



STATE OF NEW YORK
DEPARTMENT OF HEALTH

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January 8, 2008

Tomas Herrera
US Nuclear Regulatory Commission
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs
Washington, D.C. 20555

Re: Implementation of Fingerprinting Requirements on Increased
Controls Licensees (RCPD-07-009)

Dear Mr. Herrera:

This is in response to a November 20, 2007 NRC letter (RCPD-07-009) requesting information on the New York State radiation control program's legal authority to implement fingerprinting and background check requirements on certain of our radioactive material licensees. As I discussed in telephone conversations with you and Mr. Palotay, this issue is currently under review by the Department's Division of Legal Affairs (DLA). DLA has identified a number of substantial legal issues that must be considered in assessing whether the Department is authorized and/or can be directed by NRC to implement these requirements and will need to take into account, among other things, the numerous New York State statutes relating to the taking of fingerprints and the performance of criminal background checks for civil purposes (list attached).

After DLA has completed its review of these issues, a response will be provided to NRC. In the interim, we will provide a copy of the NRC Orders to our Increased Controls (IC) licensees for informational purposes.

Should you have any questions, please contact me at: 518-402-7550.

Sincerely,

Stephen M. Gavitt, CHP
Director
Bureau of Environmental Radiation Protection

Enclosure

Cc: Seth Abrams, DOH DLA
G. Anders Carlson, Ph.D., DOH DEHI
Adela Salame-Alfie, Ph.D., DOH DEHI
Gene Miskin, NYC DOHMH

New York State Statutes Relating to Fingerprinting for Civil Purposes

<p>Agriculture and Markets Law §11</p> <p>Alcoholic Beverage Control Law §64-b (9 NYCRR §49.5)</p> <p>Arts and Cultural Affairs Law §61.11</p> <p>Banking Law §22</p> <p>Banking Law §369</p> <p>Banking Law §§591</p> <p>Banking Law 591-a</p> <p>Banking Law §595</p> <p>Banking Law §4002</p> <p>Banking Law §9001-a</p> <p>Civil Service Law §50</p> <p>Education Law §216-c</p> <p>Education Law §305(30)(a)</p> <p>Education Law §2590-h</p> <p>Education Law §2852(4)</p> <p>Education Law §3004-b</p> <p>Environmental Conservation Law §27-0913</p> <p>Executive Law §435</p> <p>Executive Law §837(8-a)</p> <p>Executive Law §837-m</p> <p>Executive Law §837-p (2) and (3)</p> <p>Executive Law 845-b</p> <p>General Business Law §72(1)</p> <p>General Business Law § 81</p> <p>General Business Law §89-h</p> <p>General Business Law §89-i</p> <p>General Business Law §174</p> <p>General Business Law §251-b</p> <p>General Business Law §359-e</p> <p>General Municipal Law §189-a</p>	<p>Insurance Law, §1102</p> <p>Insurance Law §2108</p> <p>Insurance Law §6802</p> <p>Insurance Law §7802</p> <p>Insurance Law §7803</p> <p>Labor Law §201-a</p> <p>Labor Law §212-a(2)(b)</p> <p>Labor Law §458(4)</p> <p>Penal Law § 400.00</p> <p>Public Authorities Law §1728(4)</p> <p>Public Health Law Article 28E</p> <p>Racing, Pari-Mutual Wagering and Breeding Law §213</p> <p>Racing, Pari-Mutual Wagering and Breeding Law §309</p> <p>Racing, Pari-Mutual Wagering and Breeding Law §409</p> <p>Social Services Law §378-a</p> <p>Social Services Law §390-e</p> <p>Tax Law §1605(e)</p> <p>Unconsolidated Laws §8911</p> <p>Unconsolidated Law §9906</p> <p>Vehicle and Traffic Law §501(6)</p> <p>Vehicle and Traffic Law §509</p> <p>Vehicle and Traffic Law §509-d</p> <p>Vehicle and Traffic Law §509-cc</p> <p>Vehicle and Traffic Law §1229-d</p>
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