

## NATIONAL LABOR RELATIONS BOARD

### Amendment of Statement of Organization and Functions; Restructuring of National Labor Relations Board's Field Organization

November 14, 2014.

**AGENCY:** National Labor Relations Board.

**ACTION:** Notice of administrative change in status of the Jacksonville, Florida Resident Office (Region 12) of the National Labor Relations Board, which will be closed and the area will be served by agents working from other locations.

**SUMMARY:** The National Labor Relations Board is closing its Jacksonville, Florida Resident Office because it has determined that closing the office and serving the area with agents working at other locations, will result in significant savings while continuing to effectively serve the area currently served by this office.

**DATES: Effective Date:** The change announced above with respect to the Jacksonville, Florida office will be effective December 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** Gary Shinnors, Executive Secretary, 1099 14th Street NW., Room 11600, Washington, DC 20570. Telephone: (202) 273-1067

**SUPPLEMENTARY INFORMATION:** The National Labor Relations Board has decided to close its Jacksonville, Florida Resident Office. This change is prompted by an examination of the staffing, caseloads, and rental and operating costs for the Jacksonville office which has been occupied by only one employee for more than two years. Because of the declining intake in this area, it is not expected that additional employees would be added to this office in the foreseeable future. The employee who has been working in the Jacksonville office will be converted to a Resident Agent and will continue to perform the same work as now except that the employee will not work from an Agency office. When needed, this employee will be assisted by agents from the Agency's Tampa office. This revision is nonsubstantive or merely procedural in nature. The Board expects no adverse impact on the quality of casehandling as a result of the office closure.

Region 12, which handles cases arising in Florida, certain counties in Georgia, and Puerto Rico is headed by a Regional Director, who works in the Tampa, Florida Regional office and has full authority for the processing of both

unfair labor practice and representation cases in that area. Currently, the other employees in this Region work in offices in Tampa, Miami, and Jacksonville, Florida and in San Juan, Puerto Rico. Under this proposal, all offices except the Jacksonville office will continue to be open. The geographical area covered by the Region will not be changed.

The most recent list of Regional and Subregional Offices was published at 65 FR 53228-53229 on August 29, 2000, as amended at 78 FR 44602-44603 on Wednesday, July 24, 2012.

Concurrent with this Notice, the NLRB is revising its Statement of Organization and Functions to delete reference to the Jacksonville, Florida office as a place where persons can obtain service in Region 12. The revision to the Board's Statement of Organization and Functions is attached.

Since April 2014, the NLRB has solicited and received feedback on the proposed closure of the Jacksonville, Florida office. The decision to close this office and restructure the Agency's operations in the manner set forth here was informed by comments from stakeholders, members of Congress and Agency employees. Because this is a general notice that is related to the organization of the NLRB, it is not a regulation or rule subject to Executive Order 12866.

Pursuant to the change set forth here, the National Labor Relations Board is amending its Statement of Organization and Functions as follows:

#### Part 201—Description of Organization

##### Subpart B—Description of Field Organization

(A) "Areas Served by Regional and Subregional Offices" is amended in following manner:

(1) Region 12 is amended to read as follows:

*Region 12.* Tampa, Florida. In Florida, services Alachua, Baker, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Columbia, Dad, De Soto, Dixie, Duval, Flagler, Gadsden, Gilchrist, Glades, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee Leon, Levy, Madison, Manatee, Marion, Martin, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, Suwannee, Taylor, Union, Volusia and Wakulla Counties; and in Georgia services Appling, Atkinson, Bacon, Brantley, Brooks, Camden, Charlton, Clinch, Coffee, Decatur, Echols, Glynn, Grady, Jeff Davis, Lanier, Lowndes, Pierce,

Seminole, Thomas, Ware, and Wayne Counties.

*Subregion 24.* Hato Rey, Puerto Rico, Services Puerto Rico and the U.S. Virgin Islands.

Persons may also obtain service at the Resident Office located in Miami, Florida.

Dated: November 14, 2014.

By Direction of the Board.

**William B. Cowen,**  
*Solicitor.*

[FR Doc. 2014-27356 Filed 11-19-14; 8:45 am]

**BILLING CODE 7545-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2014-0251; EA-14-156]

### In the Matter of Issuance of a Non-Manufacturing and Distribution Service Provider Order

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Order imposing trustworthiness and reliability requirements for unescorted access to certain radioactive material; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) issued an order imposing trustworthiness and reliability requirements for unescorted access to certain radioactive material by request of a service provider licensee that is not a manufacturer or distribution. The order was issued on October 2, 2014, and became effective immediately.

