

From: <IBusenitz@kdhe.state.ks.us>
To: <mlo1@nrc.gov>, <rxl1@nrc.gov>
Date: 3/14/2008 4:44:06 PM
Subject: Rats ID 2007-4 for review from Kansas

Monica,

Here is the packet for 2007-4. I will not be sending a hardcopy unless requested. If you have any questions, please give me a call. Thanks.

(See attached file: NRC Fingerprinting packet final.pdf)

Isabelle Busenitz, M.S.
Regulatory Affairs and Outreach Coordinator
Bureau of Air and Radiation
Kansas Department of Health and Environment
1000 SW Jackson, Suite 310
Topeka, KS 66612-1366
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CC: <TConley@kdhe.state.ks.us>

Mail Envelope Properties (47DAE37E.886 : 10 : 10374)

Subject: Rats ID 2007-4 for review from Kansas
Creation Date 3/14/2008 4:43:10 PM
From: <IBusenitz@kdhe.state.ks.us>
Created By: IBusenitz@kdhe.state.ks.us

Recipients

nrc.gov
 TWGWPO03.HQGWDO01
 MLO1 (Monica Orendi)

nrc.gov
 TWGWPO01.HQGWDO01
 RXL1 (Robert Lewis)

kdhe.state.ks.us
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Files	Size	Date & Time
MESSAGE	473	3/14/2008 4:43:10 PM
NRC Fingerprinting packet final.pdf		849749
Mime.822	1164765	

Options

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Priority: Standard
ReplyRequested: No
Return Notification: None

Concealed Subject: No
Security: Standard

Junk Mail Handling Evaluation Results

Message is eligible for Junk Mail handling
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Junk Mail settings when this message was delivered

Junk Mail handling disabled by User

Junk Mail handling disabled by Administrator
Junk List is not enabled
Junk Mail using personal address books is not enabled
Block List is not enabled



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Division of Environment

February 27, 2008

Rob Lewis, Director
Division Materials Safety and State Agreements
Office of Federal and State Materials and
Environmental Management Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Director Lewis:

Attached is a copy of the letter to licensees and license condition to implement the fingerprinting requirements for Kansas Radiation Control Program.

Rats ID	Title
2007-4	Order Imposing Fingerprinting Requirements for Unescorted Access to Certain Radioactive Material (Order EA-07-305)

We believe that the attached letter and license condition satisfy the compatibility and health and safety categories established in the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-200.

If you have any questions, please feel free to contact Isabelle Busenitz of my staff at 785-296-8286 or e-mail at ibusenitz@kdhe.state.ks.us or contact me at 785-296-1565 or e-mail at tconley@kdhe.state.ks.us.

Sincerely,

Thomas A. Conley, RRPT, CHP
Section Chief, Radiation and Asbestos Control
Kansas Department of Health and Environment

Attachments: State of Kansas Letter regarding fingerprinting
Kansas License condition



*Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary*

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Division of Environment

Date

Licensee Name
Company
Street Address
City, State Zip

Dear Licensee:

You have previously received a letter dated September 30, 2005 from the Kansas Department of Health and Environment, Bureau of Air and Radiation, Radiation Control Program requiring that you implement increased controls(IC) with respect to the possession of radioactive material quantities of concern. As part of the IC requirements, you were required to determine that each person who requires access to radioactive material quantities of concern to perform their job duties is sufficiently trustworthy and reliable. The letter included direction and guidance on the specific factors which must be considered when making that determination.

New requirements regarding fingerprinting have been added to the increased controls requirements by the Nuclear Regulatory Commission (NRC). As an Agreement State, Kansas is required to maintain regulatory requirements that are compatible with the NRC. These new requirements for fingerprinting must be implemented in the time frame designated by the NRC with essentially identical content to the order being issued by the NRC for its licensees.

Section 652 of the Energy Policy Act of 2005 (EPAct), enacted on August 8, 2005, amended the fingerprinting requirements of the Atomic Energy Act (AEA). Specifically, the EPAct amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation(FBI) identification and criminal history records check for any individual who is permitted unescorted access to radioactive materials or other property subject to regulation by Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks.

