



Texas Department of State Health Services Radiation Safety Licensing Branch

New Title 25 Texas Administrative Code §289.252(ii) Checklists

The Texas Department of State Health Services will implement the new rules for enhanced physical security of radioactive materials effective **March 1, 2016**. The new rules will take the place of the Increased Controls in Title 25 Texas Administrative Code (TAC) §289.252(ii) and the fingerprinting order (U. S. Nuclear Regulatory Commission's Order EA-07-305) imposed by license condition. The agency is providing the following checklists to assist you in preparing for the changes but it is important that you carefully read the new rule text, available on the agency website at <http://www.dshs.state.tx.us/radiation/ram/laws-rules.aspx>.

Your Unescorted Access Authorization Program

1. Designation of "Reviewing Official" and requirement for that individual to complete a background investigation and fingerprinting. §289.252(ii)(3)(B)

The previous orders required a written designation of a "Trustworthiness & Reliability 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 permitted to have unescorted access. The Reviewing Official must be recertified as T&R every 10 years.

2. Each licensee must establish written procedures for implementing the access authorization program. §289.252(ii)(3)(F)

Document the processes to be followed to ensure you meet all the requirements, including how to:

- Require signed consent from individuals undergoing a background investigation §289.252(ii)(3)(C)
- Conduct a background investigation covering at least the previous 7 years §289.252(ii)(4)(A)
- Develop and document the basis for concluding whether or not there is reasonable assurance for certifying an individual as trustworthy & reliable §289.252(ii)(3)(E)(iii)
- Maintain a list of individuals granted access (updated within 7 days) §289.252(ii)(3)(E)(v)
- Notify individuals denied access and the grounds for denial and, at his or her request, provide a review of the denial §289.252(ii)(3)(F)
- Train individuals prior to granting unescorted access §289.252(ii)(3)(A)(ii)
- Maintain a system of files and written procedures for the protection of personal information §289.252(ii)(7)
- Maintain records generated as part of background checks §289.252(ii)(3)(H)
- Perform a review of the access authorization program at least every 12 months §289.252(ii)(8)
- Perform reinvestigations at 10-year intervals §289.252(ii)(4)(C)

3. Scheduling background checks & fingerprinting for current employees who have previously been granted unescorted access. §289.252(ii)(4)(B & C)

The previous orders did not specify a time frame for reinvestigations. In the new rules, fingerprinting and criminal history records check 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 implementation date of March 19, 2016. Reinvestigations must 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 must have a reinvestigation done in February 2019.

Implementing Your Security Plan and Maintenance and Testing of System Components

1. **Each licensee shall develop a written security plan specific to its facilities and operations. §289.252(ii)(10)(A)**

Your procedures for establishing and implementing the security program **MUST** be in writing and 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. Access to the plan shall be limited to those with a “need to know”. Document the basis for concluding that an individual is granted access to the security plan and maintain a list of those approved for access. Training on security plan procedures is required for those individuals who have responsibility for implementing the plan. Initial and refresher training records shall be retained for three years after the dates of training.

2. **Each licensee ...shall implement a maintenance and testing program to ensure that [security system components] are maintained in operable condition... §289.252(ii)(14)**

Your program shall ensure that intrusion alarms, communication systems, video cameras, locking devices, and any other associated physical components of your security system are maintained in operable condition **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 retained for three years after the record was made.

3. **Each licensee shall be responsible for the continuing effectiveness of the security program. §289.252(ii)(16)**

You shall ensure that the security program is reviewed to confirm compliance with the requirements set out in rule & that comprehensive actions are taken to correct any noncompliance that is identified. The review shall include the radioactive material security program content & implementation. Like with most other requirements, you must document your annual reviews, any corrective actions and outcomes, and retain the records for three years after the record was made.

4. **Security Zones §289.252(ii)(12)**

You must establish security zones and ensure that affected radioactive materials are used and stored only within those zones. Security zones may be permanent or temporary and must permit access only to approved individuals by use of continuous physical barriers, direct control by approved individuals or a combination of those. Individuals not approved for unescorted access must be escorted by an approved individual while in a security zone. For category 2 quantities, you must perform a weekly verification through physical checks, tamper indicating devices, use or other means to ensure that radioactive material stored within a security zone is present.

5. **LLEA Coordination §289.252(ii)(11)**

Coordination with LLEA is required at least every 12 months or when there are changes to your facility design or operation. If LLEA does not respond to your request for coordination within 60 days or if LLEA notifies you that they do not plan to participate in coordination activities, you must notify the agency within 3 business days. Records of coordination efforts shall be retained for 3 years.

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. §289.252(ii)(18)

Licensees nationwide are responsible to ensure that materials they are transferring are received only by those individuals who are licensed to receive them. Prior to transferring affected radioactive material, you must verify, either with the NRC's license verification system or the license issuing authority, that the transferee is authorized to receive the radioactive material at the intended delivery location. Retain documentation of the verification for three years after the record is made.

2. The shipping licensee shall be responsible for the physical protection of affected radioactive material while in transit. §289.252(ii)(19)

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 affected radioactive materials and provide notification of shipment departure, arrival, and/or any problems that arise during transit. §289.252(ii)(20)

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 after the record was made.

4. Shipments of Category 1 quantities of affected radioactive materials require advance notification to various state and/or federal entities. §289.252(ii)(21)

The shipping licensee is required to provide advance notice to the NRC and to the office of each applicable governor or governor's designee for 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 retained for three years after the record is made.

New 25 TAC §289.252(ii) Checklists

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 1 or category 2 quantities of radioactive material. §289.252(ii)(3)(A)(ii)**

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. §289.252(ii)(10)(C)**

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:

- Your 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 agency 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. §289.252(ii)(10)(C)(iii).**

The training must include:

- A review of the training requirements and any changes made to the security program since the last training
- Reports on any security issues, problems and lessons learned
- Results of inspections by the agency
- Results of your program review and testing and maintenance

- 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. §289.252(ii)(10)(C)(iv)**

Like most other rules, all training records must be kept for three years after the date of training.

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

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