**DATES: Effective Date:** October 2, 2014.

**ADDRESSES:** Please refer to Docket ID NRC-2014-0251 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to <http://www.regulations.gov> and search for Docket ID NRC-2014-0251. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For questions about this Order, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS,

please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Michelle Killian, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6711; email: [Michelle.Killian@nrc.gov](mailto:Michelle.Killian@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The text of the Order is attached.

Dated at Rockville, Maryland, this 13th day of November 2014.

For the Nuclear Regulatory Commission.

**Catherine Haney,**

*Director, Office of Nuclear Material Safety and Safeguards.*

**UNITED STATES NUCLEAR REGULATORY COMMISSION**

*EA-14-156*

In the Matter of Certain Licensees Requesting Unescorted Access to Radioactive Material

**Order Imposing Trustworthiness and Reliability Requirements for Unescorted Access to Certain Radioactive Material (Effective Immediately)**

**I**

The licensee identified in Attachment 1<sup>1</sup> to this Order holds a license issued by the U.S. Nuclear Regulatory Commission (NRC) or an Agreement State, in accordance with the Atomic Energy Act (AEA) of 1954, as amended. The license authorizes it to perform services on devices containing certain radioactive material for customers licensed by the NRC or an Agreement State to possess and use certain quantities of the radioactive materials listed in Attachment 2 to this Order. Commission regulations at 10 CFR 20.1801 or equivalent Agreement State regulations require licensees to secure, from unauthorized removal or access, licensed materials that are stored in controlled or unrestricted areas. Commission regulations at 10 CFR 20.1802 or equivalent Agreement State regulations require licensees to control

and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

**II**

Subsequent to the terrorist events of September 11, 2001, the NRC issued immediately effective Security Orders to NRC and Agreement State licensees under the Commission's authority to protect the common defense and security of the nation. The Orders required certain manufacturing and distribution (M&D) licensees to implement Additional Security Measures (ASMs) for the radioactive materials listed in Attachment 2 to this Order (the radionuclides of concern), to supplement the existing regulatory requirements. The ASMs included requirements for determining the trustworthiness and reliability of individuals that require unescorted access to the radionuclides of concern. Section 652 of the Energy Policy Act of 2005, which became law on August 8, 2005, 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 the 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." Section 149 of the AEA also requires that "all fingerprints obtained by an individual or entity shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check." Due to the 2005 revision of the AEA, the trustworthiness and reliability requirements of the ASMs were updated and the M&D licensees were issued additional Orders imposing the new fingerprinting requirements.

In late 2005, the NRC and the Agreement States began issuing Increased Controls (IC) Orders or other legally binding requirements to licensees who are authorized to possess the radionuclides of concern at IC licensee facilities. Paragraph IC 1.c, in Attachment B of the December 1, 2005, IC Order, "Increased Controls for Licensees That Possess Sources Containing Radioactive Material Quantities of Concern," stated that "service providers shall be escorted unless determined to be trustworthy and reliable by an NRC-required background investigation as an employee of a manufacturing and distribution

licensee" (70 FR 72130). Starting in December 2007, the NRC and the Agreement States began issuing additional Orders or other legally binding requirements to the IC licensees, imposing the new fingerprinting requirements. In the December 13, 2007, Fingerprinting Order, paragraph IC 1.c of the prior Order was superseded by the requirement that "Service provider licensee employees shall be escorted unless determined to be trustworthy and reliable by an NRC-required background investigation" (72 FR 70901). However, the NRC did not require background investigations for non-M&D service provider licensees. Consequently, only service representatives of certain M&D licensees may be granted unescorted access to the radionuclides of concern at an IC licensee facility, even though non-M&D service provider licensees provide similar services and have the same degree of knowledge of the devices they service as M&D licensees. To maintain appropriate access control to the radionuclides of concern, and to allow M&D licensees and non-M&D service provider licensees to have the same level of access at customers' facilities, NRC is imposing trustworthiness and reliability requirements for unescorted access to the radionuclides of concern set forth in Table 1 of Attachment 2 of this Order. These requirements apply to non-M&D service provider licensees that request and have a need for unescorted access by their representatives to the radionuclides of concern at IC and part 37 licensee facilities. These trustworthiness and reliability requirements are equivalent to the requirements for M&D licensees who perform services requiring unescorted access to the radionuclides of concern.