These changes do not remove the need to comply with the original requirements in the letter dated September 30, 2005. The changes described in this letter and the associated attachments make modifications to the "Table 1: Radionuclides of Concerns" of the original IC letter to reflect recent NRC policies and regulations. In accordance with K.A.R. 28-35-183a "Conditions imposed upon any specific license" your license has been amended to require you to comply with the fingerprinting requirements detailed in attachment 1. The table of radionuclides of concern (Table 1), is provided as attachment 2. Your newly amended license is provided as attachment 3.

Within sixty days of the date of this letter, you are required to take the following actions:

Provide justification in writing for seeking relief from or variation of any specific requirement in attachment 1, for any of the following that apply to you:

- a. You are unable to comply with any of the requirements in attachment 1;
- b. Compliance with any of the requirements is unnecessary because of your specific circumstances; or
- c. Implementation of any of the requirements would cause you to be in violation of the provisions of any regulation or your license.

Responses shall be submitted to the Kansas Department of Health and Environment, Radiation Control Program, 1000 SW Jackson, Suite 310, Topeka, KS 66612-1366. In addition, your response shall be marked "Confidential NRC Material; Not Available for Public Disclosure Under the Open Records Act Pursuant to K.S.A. 45-221(a)(45)."

If you are of the opinion that the requirements of this letter or license amendment are unlawful or unreasonable, you may request a hearing in accordance with the Kansas Administrative Procedures Act. State specifically in what way this letter or license amendment are unlawful or unreasonable and send a Notice of Request for Hearing to Tracy Diel, Director, Office of Administrative Hearings, 1020 S. Kansas Avenue, Topeka, KS 66612, phone (785) 296-2433. Said Notice of Request for hearing must be made within 25 days after service of this letter and license amendment. *Failure to submit a timely request will result in a waiver of the licensee's right to a hearing.*

Whether or not you request a hearing, you may request a conference to discuss the requirements of this letter and license amendment. To request a conference, contact Mr. Thomas Conley, Radiation and Asbestos Control Section, Bureau of Air and Radiation, Kansas Department of Health and Environment, 1000 SW Jackson, Suite 310, Topeka, KS 66612-1366, telephone (785) 296-1560.

A request for conference does *not* extend the time to submit a Notice of Request for Hearing. Whether or not a conference is pursued, to preserve the right to a hearing, a written Notice of Request for Hearing must be filed within 25 days from the date you receive this letter and license amendment.

Sincerely,

Thomas A. Conley, CHP
Chief, Radiation and Asbestos Control Section
tconley@kdhe.state.ks.us

Attachments

Fingerprinting Requirements
Table 1: Radionuclides of Concern
License amendment

Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks

The new fingerprinting requirements supplement previous requirements issued by the Increased Controls Order (EA-05-090).

Licensees currently have a program to grant unescorted access to individuals. As required by condition A.1 of the Order, Licensees shall modify its current trustworthiness and reliability program to include the following:

1. Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted unescorted access to risk significant radioactive materials equal to or greater than the quantities listed in attachment 2. The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) identification and criminal history records check and ensure that the provisions contained in the subject Order and this attachment are satisfied.
2. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the "Right to Correct and Complete Information" section of this attachment.
3. Fingerprints for unescorted access need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR § 73.61, or any person who has been favorably-decided by a U.S. Government program involving fingerprinting and an FBI identification and criminal history records check (e.g. National Agency Check, Transportation Worker Identification Credentials in accordance with 49 CFR Part 1572, Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR Part 555, Health and Human Services security risk assessments for possession and use of select agents and toxins in accordance with 42 CFR Part 73, Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license in accordance with 49 CFR Part 1572, Customs and Border Patrol's Free and Secure Trade Program¹) within the last five (5) calendar years, or any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation²).
Written confirmation from the Agency/employer which granted the federal

¹ The FAST program is a cooperative effort between the Bureau of Customs and Border Patrol and the governments of Canada and Mexico to coordinate processes for the clearance of commercial shipments at the U.S. - Canada and U.S. - Mexico borders. Participants in the FAST program, which requires successful completion of a background records check, may receive expedited entrance privileges at the northern and southern borders.

