

January 29, 2014

MEMORANDUM TO: Mary Jane Ross-Lee, Director  
Division of Facilities and Security  
Office of Administration

FROM: Daniel Cardenas, Chief */RA/*  
Facilities Security Branch  
Division of Facilities and Security  
Office of Administration

SUBJECT: ADJUDICATORY CRITERIA FOR MAKING DETERMINATIONS  
ON NRC LICENSEE REVIEWING OFFICIAL NOMINEES

The U. S. Nuclear Regulatory Commission (NRC) has issued orders to specific licensees requiring compliance with certain measures for unescorted access to category 1 and 2 materials or access to Safeguards Information. These orders require the licensee to nominate an individual to be its Reviewing Official. The Reviewing Official (RO) makes trustworthiness and reliability determinations of other licensee individuals to have unescorted access to materials or access to Safeguards Information, depending on the licensee and the order or orders it was issued. However, before a nominated person can become a RO, that individual must undergo fingerprinting, a Federal Bureau of Investigation (FBI) identification and criminal history records check, and be approved by the NRC to be a licensee's RO. This memorandum establishes the adjudicatory criteria to ensure consistency in making determinations of nominated individuals to serve as licensee ROs.

At a minimum, the FBI criminal history records check addresses the past 3 years. A longer time period is preferable. All information obtained through the records check will be considered in the NRC's review of the nominated individual. This information will be compared against the criteria below to determine the individual's suitability to be a reviewing official for a licensee.

The following are the specific adjudicatory criteria the NRC will use to review each licensee RO nominee. These review criteria were developed from the NRC orders issued to licensees on making trustworthiness and reliability decisions, as well as specific items from Title 10, *Code of Federal Regulations* (10 CFR) 10.11. This section contains the standards that the NRC uses for determining an individual's trustworthiness and reliability for access to special nuclear material, a similar review to the NRC's RO reviews. These criteria are also appropriate for use in the NRC's RO reviews because of that similarity, and because they are well-established criteria that, in FSB's judgment, will effectively adjudicate RO nominee applications. The NRC will determine whether the RO nominee:

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- 1) Has been convicted of crimes (i.e., more than one) indicating habitual criminal tendencies.
- 2) Has been convicted of a crime, or has a background where the facts, circumstances, or conduct are of a nature indicating poor judgment, unreliability, or untrustworthiness.
- 3) Criminal history shows use of drugs or other substances listed in the schedules of Controlled Substances established pursuant to the Controlled Substances Act of 1970 (such as amphetamines, barbiturates, narcotics, etc.) except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, without adequate evidence of rehabilitation.
- 4) Engaged in any other conduct or is subject to any other circumstances which tend to show that the individual is not reliable or trustworthy.
- 5) Has derogatory information from a previous employer or other NRC-licensed facility which tend to show that the individual is not reliable or trustworthy.

These criteria will be used to make a determination on whether an individual is eligible to serve as a Reviewing Official for a specific licensee. Furthermore, a final determination to deny an individual from being a reviewing office cannot be solely based on information of 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.

Licensee reviewing official applications will be processed as soon as they are received by the NRC. After receipt of a nomination, the fingerprint cards, and payment, the fingerprints will be sent to the FBI. After results have been received by the NRC from the FBI, the NRC will initiate the adjudication of the RO nominee application. To ensure timely review and disposition of each RO nomination, the table in Enclosure 1 contains the guidelines for the timeframe for each action and the NRC's communication to the individual and/or licensee of the results. The enclosure describes internal NRC administrative processing and will not be made publically available.

Enclosure:

Table of Timeliness of NRC Actions for making determinations of Reviewing Official Nominees

- 1) Has been convicted of crimes (i.e., more than one) indicating habitual criminal tendencies.
- 2) Has been convicted of a crime, or has a background where the facts, circumstances, or conduct are of a nature indicating poor judgment, unreliability, or untrustworthiness.
- 3) Criminal history shows use of drugs or other substances listed in the schedules of Controlled Substances established pursuant to the Controlled Substances Act of 1970 (such as amphetamines, barbiturates, narcotics, etc.) except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, without adequate evidence of rehabilitation.
- 4) Engaged in any other conduct or is subject to any other circumstances which tend to show that the individual is not reliable or trustworthy.
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