1 or category 2 quantities of
395 radioactive material.
- 396 22.12.2 Fingerprinting, and the identification and criminal history records checks required by
397 section 149 of the Atomic Energy Act of 1954, as amended, are not required for an
398 individual who has had a favorably adjudicated U.S. Government criminal history records
399 check within the last 5 years, under a comparable U.S. Government program involving
400 fingerprinting and an FBI identification and criminal history records check provided that
401 he or she makes available the appropriate documentation. Written confirmation from the
402 agency/employer that reviewed the criminal history records check must be provided to
403 the licensee. The licensee shall retain this documentation for a period of 3 years from the
404 date the individual no longer requires unescorted access to category 1 or category 2
405 quantities of radioactive material. These programs include, but are not limited to:
- 406 A. National Agency Check;
- 407 B. Transportation Worker Identification Credentials (TWIC) under 49 CFR ~~part~~**Part** 1572;
- 408 C. Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances
409 under 27 CFR ~~part~~**Part** 555;
- 410 D. Health and Human Services security risk assessments for possession and use of select
411 agents and toxins under 42 CFR ~~part~~**Part** 73;
- 412 E. Hazardous Material security threat assessment for hazardous material endorsement to
413 commercial driver's license under 49 CFR ~~part~~**Part** 1572; and
- 414 F. Customs and Border Protection's Free and Secure Trade (FAST) Program.
- 415 **22.13 Protection of Information.**
- 416 22.13.1 Each licensee who obtains background information on an individual under **section B of**
417 this Part shall establish and maintain a system of files and written procedures for
418 protection of the record and the personal information from unauthorized disclosure.
- 419 22.13.2 The licensee may not disclose the record or personal information collected and
420 maintained to persons other than the subject individual, his or her representative, or to
421 those who have a need to have access to the information in performing assigned duties
422 in the process of granting or denying unescorted access to category 1 or category 2
423 quantities of radioactive material, safeguards information, or safeguards information-
424 modified handling. No individual authorized to have access to the information may
425 disseminate the information to any other individual who does not have a need to know.
- 426 22.13.3 The personal information obtained on an individual from a background investigation may
427 be provided to another licensee:
- 428 A. Upon the individual's written request to the licensee holding the data to disseminate the
429 information contained in his or her file; and
- 430 B. The recipient licensee verifies information such as name, date of birth, social security
431 number, gender, and other applicable physical characteristics.

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CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division

432 22.13.4 The licensee shall make background investigation records obtained under **section B of**
 433 this Part available for examination by an authorized representative of the Department to
 434 determine compliance with the regulations and laws.

435 22.13.5 The licensee shall retain all fingerprint and criminal history records (including data
 436 indicating no record) received from the FBI, or a copy of these records if the individual's
 437 file has been transferred, on an individual for 3 years from the date the individual no
 438 longer requires unescorted access to category 1 or category 2 quantities of radioactive
 439 material.

440 **22.14 Access Authorization Program Review.**

441 22.14.1 Each licensee shall be responsible for the continuing effectiveness of the access
 442 authorization program. Each licensee shall ensure that access authorization programs
 443 are reviewed to confirm compliance with the requirements of **section B of** this Part and
 444 that comprehensive actions are taken to correct any noncompliance that is identified. The
 445 review program shall evaluate all program performance objectives and requirements.
 446 Each licensee shall periodically (at least annually) review the access program content
 447 and implementation.

448 22.14.2 The results of the reviews, along with any recommendations, must be documented. Each
 449 review report must identify conditions that are adverse to the proper performance of the
 450 access authorization program, the cause of the condition(s), and, when appropriate,
 451 recommend corrective actions, and corrective actions taken. The licensee shall review
 452 the findings and take any additional corrective actions necessary to preclude repetition of
 453 the condition, including reassessment of the deficient areas where indicated.

454 22.14.3 Review records must be maintained for 3 years.