² This documentation must allow the T&R Official to verify that the individual has fulfilled the unescorted access requirements of Section 149 of the AEA by submitting to fingerprinting and an FBI identification and criminal history records check.

security clearance or reviewed the FBI criminal history records results based upon a fingerprint identification check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires unescorted access to certain radioactive material associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI. Additionally, the Licensee shall submit a certification of the trustworthiness and reliability of the T&R Official as determined in accordance with paragraph B.2 of this Order.
5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements of the IC Order (EA-05-090), in making a determination whether to grant unescorted access to certain radioactive materials.
6. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access to risk significant radioactive materials equal to or greater than the quantities listed in attachment 2.
7. The Licensee shall document the basis for its determination whether to grant, or continue to allow unescorted access to risk significant radioactive materials equal to or greater than the quantities listed in attachment 2.

Prohibitions

A Licensee shall not base a final determination to deny an individual unescorted access to certain radioactive material solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

Right to Correct and Complete Information

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification.

If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history

record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537-9700 (as set forth in 28 CFR Part 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an Official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI identification and criminal history records check after the record is made available for his/her review. The Licensee may make a final unescorted access to certain radioactive material determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on unescorted access to certain radioactive material, the Licensee shall provide the individual its documented basis for denial. Unescorted access to certain radioactive material shall not be granted to an individual during the review process.

Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.
2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining unescorted access to certain radioactive material. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.
3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.
4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.
5. The Licensee shall retain all fingerprint and criminal history records from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or determination of unescorted access to certain radioactive material (whether unescorted access was approved or denied). After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall:

1. Submit one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ) for each individual seeking access to unescorted access to certain radioactive material.
2. Submit to the NRC's Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program, Mail Stop T-6E46, Rockville, MD 20852. Overnight mail is preferred.
3. **Include the name and address of the individual (T&R Official) to whom the criminal history records should be returned.**
4. Fingerprints for unescorted access need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR § 73.61, or any person who has been favorably-decided by a U.S. Government program involving fingerprinting and an FBI identification and criminal history records check (e.g. National Agency Check, Transportation Worker Identification Credentials in accordance with 49 CFR Part 1572, Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR Part 555, Health and Human Services security risk assessments for possession and use of select agents and toxins in accordance with 42 CFR Part 73, Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license in accordance with 49 CFR Part 1572, Customs and Border Patrol's Free and Secure Trade Program¹) within the last five (5) calendar years, or any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation²). Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the FBI criminal history records results based upon a fingerprint identification check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires unescorted access to certain radioactive material associated with the Licensee's activities.

Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 415-5877, or by e-mail to forms@nrc.gov. The Licensee shall establish procedures to

¹ The FAST program is a cooperative effort between the Bureau of Customs and Border Patrol and the governments of Canada and Mexico to coordinate processes for the clearance of commercial shipments at the U.S. - Canada and U.S. - Mexico borders. Participants in the FAST program, which requires successful completion of a background records check, may receive expedited entrance privileges at the northern and southern borders.

² This documentation must allow the T&R Official to verify that the individual has fulfilled the unescorted access requirements of Section 149 of the AEA by submitting to fingerprinting and an FBI identification and criminal history records check.

ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

Licensees must have their fingerprints taken by local law enforcement (or a private entity authorized to take fingerprints) because an authorized official must certify the identity of the person being fingerprinted.

The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application (Note: other fees may apply to obtain fingerprints from your local law enforcement agency). Licensees shall submit payments electronically via <http://www.pay.gov>. Payments through Pay.gov can be made directly from the Licensee's credit/debit card. Licensees will need to establish a password and user ID before they can access Pay.gov. To establish an account, Licensee requests must be sent to paygo@nrc.gov. The request must include the Licensee's name, address, point of contact, e-mail address, and phone number. The NRC will forward each request to Pay.gov and someone from Pay.gov will contact the Licensee with all of the necessary account information.

Licensees shall make payments for processing before submitting applications to the NRC. Combined payment for multiple applications is acceptable. Licensees shall include the Pay.gov payment receipt(s) along with the application(s). For additional guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415-7404. The application fee (currently \$36) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submissions. The Commission will directly notify Licensees subject to this regulation of any fee changes.