In order to provide assurance that non-M&D service provider licensees are implementing prudent measures to achieve a consistent level of protection for service providers requiring unescorted access to the radionuclides of concern at IC and part 37 licensee facilities, the licensee identified in Attachment 1 to this Order shall implement the requirements of this Order. In addition, pursuant to 10 CFR 2.202, because of potentially significant adverse impacts associated with a deliberate malevolent act by an individual with unescorted access to the radionuclides of concern, I find that the public health, safety, and interest require this Order to be effective immediately.

**III**

Accordingly, pursuant to Sections 81, 149, 161b, 161i, 161o, 182, and 186 of

<sup>1</sup> Attachment 1 contains sensitive information and will not be released to the public.

the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR parts 20, 30 and 33, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT THE LICENSEE IDENTIFIED IN ATTACHMENT 1 TO THIS ORDER COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS ORDER.

A.1. The licensee shall establish and maintain a fingerprinting program that meets the requirements of Attachment 3 to this Order for individuals that require unescorted access to the radionuclides of concern. The licensee shall complete implementation of the requirements of Attachment 3 to this Order within one hundred eighty (180) days of the date of this Order, or before providing written verification to another licensee subject to the IC or part 37 requirements, or attesting to or certifying the trustworthiness and reliability of a service provider for unescorted access to the radionuclides of concern at a customer's facility.

A.2. Within ninety (90) days of the date of this Order, the licensee shall designate a "Reviewing Official" for determining unescorted access to the radioactive materials as listed in Attachment 2 to this Order by other individuals. Before submittal of the individual's fingerprints to the NRC, the licensee must perform a trustworthiness and reliability review per the requirements in Attachment 3 of the Order. The licensee must verify the employment history, education, and personal references of the designated Reviewing Official for at least the past three (3) years. Additionally, the designated Reviewing Official must be authorized unescorted access to the radioactive materials listed in Attachment 2 to this Order as part of his or her job duties or have access to Safeguards Information. After this process, the licensee designates the Reviewing Official to NRC by submitting the individual's fingerprints and processing fee.

A.3. Fingerprints for unescorted access need not be taken if a designated Reviewing Official is relieved from the fingerprinting requirement by 10 CFR 73.61, or has been favorably adjudicated by a U.S. Government program involving fingerprinting and a FBI identification and criminal history records check<sup>2</sup> within the last five (5)

<sup>2</sup> Examples of such programs include (1) National Agency Check, (2) Transportation Worker Identification Credentials in accordance with 49 CFR part 1572, (3) Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR part 555, (4) Health and Human Services security risk assessments for possession and use of select agents

years, or for any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation<sup>3</sup>). The licensee may provide, for NRC review, written confirmation from the Agency/employer which granted the federal security clearance or reviewed the FBI identification and criminal history records results based upon a fingerprint identification check. The NRC will determine whether, based on the written confirmation, the designated Reviewing Official may have unescorted access to the radioactive materials listed in Attachment 2 to this Order, and therefore, be permitted to serve as the licensee's Reviewing Official.<sup>4</sup>

A.4. A designated Reviewing Official may not review the results from the FBI identification and criminal history records checks or make unescorted access determinations until the NRC has approved the individual as the licensee's Reviewing Official.

A.5. The NRC will determine whether this individual (or any subsequent Reviewing Official) may have unescorted access to the radionuclides of concern, and therefore, will be permitted to serve as the licensee's Reviewing Official. The NRC-approved Reviewing Official shall be the recipient of the results of the FBI identification and criminal history records check of the other licensee employees requiring unescorted access to the radioactive materials listed in Attachment 2 to this Order, and shall control such information as specified in the "Protection of Information" section of Attachment 3 to this Order.

A.6. The NRC-approved Reviewing Official shall determine whether an individual may have unescorted access

and toxins in accordance with 42 CFR part 73, and (5) Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license in accordance with 49 CFR part 1572, Customs and Border Protection's Free and Secure Trade (FAST) Program. The FAST program is a cooperative effort between the Bureau of Customs and Border Protection 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.