455 ~~Physical Protection Requirements During Use~~ **Section C – Physical protection requirements during**
 456 **use**

457 **22.15 Security Program.**

458 22.15.1 Applicability.

459 A. Each licensee that possesses an aggregated category 1 or category 2 quantity of
 460 radioactive material shall establish, implement, and maintain a security program in
 461 accordance with the requirements of **section C of** this Part.

462 B. An applicant for a new license and each licensee that would become newly subject to the
 463 requirements of **section C of** this Part upon application for modification of its license
 464 shall implement the requirements of **section C of** this Part, as appropriate, before taking
 465 possession of an aggregated category 1 or category 2 quantity of radioactive material.

466 C. Any licensee that has not previously implemented the Security Orders or **been subject**
 467 **to** equivalent Agreement State requirements or been subject to **section C of this**
 468 **Part 22.15 through 22.23** shall provide written notification to the Department to the
 469 address specified in 22.4 at least 90 days before aggregating radioactive material to a
 470 quantity that equals or exceeds the category 2 threshold.

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472 **22.16 General Security Program Requirements.**

473 22.16.1 Security plan.

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*CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division*

- 474 A. Each licensee identified in 22.15.1. shall develop a written security plan specific to its
475 facilities and operations. The purpose of the security plan is to establish the licensee's
476 overall security strategy to ensure the integrated and effective functioning of the security
477 program required by **section C** of this Part. The security plan must, at a minimum:
- 478 1. Describe the measures and strategies used to implement the requirements of
479 **section C** of this Part; and
- 480 2. Identify the security resources, equipment, and technology used to satisfy the
481 requirements of **section C** of this Part.
- 482 B. The security plan must be reviewed and approved by the individual with overall
483 responsibility for the security program.
- 484 C. A licensee shall revise its security plan as necessary to ensure the effective
485 implementation of Department requirements. The licensee shall ensure that:
- 486 1. The revision has been reviewed and approved by the individual with overall
487 responsibility for the security program; and
- 488 2. The affected individuals are instructed on the revised plan before the changes
489 are implemented.
- 490 D. The licensee shall retain a copy of the current security plan as a record for 3 years after
491 the security plan is no longer required. If any portion of the plan is superseded, the
492 licensee shall retain the superseded material for 3 years after the record is superseded.
- 493 22.16.2 Implementing procedures.
- 494 A. The licensee shall develop and maintain written procedures that document how the
495 requirements of **section C** of this Part and the security plan will be met.
496
- 497 * * *
- 498 22.16.4 Protection of information.
- 499 A. Licensees authorized to possess category 1 or category 2 quantities of radioactive
500 material shall limit access to and unauthorized disclosure of their security plan,
501 implementing procedures, and the list of individuals that have been approved for
502 unescorted access.
- 503 B. Efforts to limit access shall include the development, implementation, and maintenance of
504 written policies and procedures for controlling access to, and for proper handling and
505 protection against unauthorized disclosure of, the security plan ~~and~~ implementing
506 procedures, **and the list of individuals that have been approved for unescorted**
507 **access.**
- 508 C. Before granting an individual access to the security plan, ~~or~~ implementing procedures, **or**
509 **the list of individuals that have been approved for unescorted access,** licensees
510 shall:
- 511 1. Evaluate an individual's need to know the security plan, ~~or~~ implementing
512 procedures, **or the list of individuals that have been approved for**
513 **unescorted access;** and

Commented [JSJ35]:

New (repeated) language is added to several provisions in 22.16.4 for consistency with the 2018 amendments to [10 CFR Part 37.43](#).

The amended language provides clarification that the list of approved individuals must be maintained in a secure manner similar to other security related documents and information.

Licensees will be required to make minor changes to their security plan and/or procedures as a result of this change.