It is necessary for a Licensee to resubmit fingerprints only under two conditions:

1. The FBI has determined that the fingerprints cannot be classified due to poor quality in the mechanics of taking the initial impressions; or,
2. The initial submission has been lost.

If the FBI advises the fingerprints are unclassifiable based on conditions other than poor quality, the Licensee must submit a request to NRC for alternatives. When those search results are received from the FBI, no further search is necessary. The Commission will receive and forward to the submitting Licensee all data from the FBI as a result of the Licensee's application(s) for criminal history records checks, including the FBI fingerprint record(s).

Guidance for Evaluating FBI Identification and Criminal History Records Checks for Allowing Unescorted Access to Certain Radioactive Material

Each Licensee is responsible for determining whether to grant an individual unescorted access to certain radioactive materials. The Licensee shall allow only trustworthy and reliable individuals, approved in writing by the Licensee, to have unescorted access to radioactive material quantities of concern (listed in Table 1 of the Increased Controls Order) and devices containing that radioactive material. The T&R determination, to grant an individual unescorted access to certain radioactive materials, is made by the Licensee's T&R Official, based on information gathered from all four elements of the background check and evaluated by the T&R Official. The minimum four background check elements are: 1) fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check, 2) verifying employment history, 3) verifying education, and 4) personal references. The purpose of this guidance is to address the fingerprinting component of the T&R determination.

Unescorted access determinations require an evaluation of a person's trustworthiness and reliability. When a person's life history shows evidence of unreliability or untrustworthiness, questions arise whether the person can be relied on and trusted to exercise the responsibility necessary for working with risk-significant radioactive materials. The purpose of the T&R determination requirement, for unescorted access, is to provide reasonable assurance that those individuals are trustworthy and reliable, and do not constitute an unreasonable risk to the public health and safety, including the potential to commit or aid theft and/or radiological sabotage. This is a Licensee's business decision as to what criteria it uses for the bases of the trustworthiness and reliability determination. Some indicators that Licensees should consider for what may be a trustworthiness and reliability concern can be found in Increased Control guidance in Q and A #22 at the following web address: <http://www.nrc.gov/reading-rm/doc-collections/enforcement/security/2005/ml053130233.pdf>.

In evaluating the relevance of an individual's conduct, the T&R Official should consider the following factors:

- (1) The nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;

(8) the potential for pressure, coercion, exploitation, or duress; and

(9) the likelihood of continuation or recurrence.

Each case must be judged on its own merits, and final determination remains the responsibility of the Licensee. In every case, the T&R Official should evaluate trustworthiness and reliability based on an accumulation of information which supports a positive finding, prior to granting unescorted access. Items to consider include:

1. The T&R Official should evaluate the information collected for consistency and adequacy.

2. True identity should be evaluated by comparing applicant provided identification and personal history data to pertinent information from the background check, and other data sources.

3. The T&R Official should determine whether inconsistencies determined through review or investigation, are intentional, innocent, or an oversight. Willful or intentional acts of omission or untruthfulness could be grounds for denial of unescorted access.

When a Licensee submits fingerprints to the NRC pursuant to an NRC Order, it will receive a FBI identification and criminal history record since the individual's eighteenth birthday. The Licensee will receive the information from the criminal history check of those individuals requiring unescorted access to radioactive materials, and the Licensee T&R Official should evaluate that information using the guidance below.

The Licensee's T&R Official is required to evaluate all available information in making a T&R determination for unescorted access to radioactive materials, including the criminal history records information pertaining to the individual as required by the NRC Order. The FBI identification and criminal history records check is used in the determination of whether the individual has a record of criminal activity that indicates that the individual should not have unescorted access to radioactive materials subject to this Order. Each determination of T&R for unescorted access to radioactive materials, which includes a review of criminal history information, must be documented to include the basis for the decision made.