<sup>3</sup> This documentation must allow the NRC or NRC-approved Reviewing Official to verify that the individual has fulfilled the unescorted access requirements of Section 149 of the AEA by submitting to fingerprinting and a FBI identification and criminal history records check.

<sup>4</sup> The NRC's determination of this individual's unescorted access to the radionuclides of concern in accordance with the process described in Enclosure 4 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

to radioactive materials that equal or exceed the quantities in Attachment 2 to this Order, in accordance with the requirements described in Attachment 3 to this Order.

B. Prior to requesting fingerprints from a licensee employee, a copy of this Order shall be provided to that person.

C.1. The licensee shall, in writing, within twenty-five (25) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in this Order, including Attachment 3 to this Order, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission or Agreement State regulation or its license. The notification shall provide the licensee's justification for seeking relief from or variation of any specific requirement.

C.2. The licensee shall complete implementation of the requirements of Attachment 3 to this Order within one hundred eighty (180) days of the date of this Order.

C.3. The licensee shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 3 to this Order. The report shall be made within twenty-five (25) days after full compliance has been achieved.

C.4. If during the implementation period of this Order, the licensee is unable, due to circumstances beyond its control, to meet the requirements of this Order by March 30, 2015, the licensee shall request, in writing, that the Commission grant an extension of time to implement the requirements. The request shall provide the licensee's justification for seeking additional time to comply with the requirements of this Order.

C.5. 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.

Licensee responses to C.1, C.2., C.3., and C.4. above shall be submitted in writing to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Licensee responses shall be marked as "Security-Related Information—Withhold Under 10 CFR 2.390."

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing,

relax or rescind any of the above conditions upon demonstration of good cause by the licensee.

#### IV

In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within twenty-five (25) days of the date of this Order. In addition, the licensee and any other person adversely affected by this Order may request a hearing on this Order within twenty-five (25) days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made, in writing, to the Director, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which the licensee relies and the reasons as to why the Order should not have been issued. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which became effective on October 15, 2007. The E-Filing Final Rule was issued on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by email at [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV), or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID

certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through the EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through the EIE.

To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The EIE system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday. The help line number is (866) 672-7640.

Participants who believe that they have good cause for not submitting documents electronically must, in accordance with 10 CFR 2.302(g), file an exemption request with the initial paper filing showing good cause as to why the participant cannot file electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the

Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at <http://ehd1.nrc.gov/EHD/>, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their works.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the licensee may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty-five (25) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received.

AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated this 2nd day of October, 2014.

For The Nuclear Regulatory Commission.  
 Brian E. Holian,  
*Acting Director, Office of Federal and State Materials and Environmental Management Programs.*

**Attachment 1: List of Applicable Materials Licensees**

**Redacted**

**Attachment 2: Table 1: Radionuclides of Concern**

TABLE 1—RADIONUCLIDES OF CONCERN

Radionuclide	Quantity of concern <sup>1</sup> (TBq)	Quantity of concern <sup>2</sup> (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	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 <sup>3</sup>	( <sup>4</sup> )	.....

<sup>1</sup> 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.

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

<sup>3</sup> 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.

<sup>4</sup> 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. [(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

**Guidance for Aggregation of Sources**

NRC supports the use of the International Atomic Energy Association’s (IAEA) source categorization methodology as defined in IAEA Safety Standards Series No. RS–G–1.9, “Categorization of Radioactive Sources,” (2005) (see [http://www-pub.iaea.org/MTCD/publications/PDF/Pub1227\\_web.pdf](http://www-pub.iaea.org/MTCD/publications/PDF/Pub1227_web.pdf)) and as endorsed by the agency’s Code of Conduct for the Safety and Security of Radioactive Sources, January 2004 (see [http://www-pub.iaea.org/MTCD/publications/PDF/Code-2004\\_web.pdf](http://www-pub.iaea.org/MTCD/publications/PDF/Code-2004_web.pdf)). The Code defines a three-tiered source categorization scheme. Category 1 corresponds to the largest source strength (equal to or greater than 100 times the quantity of concern values listed in Table 1.) and Category 3, the smallest (equal or exceeding one-tenth the quantity of concern values listed in Table 1.). Additional security measures apply to sources that are equal to or greater than the quantity of concern values listed in Table 1, plus aggregations of smaller sources that are equal to or greater than the quantities in Table 1. Aggregation only applies to sources that are collocated.

