Jim Doyle
Governor

Kevin R. Hayden
Secretary

State of Wisconsin

Department of Health and Family Services

DIVISION OF PUBLIC HEALTH

1 WEST WILSON STREET
P O BOX 2659
MADISON WI 53701-2659

608-266-1251
FAX: 608-267-2832
TTY: 888-701-1253
dhfs.wisconsin.gov

April XX, 2008

[Licensee Name]
[Attn: Contact Individual]
[Licensee Address]
[City] , WI [Zip Code]

Dear [Contact Individual]:

You have previously received a letter and an applicable license condition from the Wisconsin Department of Health and Family Services Radiation Protection Section requiring that you implement increased controls (IC) with respect to the possession of radioactive material quantities of concern. As part of the Department letter, 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 Department letter included direction and guidance on the specific factors to be considered when making that determination.

The U.S. Nuclear Regulatory Commission (NRC) has determined that certain increased controls are required to be implemented to supplement existing regulatory requirements in 10 CFR 20.1801-1802 [similar to s. HFS 157.28(1)]. The additional controls are a matter of compatibility with NRC and must be implemented in a time frame desired by the NRC Commissioners and consistent with that being used by NRC for its licensees.

Therefore, in accordance with Wisconsin State Statute ss. 254.31-45 and Chapter HFS 157 "Radiation Protection", your license has been amended to require you to comply with and to expeditiously implement, in part, these additional requirements (Attachment 1) as enhancements to the existing trustworthiness and reliability requirements of the increased controls. Specifically, **your radioactive material license has been amended 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 the Department.

This amendment does not obviate the need for you to continue to meet the requirements of the increased controls, and to maintain the effectiveness of security measures taken in response to the events of September 11, 2001. In addition, the enclosed amendment modifies sections 1.b., 1.c., and "Table 1: Radionuclides of Concern" of the increased controls to reflect recent NRC policies and regulations.

The Licensee shall complete implementation of the program established in accordance with paragraph A.1 of Attachment 1 by **December XX, 2008.** Licensees must submit fingerprints and complete their review of the FBI criminal history records for all individuals currently authorized unescorted access under the IC amendment.

Licensees are required to submit fingerprints directly to the Nuclear Regulatory Commission (NRC) in accordance with this amendment. The current processing fee is $36.00 per submission and payment must be made electronically to the NRC through http://www.pay.gov. Details regarding fingerprint submittals and payment of fees are found in the enclosed Procedures for Processing Fingerprinting Checks. Also enclosed is the Guidance for evaluating FBI Identification and Criminal History Records Checks for Allowing Unescorted Access to Certain Radioactive Material to aid Licensees in their review of criminal history records.

You are required to do the following:

1) Within **twenty-five (25) days** after you have achieved full compliance with the requirements described in Attachment 3 you shall notify the department. If by **December XX, 2008**, the Licensee is unable, due to circumstances beyond its control, to complete implementation of these requirements, the Licensee shall submit a written request to the department explaining the need for an extension of time to implement the requirements. The request shall provide the Licensee's justification for seeking more time to comply with these requirements.

2) Within **sixty (60) days** of the date of this letter, you are required to notify this office if (1) you are unable to comply with any of the requirements described in Attachment 1, (2) if compliance with any of the requirements is unnecessary because of your specific circumstances, or (3) implementation of any of the requirements would cause you to be in violation of the provisions of any Rule requirement or your license. The notification shall provide your justification for seeking relief from or variation of any specific requirement.

3) Within **ninety (90) days** of the date of this letter, you are required to respond to this amendment and provide, under oath or affirmation, a certification that the Trustworthiness and Reliability (T&R) Official (an individual with the responsibility to determine the trustworthiness and reliability of another individual requiring unescorted access to radioactive materials quantities of concern) is deemed trustworthy and reliable by the Licensee.

Submit responses to paragraphs 1-3 above (not fingerprint cards) to the Wisconsin Department of Health and Family Services, Radioactive Materials Program, 1 West Wilson Street, P.O. Box 2659, Madison, WI 53701-2659. In addition, your response shall be marked as "Withhold From Public Disclosure Under s. 19.36 (1), WI Stats."

Licensee fingerprint cards are required to be submitted directly to the NRC in accordance with Attachment 3. Licensee fingerprint cards are required to be submitted to the Director, Division of Facilities and Security, and should be addressed to the attention of the Criminal History Program, Mail Stop T6E46. The following mailing address should be used:

Director, Division of Facilities and Security
U.S. NRC
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
ATTN: Criminal History Program, Mail Stop T-6E46

In addition, Licensee responses shall be marked as "Security-Related Information - Withhold Under 10 CFR 2.390."

As provided by s. HFS 157.13 (16) (d), you may request a hearing to contest this action. If you wish such a hearing to be convened, we must receive your request to that effect, in writing, within 10 days of receipt of this letter.