Licensees shall not make a final determination made solely on the basis of criminal history checks information involving an arrest more than 1 year old for which there is not information on the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

All information collected is to be considered by the Licensee in making a trustworthiness or reliability determination for unescorted access. Potentially disqualifying information obtained from confidential/unnamed sources must be substantiated and documented, and should not be used as a sole basis to deny access authorization unless corroborated. Licensees should establish criteria that would disqualify someone from being granted authorized access. In every case, the Licensee should evaluate trustworthiness and reliability based on an accumulation of information which supports a positive finding. Items to evaluate and consider include:

The FBI identification and criminal history records check is used to evaluate whether the individual has a record of criminal activity that may compromise his or her trustworthiness and reliability. Identification of a criminal history through the FBI criminal history records check does not automatically indicate unreliability or lack of trustworthiness of the employee. The licensee will have to judge the nature of the criminal activity, length of employment, and recency of the criminal activity. The licensee can authorize individuals with criminal records for unescorted access to radioactive materials, based on a documented evaluation of the basis for determining that the employee was reliable and trustworthy notwithstanding his or her criminal history. Each evaluation conducted in review of criminal history and other background checks information, should be documented to include the decision making basis.

At a minimum, the Licensee should consider the following elements when evaluating the results of the FBI Identification and Criminal History Records check:

1. Committed, attempted to commit, aided, or abetted another who committed or attempted to commit any act of sabotage, espionage, treason, sedition, or terrorism.
2. Publicly or privately advocated actions that may be inimical to the interest of the United States, or publicly or privately advocated the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.
3. Knowingly established or continued a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist, or revolutionist, or with an espionage agent or other secret agent or representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means. (Ordinarily, the Licensee should not consider chance or casual meetings or contacts limited to normal business or Official relations.)
4. Joined or engaged in any activity knowingly in sympathy with or in support of any foreign or domestic organization, association, movement, group, or combination of persons which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or any State or any subdivisions thereof by unlawful means, or which advocate the use of force and violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means. (Ordinarily, the Licensee should not consider chance or casual meetings or contacts limited to normal business or official relations.)
5. Deliberately misrepresented, falsified or omitted relevant and material facts from documentation provided to the Licensee.
6. Has been convicted of a crime(s) which, in the T&R Official's opinion, indicate poor judgment, unreliability, or untrustworthiness.

These indicators are not meant to be all inclusive nor intended to be disqualifying factors. Licensees can also consider how recent such indicators occurred and other extenuating or mitigating factors in their determinations. Section 149.c.(2)(B) of the AEA requires that the information obtained as a result of fingerprinting be used solely for the purposes of making a determination as to unescorted access suitability. Unescorted access suitability is not a hiring decision, and the NRC does not intend for licensees to use this guidance as such. Because a particular individual may not be suitable for Unescorted Access does not necessarily mean that he is not suitable for escorted access or some other position that does not involve NRC-regulated activities.

Licensees shall notify the NRC's Headquarters Operations Office at 301-816-5100 within 24 hours if the results from a FBI identification and criminal history records check indicate that an individual is identified on the FBI's Terrorist Screening Data Base.

Table 1: Radionuclides of Concern

Radionuclide	Quantity of Concern ¹ (TBq)	Quantity of Concern ² (Ci)
Am-241	0.6	16
Am-241/Be	0.6	16
Cf-252	0.2	5.4
Cm-244	0.5	14
Co-60	0.3	8.1
Cs-137	1	27
Gd-153	10	270
Ir-192	0.8	22
Pm-147	400	11,000
Pu-238	0.6	16
Pu-239/Be	0.6	16
Ra-226 ⁵	0.4	11
Se-75	2	54
Sr-90 (Y-90)	10	270
Tm-170	200	5,400
Yb-169	3	81
Combinations of radioactive materials listed above ³	See Footnote Below ⁴	

¹ The aggregate activity of multiple, collocated sources of the same radionuclide should be included when the total activity equals or exceeds the quantity of concern.

² The primary values used for compliance with this Order are TBq. The curie (Ci) values are rounded to two significant figures for informational purposes only.

³ Radioactive materials are to be considered aggregated or collocated if breaching a common physical security barrier (e.g., a locked door at the entrance to a storage room) would allow access to the radioactive material or devices containing the radioactive material.

