

Differences Between IC Orders and New 420-3-26-.15 Security Rules

<p>420-3-26-.15(7) 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>420-3-26-.15(8) 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>420-3-26-.15(8) 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>420-3-26-.15(8) 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>420-3-26-.15(8) 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>420-3-26-.15(9) 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>420-3-26-.15(9) 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>420-3-26-.15(9) 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>420-3-26-.15(9) Background Investigations. (b) Grandfathering.</p>	<p>Difference: The rule grandfathers additional individuals as the rule applies to a broader category of licensees.</p>
<p>420-3-26-.15(11) 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.</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>

<p>420-3-26-.15(15) General Security Program Requirements. (a) Security plan.</p>	<p>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.</p>
<p>420-3-26-.15(15) General Security Program Requirements. (d) Protection of information.</p>	<p>Difference: The rule does not provide the specificity contained in the orders.</p>
<p>420-3-26-.15(16) LLEA Coordination.</p>	<p>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.</p>
<p>420-3-26-.15(17) Security Zones.</p>	<p>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.</p>
<p>420-3-26-.15(17) 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.</p>	<p>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.</p>
<p>420-3-26-.15(18) Monitoring, Detection, and Assessment. (a) Monitoring and detection.</p>	<p>Difference: The rule provides additional detail on what is acceptable for the monitoring and detection system.</p>
<p>420-3-26-.15(20) Requirements for Mobile Devices.</p>	<p>Difference: Rule allows for relief from the disabling mechanism in cases where the health and safety requirements prevent disabling the vehicle.</p>
<p>420-3-26-.15(23) Additional Requirements for Transfer of Category 1 and Category 2 Quantities of Radioactive Material.</p>	<p>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.</p>
<p>420-3-26-.15(25) Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material.</p>	<p>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.</p>
<p>420-3-26-.15(25) Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material. (b) Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.</p>	<p>Difference: 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.</p>

420-3-26-.15(26) Advance Notification of Shipment of Category 1 Quantities of Radioactive Material.	Difference: No substantive difference between the rule and the orders. Note that for Agreement State licensees, the notifications will be provided to the State and not the NRC, the State will need to provide the information to the NRC.
420-3-26-.15(27) Requirements for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Shipment. (a) Shipments by road.	Differences: The rule does not require training of the individuals instead requiring the individuals to have 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.
420-3-26-.15(27) 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.
420-3-26-.15(27) 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.
420-3-26-.15(30) Record Retention.	Difference: The rule does not require records to be maintained after the license is terminated.
Appendix A to Chapter 420-3-26-.15- 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 Chapter 420-3-26-.15 Security Rules

<p>420-3-26-.15(8) Access Authorization Program Requirements.</p> <p>(a) Granting unescorted access authorization.</p> <ol style="list-style-type: none"> 1. Licensees shall implement the requirements of this rule for granting initial or reinstated unescorted access authorization. 2. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by 420-3-26-.15(15)(c) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material. <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>̄</p> <p>(f) Procedures. Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must 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>

420-3-26-.15(9) Background Investigations.

(a) Initial investigation.

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.

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(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 420-3-26-.15(10). The reinvestigations must be completed within 10 years of the date on which these elements were last completed.

420-3-26-.15(13) 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 rule 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.

420-3-26-.15(15) General Security Program Requirements.

(b) Implementing procedures.

1. The licensee shall develop and maintain written procedures that document how the requirements of this rule 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.

420-3-26-.15(19) Maintenance and Testing.

(a) Each licensee subject to this rule 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 and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this rule must be 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.

420-3-26-.15(21) 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 rule 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, not to exceed 12 months, 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.

420-3-26-.15(22) Reporting of Events.

- (b) 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.

420-3-26-.15(25) 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 420-3-26-.15(25)(b), shall promptly notify the receiving licensee of the new no-later-than arrival time.

420-3-26-.15(26) 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 governor of each state or to the governor's designee previously notified and to the Agency. 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.

420-3-26-.15(28) Reporting of 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 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 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 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 as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material.
- (g) The initial telephonic notification required by 420-3-26-.15(28)(a) through (d) must be followed within a period of 30 days by a written report submitted to the Agency. A written report is not required for notifications on suspicious activities required by 420-3-26-.15(28)(c) and (d). 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.

420-3-26-.15(29) Form of Records.

Each record required by this rule must be legible throughout the retention period specified by each Agency rule. 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 Security Orders

For Alabama IC licensees, the orders will be rescinded once Rule 420-3-26-.15 becomes effective, which is scheduled for December 5, 2015. At that time, Orders issued by the NRC and the Office of Radiation Control will be officially rescinded, applicable license provisions will be removed through an administrative amendment, and those licensees will then operate under the new Alabama security regulations.