The Department may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

If you have any questions or wish to discuss implementation of the requirements, please contact Cheryl Rogers, Supervisor Radioactive Materials Program at (608) 266-8135 or email at rogerck@dhfs.state.wi.us or Leola Dekock, Nuclear Engineer Senior at (608) 266-7384 or email at dekoclm@dhfs.state.wi.us.

Sincerely,

Paul Schmidt, Chief
Radiation Protection Section

Attachments
1. Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material
2. Radionuclides of Concern
3. Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks

Enclosures:
Procedures for Processing Fingerprinting Checks
Guidance for evaluating FBI Identification and Criminal History Records Checks for Allowing Unescorted Access to Certain Radioactive Material

ATTACHMENT 1

FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS FOR UNESCORTED ACCESS TO CERTAIN RADIOACTIVE MATERIAL

A. 1. The Licensee shall, within **ninety (90) days** of the date of this letter, establish and maintain a fingerprinting program that meets the requirements of Attachment 3 of this letter for individuals that require unescorted access to certain radioactive materials.

2. Within **ninety (90)** days of the date of this letter, the Licensee shall provide under oath or affirmation, a certification that the Trustworthiness and Reliability (T&R) Official (an individual with the responsibility to determine the trustworthiness and reliability of another individual requiring unescorted access to the radioactive materials identified in Attachment 2) is deemed trustworthy and reliable by the Licensee as required in paragraph B.2.

3. Licensees shall notify the department (608-267-4797) and 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.

B. 1. Except as provided in paragraph E for individuals who are currently approved for unescorted access, the Licensee shall grant access to radioactive material in Attachment 2 in accordance with the requirements of IC.1. of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN and the requirements in this Attachment.

2. The T&R Official, if he/she does not require unescorted access, must be deemed trustworthy and reliable by the Licensee in accordance with the requirements of IC.1. of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN before making a determination regarding the trustworthiness and reliability of another individual. If the T&R Official requires unescorted access, the Licensee must consider the results of fingerprinting and the review of an FBI identification and criminal history records check as a component in approving a T&R Official.

C. Prior to requesting fingerprints from any individual, the Licensee shall provide a copy of this document to that person.

D. Upon receipt of the results of FBI identification and criminal history records checks, the Licensee shall control such information as specified in the "Protection of Information" section of Attachment 3 and in requirement IC.5 of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN.

E. The Licensee shall make determinations on continued unescorted access for persons currently granted unescorted access, by **December XX, 2008,** based upon the results of the fingerprinting and FBI identification and criminal history records check. The Licensee may allow any individual who currently has unescorted access to certain radioactive materials in accordance with the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN to continue to have unescorted access, pending a decision by the T&R Official. After **December XX, 2008** no individual may have unescorted access to radioactive materials without a determination by the T&R Official (based upon fingerprinting, an FBI identification and criminal history records check and a previous trustworthiness and reliability determination) that the individual may have unescorted access to such materials.

F. 1. The Licensee shall comply with; and to the extent the recipient is also the recipient of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN, paragraph IC 1.b is superseded by the following:

> *"For individuals employed by the licensee for three years or less, and for non-licensee personnel, such as physicians, physicists, house-keeping personnel, and security personnel under contract, trustworthiness and reliability shall be determined, at a minimum, by verifying employment history, education, personal references, and fingerprinting and the review of an FBI identification and criminal history records check. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the employee (i.e. seeking references not supplied by the individual). For individuals employed by the licensee for longer than three years, trustworthiness and reliability shall be determined, at a minimum, by a review of the employee's employment history with the licensee and fingerprinting and an FBI identification and criminal history records check."*

2. The Licensee shall comply with; and to the extent the recipient is also the recipient of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN, Paragraph IC 1.c is superseded by, the following:

> *"Service provider licensee employees shall be escorted unless determined to be trustworthy and reliable by an NRC-required background investigation. Written verification attesting to or certifying the person's trustworthiness and reliability shall be obtained from the licensee providing the service."*

3. For Licensees who have previously received the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN, "Table 1: Radionuclides of Concern" is superseded by Attachment 2 to include Ra-226. The previous INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN will, therefore, also apply to Ra-226 as noted in Attachment 2.

ATTACHMENT 2

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 are Tera Becquerels (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*, $\mathbf{A}_{(i,n)}$, to the quantity of concern for radionuclide *n*, $\mathbf{Q}_{(n)}$, listed for that radionuclide equals or exceeds one. [(aggregated source activity for radionuclide A) ÷ (quantity of concern for radionuclide A)] + [(aggregated source activity for radionuclide B) ÷ (quantity of concern for radionuclide B)] + etc..... ≥ 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://nrcstp.ornl.gov/narmtoolbox.html .

