



STATE OF NEW YORK DEPARTMENT OF HEALTH

Flanigan Square 547 River Street Troy, New York 12180-2216

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

February 26, 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: Fingerprinting Requirements on Increased
Controls Licensees

Dear Mr. Herrera:

This is to inform you that the department has completed a review of its authority to implement the NRC fingerprinting and criminal background check requirements as outlined in RCPD07-009. We have determined that the department has the authority under the Public Health Law, the Labor Law, and the New York State Sanitary Code to implement these requirements through regulations. Therefore the NYS Department of Health has initiated emergency rulemaking to implement the NRC fingerprinting and criminal background check requirements on IC licensees. The NYC Department of Health and Mental Hygiene will similarly seek to promulgate rule(s) to implement the NRC fingerprinting and criminal background check requirements on its IC licensees.

Also, at a recent meeting among the New York State Department of Health, the New York City Department of Health and Mental Hygiene, the Governor's Office, the Office of Homeland Security, the Division of Criminal Justice Services, and the New York State Energy Research and Development Authority we discussed our uncertainty with the requirements of the existing NRC fingerprinting plan. As you know, the NRC fingerprinting plan does not identify any disqualifying criteria, other than guidance (see Enclosure 3 to the Order), for licensees to determine which individuals may have unescorted access to radioactive material. The department believes that this is a key element for the licensee to make the requisite decisions. Please provide any additional information on NRC plans to address this issue.

Further, we request that NRC conduct another workshop on fingerprinting and criminal background checks for NY licensees.

If you have any questions or need additional information, please contact Stephen Gavitt at: 518-402-7550, or Gene Miskin at: 212-676-1552.

Sincerely,



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



Gene Miskin, Director
Bureau of Radiological Health
NYC DOHMH

Cc: Michael Balboni, Deputy Secretary for Public Safety
Paul Tonko, President, NYSERDA
Nancy Kim, DOH CEH
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