

**March 7, 2014**

**One Pager on Licensee's Application Process Issues for Obtaining Authority under Section 161A of the Atomic Energy Act of 1954**

Following the guidance of Section 161A of the *Atomic Energy Act of 1954*, as amended (AEA), the NRC's, "Firearms Guidelines" require the Commission to designate classes of facilities, radioactive material being transported, or other property as appropriate for either combined enhanced weapons authority and preemption authority (enhanced weapons authority) or for standalone preemption authority (preemption authority). The Commission has published a proposed rule that would designate a limited number of classes of facilities as eligible to apply for Section 161A authority. The final rule for this action is still under development. Until the final rule is published, licensees cannot apply under these new regulations.

In the interim, 10 licensed facilities (located at 8 sites) have requested the ability to apply for standalone preemption authority through confirmatory order. On June 5, 2013, the Commission issued Confirmatory Order EA-13-092 designating these 10 licensees as part of an interim class of facilities eligible to apply for preemption authority. The NRC has not received any similar requests from licensees to be designated as part of an interim class of facilities eligible to apply for enhanced weapons authority.

As part of EA-13-092, the NRC required these licensees to conduct firearms background checks on their security personnel whose official duties include access to firearms. The Federal Bureau of Investigation (FBI) performs these background checks and determines if the individual is prohibited from possessing or using firearms. Secondly, the NRC also required these licensees to formally apply to the NRC for preemption authority. The application included a discussion of the basis for the requested authority and new training required for security officers on the prohibiting factors in the firearms background checks. The NRC staff reviews, and the Commission considers, each application on a case-by-case basis. If the Commission approves the application, the NRC issues a second order approving the licensee's application for preemption authority. A licensee that the NRC has approved for preemption authority may choose to exercise this authority (with respect to State and local laws) at its own discretion. Finally, firearms background checks are repeated at least every 5 years; and they are required for all new armed security personnel.

For enhanced weapons authority, the application consists of additional information, including changes to the licensee's physical security plan, training and qualification plan, and contingency response plan; plus a new weapons safety assessment. The weapons safety assessment evaluates where the enhanced weapons are to be deployed and any potential unevaluated onsite or offsite safety risks posed by these weapons. The application also identifies the quantity, type or model, and caliber of the enhanced weapons. The NRC staff reviews, and the Commission considers, each application on a case-by-case basis. Once a licensee receives approval of its application from the NRC, the federal firearms licensee must submit additional paperwork to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for approval of the transfer of the specific weapons to the NRC licensee.

Until the Commission publishes a final rule designating classes of facilities and radioactive material eligible to apply for enhanced weapons authority, licensees interested in obtaining enhanced weapons authority would follow a similar two-step, two-order process including designation in an interim class and approval of an application. Additionally, a licensee can apply for combined enhanced weapons authority and preemption authority either at the same time or in sequence. However, the Commission must first approve the application for preemption authority before it can approve the application for enhanced weapons authority.

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