ATTACHMENT 3

Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks

The new fingerprinting requirements supplement previous requirements issued by the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN.

Licensees currently have a program to grant unescorted access to individuals. As required by condition A.1, 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 Attachment 1 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 Program [1]) 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 documentation [2]). Written

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[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.

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.

4. All fingerprints obtained by the Licensee 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.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN, 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 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 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 department 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.

April XX, 2008

[Licensee Name]
[Attn: Contact Individual]
[Licensee Address]
[City] , WI [Zip Code]

Dear [Contact Individual]:

The U.S. Nuclear Regulatory Commission (NRC) and all Agreement States have determined that certain increased controls are required to be implemented to supplement existing regulatory requirements in 10 CFR 20.1801-1802 (similar to s. HFS 157.28(1)). The additional controls are a matter of compatibility with NRC and must be implemented in a time frame desired by the NRC Commissioners and consistent with that being used by NRC for its licensees.

The radioactive material you are requesting to be authorized to possess is in one of the affected categories. Therefore, in accordance with Wisconsin State Statute ss. 254.31-45 and Chapter HFS 157 'Radiation Protection', **your license requires you to comply with the Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material detailed in Attachment 1.**

This fingerprinting requirement does not obviate the need for you to meet the requirements of the increased controls, and to maintain the effectiveness of security measures taken in response to the events of September 11, 2001. In addition, the enclosed amendment modifies sections 1.b., 1.c., and "Table 1: Radionuclides of Concern" of the increased controls to reflect recent NRC policies and regulations.

The Licensee shall complete implementation of the program by the first day that radionuclides in quantities of concern are possessed at or above the limits specified in "Table 1: Radionuclides of Concern." Licensees must submit fingerprints and complete their review of the FBI criminal history records for all individuals authorized unescorted access under the IC amendment.

Licensees are required to submit fingerprints directly to the NRC in accordance with this amendment. The current processing fee is $36.00 per submission and payment must be made electronically to the NRC through http://www.pay.gov. Details regarding fingerprint submittals and payment of fees are found in the enclosed Procedures for Processing Fingerprinting Checks. Also enclosed is the Guidance for evaluating FBI Identification and Criminal History Records Checks for Allowing Unescorted Access to Certain Radioactive Material to aid Licensees in their review of criminal history records.

You are required to do the following: Within **twenty-five (25) days** after you have achieved full compliance with the requirements described in Attachment 3 you shall notify the department. In addition, you are required to provide, under oath or affirmation, a certification that the

Trustworthiness and Reliability (T&R) Official (an individual with the responsibility to determine the trustworthiness and reliability of another individual requiring unescorted access to radioactive materials quantities of concern) is deemed trustworthy and reliable by the Licensee.

Submit response to the above (not fingerprint cards) to the Wisconsin Department of Health and Family Services, Radioactive Materials Program, 1 West Wilson Street, P.O. Box 2659, Madison, WI 53701-2659. In addition, your response shall be marked as "Withhold From Public Disclosure Under s. 19.36 (1), WI Stats."

Licensee fingerprint cards are required to be submitted directly to the Nuclear Regulatory Commission in accordance with Attachment 3. Licensee fingerprint cards are required to be submitted to the Director, Division of Facilities and Security, and should be addressed to the attention of the Criminal History Program, Mail Stop T6E46. The following mailing address should be used:

Director, Division of Facilities and Security
U.S. NRC
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
ATTN: Criminal History Program, Mail Stop T-6E46

In addition, Licensee responses shall be marked as "Security-Related Information - Withhold Under 10 CFR 2.390."

If you have any questions or wish to discuss implementation of the requirements, please contact Cheryl Rogers, Supervisor Radioactive Materials Program at (608) 266-8135 or email at rogerck@dhfs.state.wi.us or Leola Dekock, Nuclear Engineer Senior at (608) 266-7384 or email at dekoclm@dhfs.state.wi.us.

Sincerely,

Paul Schmidt, Chief
Radiation Protection Section

Attachments
1. Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material
2. Radionuclides of Concern
3. Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks

Enclosures:
Procedures for Processing Fingerprinting Checks
Guidance for evaluating FBI Identification and Criminal History Records Checks for Allowing

Unescorted Access to Certain Radioactive Material

ATTACHMENT 1

FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS FOR UNESCORTED ACCESS TO CERTAIN RADIOACTIVE MATERIAL

A. 1. The Licensee shall establish and maintain a fingerprinting program that meets the requirements of Attachment 3 of this letter for individuals that require unescorted access to certain radioactive materials.

2. The Licensee shall provide under oath or affirmation, a certification that the Trustworthiness and Reliability (T&R) Official (an individual with the responsibility to determine the trustworthiness and reliability of another individual requiring unescorted access to the radioactive materials identified in Attachment 2) is deemed trustworthy and reliable by the Licensee as required in paragraph B.2.