NRC Compatibility C
NRC [RATS 2018-3](#)

CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division

- 514 2. If the individual has not been authorized for unescorted access to category 1 or
515 category 2 quantities of radioactive material, safeguards information, or
516 safeguards information-modified handling, the licensee must complete a
517 background investigation to determine the individual's trustworthiness and
518 reliability. A trustworthiness and reliability determination shall be conducted by
519 the reviewing official and shall include the background investigation elements
520 contained in 22.10.1.A.2. through 22.10.1.A.7.
- 521 D. Licensees need not subject the following individuals to the background investigation
522 elements for protection of information:
- 523 1. The categories of individuals listed in 22.12.1.A. through 22.12.1.M; or
- 524 2. Security service provider employees, provided written verification that the
525 employee has been determined to be trustworthy and reliable, by the required
526 background investigation in 22.10.1.A.2 through 22.10.1.A.7, has been provided
527 by the security service provider.
- 528 E. The licensee shall document the basis for concluding that an individual is trustworthy and
529 reliable and should be granted access to the security plan, ~~or~~ implementing procedures,
530 **or the list of individuals that have been approved for unescorted access.**
- 531 F. Licensees shall maintain a list of persons currently approved for access to the security
532 plan ~~or~~ implementing procedures, **or the list of individuals that have been approved**
533 **for unescorted access.** When a licensee determines that a person no longer needs
534 access to the security plan, ~~or~~ implementing procedures, **or the list of individuals that**
535 **have been approved for unescorted access,** or no longer meets the access
536 authorization requirements for access to the information, the licensee shall remove the
537 person from the approved list as soon as possible, but no later than 7 working days, and
538 take prompt measures to ensure that the individual is unable to obtain the security plan,
539 ~~or~~ implementing procedures, **or the list of individuals that have been approved for**
540 **unescorted access.**
- 541 G. When not in use, the licensee shall store its security plan, ~~and~~ implementing procedures,
542 **and the list of individuals that have been approved for unescorted access** in a
543 manner to prevent unauthorized access. Information stored in nonremovable electronic
544 form must be password protected.
- 545 H. The licensee shall retain as a record for 3 years after the document is no longer needed:
- 546 1. A copy of the information protection procedures; and
- 547 2. The list of individuals approved for access to the security plan, ~~or~~ implementing
548 procedures, **or the list of individuals that have been approved for**
549 **unescorted access.**
- 550 **22.17 LLEA Coordination.**
- 551 **22.17.1** A licensee subject to **section C of** this Part shall coordinate, to the extent practicable,
552 with an LLEA for responding to threats to the licensee's facility, including any necessary
553 armed response. The information provided to the LLEA must include:
- 554 A. A description of the facilities and the category 1 and category 2 quantities of radioactive
555 materials along with a description of the licensee's security measures that have been
556 implemented to comply with **section C of** this Part; and

Commented [JSJ36]:
New language added for consistency with the 2018
amendments to [10 CFR Part 37.43\(d\)\(5\)](#).

NRC Compatibility C
NRC [RATS 2018-3](#)

Commented [JSJ37]:
This section is formatted for alignment of text and elimination
of blank lines/space.

Commented [JSJ38]:
Clarifying language added to parallel the subpart reference
found in [10 CFR Part 37.45](#).

*CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division*

557 B. A notification that the licensee will request a timely armed response by the LLEA to any
558 actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of
559 material.

560 * * *

561 **22.19 Monitoring, Detection, and Assessment.**

562 22.19.1 Monitoring and detection.

563 * * *

564 C. A licensee subject to **section C of** this Part shall also have a means to detect
565 unauthorized removal of the radioactive material from the security zone. This detection
566 capability must provide:

567 * * *

568 **22.20 Maintenance and Testing.**

569 22.20.1 Each licensee subject to **section C of** this Part shall implement a maintenance and
570 testing program to ensure that intrusion alarms, associated communication systems, and other
571 physical components of the systems used to secure or detect unauthorized access to radioactive
572 material are maintained in operable condition and are capable of performing their intended
573 function when needed. The equipment relied on to meet the security requirements of this Part
574 must be inspected and tested for operability and performance at the manufacturer's suggested
575 frequency. If there is no suggested manufacturer's suggested frequency, the testing must be
576 performed at least annually, not to exceed 12 months.