⁴ If several radionuclides are aggregated, the sum of the ratios of the activity of each source, i of radionuclide, n , $A_{(i,n)}$, to the quantity of concern for radionuclide n , $Q_{(n)}$, listed for that radionuclide equals or exceeds one. $[(\text{aggregated source activity for radionuclide A}) \div (\text{quantity of concern for radionuclide A})] + [(\text{aggregated source activity for radionuclide B}) \div (\text{quantity of concern for radionuclide B})] + \text{etc.} \dots \geq 1$

⁵ On August 31, 2005, the NRC issued a waiver, in accordance to Section 651(e) of the Energy Policy Act of 2005, for the continued use and/or regulatory authority of Naturally Occurring and Accelerator-Produced Material (NARM), which includes Ra-226. The NRC plans to terminate the waiver in phases, beginning November 30, 2007, and ending on August 7, 2009. The NRC has authority to regulate discrete sources of Ra-226, but has refrained from exercising that authority

until the date of an entity's waiver termination. For entities that possess Ra-226 in quantities of concern, this Order becomes effective upon waiver termination. For information on the schedule for an entity's waiver termination, please refer to the NARM Toolbox website at <http://nrc-stp.ornl.gov/narmtoolbox.html>.

Fingerprinting Standard License Condition

- A. The licensee shall comply with the requirements described in the Kansas Department of Health and Environment Letter dated (date of letter). The requirements listed in the letter shall be implemented in addition to the trustworthiness and reliability program of the Increased Controls requirements.
- B. By (insert date that is 90 days after the date of the license amendment), the licensee shall provide under oath or affirmation, a certification that the Trustworthiness and Reliability official is deemed Trustworthy and Reliable as required by the letter dated (date of letter).
- C. All fingerprints obtained by the licensee pursuant to this requirement must be submitted to the Nuclear Regulatory Commission (NRC) for transmission to the U.S. Federal Bureau of Investigation (FBI). Additionally, the licensee's submission of fingerprints shall also be accompanied by a certification, under oath and affirmation, of the trustworthiness and reliability of the Trustworthiness and Reliability Official as required by the letter dated (date of letter).
- D. The licensee shall complete implementation of the fingerprinting requirements by (180 days after the date of this letter). The licensee shall notify Kansas Department of Health and Environment when they have achieved full compliance with the requirements described in the NRC Order. The notification shall be made within 25 days after compliance has been achieved.
- E. The licensee shall notify (Kansas state agency responsible for handling reports of possible terrorist activity) within 24 hours if the results from a criminal history records check indicate that an individual is identified on the FBI's Terrorist Screening Data Base.

From: <IBusenitz@kdhe.state.ks.us>
To: <mlo1@nrc.gov>
Date: 3/17/2008 12:31:14 PM
Subject: Fingerprinting Questions- Kansas

Monica,

Tom passed your message on to me. I was scheduled to be out of the office this week, but found out that my training class had been cancelled. Regarding the fingerprinting issue and new licenses, we are going to handle those according to the method that we developed for the increased controls. When a license application indicates that the quantities will put them into the increased controls category, we will not issue a license prior to the conditions for increased controls and fingerprinting being implemented. If you have any further questions, I will be in the office all week.

Isabelle Busenitz, M.S.
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CC: <TConley@kdhe.state.ks.us>

Mail Envelope Properties (47DE9CC3.0E1 : 12 : 24801)

Subject: Fingerprinting Questions- Kansas
Creation Date 3/17/2008 12:27:10 PM
From: <IBusenitz@kdhe.state.ks.us>

Created By: IBusenitz@kdhe.state.ks.us

Recipients

nrc.gov
TWGWPO03.HQGWDO01
MLO1 (Monica Orendi)

kdhe.state.ks.us
TConley CC

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TWGWPO03.HQGWDO01

Route

nrc.gov
kdhe.state.ks.us

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MESSAGE	862	3/17/2008 12:27:10 PM
Mime.822	1915	

Options

Expiration Date: None
Priority: Standard
ReplyRequested: No
Return Notification: None

Concealed Subject: No
Security: Standard

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Junk Mail using personal address books is not enabled
Block List is not enabled