Licensees who possess individual sources in total quantities that equal or exceed the Table 1 quantities are required to implement additional security measures. Where there are many small (less than the quantity of concern values) collocated sources whose total aggregate activity equals or exceeds the Table 1 values, licensees are to implement additional security measures.

Some source handling or storage activities may cover several buildings, or several locations within specific buildings. The question then becomes, “When are sources considered collocated for purposes of aggregation?” For purposes of the additional controls, sources are considered collocated if breaching a single barrier (e.g., a locked door at the entrance to a storage room) would allow access to the sources. Sources behind an outer barrier should be aggregated separately from those behind an inner barrier (e.g., a locked source safe inside the locked storage room). However, if both barriers are simultaneously open, then all sources within these two barriers are considered to be collocated. This logic should be continued for other barriers within or behind the inner barrier.

The following example illustrates the point: A lockable room has sources stored in it. Inside the lockable room, there are two shielded safes with additional sources in them. Inventories are as follows:

The room has the following sources outside the safes: Cf-252, 0.12 TBq (3.2 Ci); Co-60, 0.18 TBq (4.9 Ci), and Pu-238, 0.3 TBq (8.1 Ci). Application of the unity rule yields:  $(0.12 \div 0.2) + (0.18 \div 0.3) + (0.3 \div 0.6) = 0.6 + 0.6 + 0.5 = 1.7$ . Therefore, the sources would require additional security measures.

Shielded safe #1 has a 1.9 TBq (51 Ci) Cs-137 source and a 0.8 TBq (22 Ci) Am-241 source. In this case, the sources would require additional security measures,

regardless of location, because they each exceed the quantities in Table 1.

Shielded safe #2 has two Ir-192 sources, each having an activity of 0.3 TBq (8.1 Ci). In this case, the sources would not require additional security measures while locked in the safe. The combined activity does not exceed the threshold quantity 0.8 TBq (22 Ci).

Because certain barriers may cease to exist during source handling operations (e.g., a storage location may be unlocked during periods of active source usage), licensees should, to the extent practicable, consider two modes of source usage—“operations” (active source usage) and “shutdown” (source storage mode). Whichever mode results in the greatest inventory (considering barrier status) would require additional security measures for each location.

Use the following method to determine which sources of radioactive material require implementation of the Additional Security Measures:

- Include any single source equal to or greater than the quantity of concern in Table 1
- Include multiple collocated sources of the same radionuclide when the combined quantity equals or exceeds the quantity of concern
- For combinations of radionuclides, include multiple collocated sources of different radionuclides when the aggregate quantities satisfy the following unity rule:

[(amount of radionuclide A) ÷ (quantity of concern of radionuclide A)] + [(amount of radionuclide B) ÷ (quantity of concern of radionuclide B)] + etc. . . . ≥1

**Attachment 3: Requirements for Service Provider Licensees Providing Written Verification Attesting to or Certifying the Trustworthiness and Reliability of Service Providers for Unescorted Access to Certain Radioactive Material at Customer Facilities, Including Requirements for Fingerprinting and Criminal History Checks**

**A. General Requirements**

Licensees subject to the provisions of this Order shall comply with the requirements of this attachment. The term “certain radioactive material” means the radionuclides in quantities equal to or greater than the quantities listed in Attachment 2 to this Order.

1. The Licensee shall provide the customer’s facility written verification attesting to or certifying the trustworthiness and reliability of an individual as a service provider only for employees the Licensee has approved in writing (see requirement A.3 below). The Licensee shall request unescorted access to certain radioactive material at customer licensee facilities only for approved service providers that require the unescorted access in order to perform a job duty.

2. The trustworthiness, reliability, and true identity of a service provider shall be determined based on a background investigation. The background investigation shall address at least the past three (3) years, and as a minimum, include fingerprinting and a Federal Bureau of Investigation (FBI) criminal history records check as required in Section B, verification of employment history, education, and personal references. If a service provider’s employment has been less than the required three (3) year period, educational references may be used in lieu of employment history.

3. The Licensee shall document the basis for concluding that there is reasonable assurance that a service provider requiring unescorted access to certain radioactive material at a customer facility is trustworthy and reliable, and does not constitute an unreasonable risk for unauthorized use of the radioactive material. The Licensee shall maintain a list of service providers approved for unescorted access to certain radioactive material.