577 22.20.2 The licensee shall maintain records on the maintenance and testing activities for 3 years.

578 * * *

579 **22.22 Security Program Review.**

580 22.22.1 Each licensee shall be responsible for the continuing effectiveness of the security
581 program. Each licensee shall ensure that the security program is reviewed to confirm compliance
582 with the requirements of **section C of** this Part and that comprehensive actions are taken to
583 correct any noncompliance that is identified. The review must include the radioactive material
584 security program content and implementation. Each licensee shall periodically (at least annually)
585 review the security program content and implementation.

586 * * *

587 ~~Physical Protection in Transit~~ **Section D – Physical protection in transit**

588 **22.24 Additional Requirements for Transfer of Category 1 and Category 2 Quantities of**
589 **Radioactive Material.**

590 * * *

591 **22.25 Applicability of Physical Protection of Category 1 and Category 2 Quantities of Radioactive**
592 **Material During Transit.**

593 22.25.1 For shipments of category 1 quantities of radioactive material, each shipping licensee
594 shall comply with the requirements for physical protection contained in 22.26.1. and 22.26.5.;

CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division

- 595 22.27; 22.28.1.A., 22.28.2.A. and 22.28.3.; and 22.29.1., 22.29.3., 22.29.5., 22.29.7., and
 596 22.29.8.
- 597 22.25.2 For shipments of category 2 quantities of radioactive material, each shipping licensee
 598 shall comply with the requirements for physical protection contained in 22.26.2. through 22.26.5.;
 599 22.28.1.B., 22.28.1.C., 22.28.2.B., and 22.28.3.; and 22.29.2., 22.29.4., 22.29.6., 22.29.7., and
 600 22.29.8. For those shipments of category 2 quantities of radioactive material that meet the criteria
 601 of Part 17, Section 17.11, the shipping licensee shall also comply with the advance notification
 602 provisions of Part 17, Section 17.11.
- 603 22.25.3 The shipping licensee shall be responsible for meeting the requirements of **section D of**
 604 **this part 22.24 through 22.29** unless the receiving licensee has agreed in writing to arrange for
 605 the in-transit physical protection required under **section D of this part 22.24 through 22.29**.
- 606 * * *
- 607 **22.27 Advance Notification of Shipment of Category 1 Quantities of Radioactive Material.**
- 608 22.27.1 As specified in 22.27.1.A. and 22.27.1.B., each licensee shall provide advance
 609 notification to the Department and the governor of a State, or the governor's designee, of
 610 the shipment of licensed material in a category 1 quantity, through or across the
 611 boundary of the State, before the transport, or delivery to a carrier for transport of the
 612 licensed material outside the confines of the licensee's facility or other place of use or
 613 storage.
- 614 A. Procedures for submitting advance notification.
- 615 1. The notification **must be made to the Department and** to the office of each
 616 appropriate governor or governor's designee. **The contact information,**
 617 **including telephone and mailing addresses, of governors and governors'**
 618 **designees,** is available on the NRC's Web site at
 619 <https://scp.nrc.gov/special/designee.pdf>. A list of the contact information is also
 620 available upon request from the Director, Division of ~~Material Safety, State,~~
 621 ~~Tribal, and Rulemaking~~ **Materials Safety, Security, State, and Tribal** Programs,
 622 Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory
 623 Commission, Washington, DC 20555-0001. The notification to the Department
 624 must be made **by email** to the address specified in 22.4.
- 625 2. A notification delivered by mail must be postmarked at least 7 days before
 626 transport of the shipment commences at the shipping facility.
- 627 3. A notification delivered by any means other than mail must reach **the** Department
 628 at least 4 days before the transport of the shipment commences and must reach
 629 the office of the governor or the governor's designee at least 4 days before
 630 transport of a shipment within or through the State.
- 631 B. Information to be furnished in advance notification of shipment. Each advance notification
 632 of shipment of category 1 quantities of radioactive material must contain the following
 633 information, if available at the time of notification:
- 634 1. The name, address, and telephone number of the shipper, carrier, and receiver
 635 of the category 1 radioactive material;
- 636 2. The license numbers of the shipper and receiver;
- 637 3. A description of the radioactive material contained in the shipment, including the
 638 radionuclides and quantity;