3. Licensees shall notify the department (608-267-4797) and 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.

B. 1. The Licensee shall grant access to radioactive material in Attachment 2 in accordance with the requirements of IC.1. of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN and the requirements in this Attachment.

2. The T&R Official, if he/she does not require unescorted access, must be deemed trustworthy and reliable by the Licensee in accordance with the requirements of IC.1. of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN before making a determination regarding the trustworthiness and reliability of another individual. If the T&R Official requires unescorted access, the Licensee must consider the results of fingerprinting and the review of an FBI identification and criminal history records check as a component in approving a T&R Official.

C. Prior to requesting fingerprints from any individual, the Licensee shall provide a copy of this document to that person.

D. Upon receipt of the results of FBI identification and criminal history records checks, the Licensee shall control such information as specified in the "Protection of Information" section of Attachment 3 and in requirement IC.5 of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN.

E. No individual may have unescorted access to radioactive materials without a determination by the T&R Official (based upon fingerprinting, an FBI identification and criminal history records check and a previous trustworthiness and reliability determination) that the individual may have unescorted access to such materials.

F. 1. The Licensee shall comply with; and to the extent the recipient is also the recipient of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN, paragraph IC 1.b is superseded by the following:

> *"For individuals employed by the licensee for three years or less, and for non-licensee personnel, such as physicians, physicists, house-keeping personnel, and security personnel under contract, trustworthiness and reliability shall be determined, at a minimum, by verifying employment history, education, personal references, and fingerprinting and the review of an FBI identification and criminal history records check. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the employee (i.e. seeking references not supplied by the individual). For individuals employed by the licensee for longer than three years, trustworthiness and reliability shall be determined, at a minimum, by a review of the employee's employment history with the licensee and fingerprinting and an FBI identification and criminal history records check."*

2. The Licensee shall comply with; and to the extent the recipient is also the recipient of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN, Paragraph IC 1.c is superseded by, the following:

> *"Service provider licensee employees shall be escorted unless determined to be trustworthy and reliable by an NRC-required background investigation. Written verification attesting to or certifying the person's trustworthiness and reliability shall be obtained from the licensee providing the service."*

3. For Licensees who have previously received the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN, "Table 1: Radionuclides of Concern" is superseded by Attachment 2 to include Ra-226. The previous INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN will, therefore, also apply to Ra-226 as noted in Attachment 2.

ATTACHMENT 2

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
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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 are Tera Becquerel (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*, $\mathbf{A}_{(i,n)}$, to the quantity of concern for radionuclide *n*, $\mathbf{Q}_{(n)}$, listed for that radionuclide equals or exceeds one. [(aggregated source activity for radionuclide A) ÷ (quantity of concern for radionuclide A)] + [(aggregated source activity for radionuclide B) ÷ (quantity of concern for radionuclide B)] + etc..... ≥ 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://nrcstp.ornl.gov/narmtoolbox.html .

ATTACHMENT 3

Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks

The new fingerprinting requirements supplement previous requirements issued by the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN.

Licensees currently have a program to grant unescorted access to individuals. As required by condition A.1, 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 Attachment 1 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 Program [1]) 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 documentation [2]). Written

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[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.

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.

4. All fingerprints obtained by the Licensee 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.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements of the INCREASED CONTROLS FOR LICENSEES THAT POSSESS SOURCES CONTAINING RADIOACTIVE MATERIALS QUANTITIES OF CONCERN, 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 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 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 department 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.

Additional Increased Controls - License Condition (Incorporation of Fingerprinting Req.)

30. For New Licenses	The licensee shall comply with the requirements described in the Department letter dated [Insert Date]. The licensee shall complete implementation of said requirements by the first day that radionuclides in quantities of concern are possessed at or above the limits specified in "Table 1: Radionuclides of Concern" contained within the letter. The licensee shall notify this office when they have achieved full compliance with the requirements described in the letter. The notification shall be made within **twenty-five (25) days** after full compliance has been achieved. This notification shall include a certification that the Trustworthiness and Reliability (T&R) Official (and any subsequent T&R Official) is themselves deemed trustworthy and reliable by the Licensee as required in B.2. The licensees shall notify this office 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.
30. For Existing Licenses	The licensee shall comply with the requirements described in the Department letter dated [Insert Date].The licensee shall complete implementation of requirements by **[within 180 days, 2008]**. The licensee shall notify this office when they have achieved full compliance with the requirements described in the letter. The notification shall be made within **twenty-five (25) days** after full compliance has been achieved. This notification shall include a certification that the Trustworthiness and Reliability (T&R) Official (and any subsequent T&R Official) is themselves deemed trustworthy and reliable by the Licensee as required in paragraph B.2. The licensee shall notify this office 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.