4. The Licensee shall retain documentation regarding the trustworthiness and reliability of approved service providers for three years after the individual no longer requires unescorted access to certain radioactive material associated with the Licensee’s activities.

5. Each time the Licensee revises the list of approved service providers (see requirement 3 above), the Licensee shall retain the previous list for three (3) years after the revision.

6. The Licensee shall provide to a customer written certification for each service provider for whom unescorted access to certain radioactive material at the customer’s facility

is required and requested. The written certification shall be dated and signed by the Reviewing Official. A new written certification is not required if an individual service provider returns to the customer facility within three years, provided the customer has retained the prior certification.

**B. Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks**

1. The Licensee shall fingerprint each service provider to be approved for unescorted access to certain radioactive materials following the procedures outlined in Enclosure 3 of the transmittal letter. The Licensee shall review and use the information received from the 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 Protection’s Free and Secure Trade Program<sup>5</sup>) within the last five (5) years, or any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation<sup>6</sup>). Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the FBI criminal history records

<sup>5</sup> The FAST program is a cooperative effort between the Bureau of Customs and Border Protection 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.

<sup>6</sup> This documentation must allow the Reviewing 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.

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.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements of Section A of this attachment, in making a determination whether to approve and certify the individual for 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 certain radioactive materials.

7. The Licensee shall document the basis for its determination whether to approve the individual for unescorted access to certain radioactive materials.

**C. Prohibitions**

A Licensee shall not base a final determination to not provide certification for unescorted access to certain radioactive material for an individual 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.

**D. 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.

#### E. 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 whether to verify the individual for 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 fingerprints and criminal history records from the FBI, or a copy if the individual's file has been transferred:

- a. For three (3) years after the individual no longer requires unescorted access, or
- b. for three (3) years after unescorted access to certain radioactive material was 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.

[FR Doc. 2014-27515 Filed 11-19-14; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73594; File No. SR-BATS-2014-055]

### Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change, and Amendment No. 1 Thereto, To Establish a New Market Data Product Called the BATS One Feed

November 14, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 30, 2014, BATS Exchange, Inc. (the "Exchange" or "BATS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On November 13, 2014, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to establish a new market data product called the BATS One Feed.

The text of the proposed rule change is available at the Exchange's Web site at <http://www.directedge.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to establish a new market data product called the BATS One Feed. As described more fully below, the BATS One Feed is a data feed that will disseminate, on a real-time basis, the aggregate best bid and offer ("BBO") of all displayed orders for securities traded on BATS and its affiliated exchanges<sup>3</sup> (collectively, the "BATS Exchanges") and for which the BATS Exchanges report quotes under the Consolidated Tape Association ("CTA") Plan or the Nasdaq/UTP Plan.<sup>4</sup> The BATS One Feed will also contain the individual last sale information for BATS and each of its affiliated exchanges. In addition, the BATS One Feed will contain optional functionality which will enable recipients to elect to receive aggregated two-sided quotations from the BATS Exchanges for up to five (5) price levels.

The BATS One Feed offers market data vendors and purchasers a suitable alternative to the use of consolidated data where consolidated data are not required to be purchased or displayed. The Exchange proposes to offer the BATS One Feed voluntarily in response to demand from vendors, and subscribers that are interested in receiving the aggregate BBO and last sale information from the BATS Exchanges as part of a single data feed. Specifically, BATS One can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the BATS One Feed.

The Exchange believes that the BATS One Feed would provide high-quality, comprehensive last sale and BBO data for the BATS Exchanges in a unified

<sup>3</sup> The Exchange's affiliated exchanges are EDGA Exchange, Inc. ("EDGA"), EDGX Exchange, Inc. ("EDGX"), and BATS Y-Exchange, Inc. ("BYX"). On January 31, 2014, Direct Edge Holdings LLC ("DE Holdings"), the former parent company of the Exchange and EDGA, completed its business combination with BATS Global Markets, Inc., the parent company of BATS and BYX. See Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR-EDGX-2013-43). Upon completion of the business combination, DE Holdings and BATS Global Markets, Inc. each became intermediate holding companies, held under a single new holding company, the new holding company, formerly named "BATS Global Markets Holdings, Inc.," changed its name to "BATS Global Markets, Inc."

<sup>4</sup> The Exchange understands that each of the BATS Exchanges will separately file substantially similar proposed rule changes with the Commission to implement the BATS One Feed and its related fees.