Commented [JSJ39]:

Consistent with the Agreement State note regarding NRC [RATS 2018-3](#), licensees must provide the notification to the Department and not NRC.

The updated RATS 2018-3 note negates direction in NRC correspondence to CO dated [March 8, 2018](#) regarding NRC [RATS 2015-5](#).

The amended language also incorporates clarifying information for electronic and paper submissions to the department.

NRC Compatibility B.

*CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division*

- 639 4. The point of origin of the shipment and the estimated time and date that shipment
640 will commence;
- 641 5. The estimated time and date that the shipment is expected to enter each State
642 along the route;
- 643 6. The estimated time and date of arrival of the shipment at the destination; and
- 644 7. A point of contact, with a telephone number, for current shipment information.
- 645 C. Revision notice.
- 646 1. The licensee shall provide any information not previously available at the time of
647 the initial notification, as soon as the information becomes available but not later
648 than commencement of the shipment, to the governor of the State or the
649 governor's designee, and to the Department.
- 650 2. A licensee shall promptly notify the governor of the State or the governor's
651 designee of any changes to the information provided in accordance with
652 22.27.1.B and 22.27.1.C.1 of this section. The licensee shall also immediately
653 notify the Department of any such changes.
- 654 D. Cancellation notice. Each licensee who cancels a shipment for which advance notification
655 has been sent shall send a cancellation notice to the governor of each State or to the
656 governor's designee previously notified and to the Department. The licensee shall send
657 the cancellation notice before the shipment would have commenced or as soon thereafter
658 as possible. The licensee shall state in the notice that it is a cancellation and identify the
659 advance notification that is being cancelled.
- 660 E. Records. The licensee shall retain a copy of the advance notification and any revision
661 and cancellation notices as a record for 3 years.
- 662 F. Protection of information. State officials, State employees, and other individuals, whether
663 or not licensees of NRC or an Agreement State, who receive schedule information of the
664 kind specified in 22.27.1.B shall protect that information against unauthorized disclosure
665 as specified in 22.16.4.

* * *

666
667 **RecordsSection E - Records**

668 **22.30 Form of Records.**

- 669 22.30.1 Each record required by this Part must be legible throughout the retention period
670 specified by each Department regulation. The record may be the original or a reproduced copy or
671 a microform, provided that the copy or microform is authenticated by authorized personnel and
672 that the microform is capable of producing a clear copy throughout the required retention period.
673 The record may also be stored in electronic media with the capability for producing legible,
674 accurate, and complete records during the required retention period. Records such as letters,
675 drawings, and specifications, must include all pertinent information such as stamps, initials, and
676 signatures. The licensee shall maintain adequate safeguards against tampering with and loss of
677 records.

678 **22.31 Record Retention.**

- 679 22.31.1 Licensees shall maintain the records that are required by the regulations in this Part for
680 the period specified by the appropriate regulation. If a retention period is not otherwise specified,

CODE OF COLORADO REGULATIONS 6 CCR 1007-1 Part 22
Hazardous Materials and Waste Management Division

681 these records must be retained until the Department terminates the facility's license. All records
682 related to this Part may be destroyed upon Department termination of the facility license.

683 ~~Enforcement~~ **Section F - Enforcement**

684 **22.32 Inspections.**

685 * * *

686 [NO FURTHER CHANGES TO RULE AFTER THIS POINT]

687