

641—37.29(136C) 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(1) Fingerprinting, identification, and criminal history records checks required by Section 149 of the Atomic Energy Act of 1954, as amended through July 16, 2014, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:

- a.* An employee of the Nuclear Regulatory Commission or of the executive branch of the U.S. government who has undergone fingerprinting for a prior U.S. government criminal history records check;
- b.* A member of Congress;
- c.* An employee of a member of Congress or congressional committee who has undergone fingerprinting for a prior U.S. government criminal history records check;
- d.* The governor of a state or the governor's designated state employee representative;
- e.* Federal, state, or local law enforcement personnel;
- f.* State radiation control program directors and state homeland security advisors or their designated state employee representatives;
- g.* Agreement state employees conducting security inspections on behalf of the NRC under an agreement executed under Section 274.i. of the Atomic Energy Act;
- h.* Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;
- i.* Emergency response personnel who are responding to an emergency;
- j.* Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;
- k.* Package handlers at transportation facilities such as freight terminals and railroad yards;
- l.* Any individual who has an active federal security clearance, provided that the individual makes available the appropriate documentation. Written confirmation from the agency/employer that granted the federal security clearance or reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and
- m.* Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider must be provided to the licensee. The licensee shall retain the documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

37.29(2) Fingerprinting, and the identification and criminal history records checks required by Section 149 of the Atomic Energy Act of 1954, as amended through July 16, 2014, are not required for an individual who has had a favorably adjudicated U.S. government criminal history records check within the last five years, under a comparable U.S. government program involving fingerprinting and an FBI identification and criminal history records check provided that the individual makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:

- a.* National Agency Check;
- b.* Transportation Worker Identification Credentials (TWIC) under 49 CFR Part 1572;
- c.* Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR Part 555;
- d.* Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR Part 73;

e. Hazardous material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR Part 1572; and

f. Customs and Border Protection's Free and Secure Trade (FAST) Program.
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