

4731.8015 ACCESS AUTHORIZATION PROGRAM REQUIREMENTS.**Subpart 1. Granting unescorted access authorization.**

A. Licensees must implement the requirements of parts 4731.8010 to 4731.8040 for granting initial or reinstated unescorted access authorization.

B. Individuals who have been determined to be trustworthy and reliable must also complete the security training required by part 4731.8055, subpart 3, before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.

Subp. 2. Reviewing officials.

A. Reviewing officials are the only individuals authorized to make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.

B. Each licensee must name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee must provide, under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official must be taken by a law enforcement agency, federal or state agency that provides fingerprinting services to the public, or commercial fingerprinting services authorized by a state to take fingerprints. The licensee must recertify that the reviewing official is deemed trustworthy and reliable every ten years in accordance with part 4731.8020, subpart 3.

C. Reviewing officials must be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling.

D. Reviewing officials cannot approve other individuals to act as reviewing officials.

E. A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

(1) the individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or

(2) the individual is subject to a category listed in part 4731.8030, subpart 1.

Subp. 3. Informed consent.

A. Licensees must not initiate a background investigation without the informed and signed consent of the subject individual. This consent must include authorization

to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee must provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of part 4731.8020, subpart 2. A signed consent must be obtained prior to any reinvestigation.

B. The subject individual may withdraw consent at any time. Licensees must inform the individual that:

(1) if an individual withdraws consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew consent; and

(2) the withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.

Subp. 4. **Personal history disclosure.** Any individual who is applying for unescorted access authorization must disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by parts 4731.8010 to 4731.8040 is sufficient cause for denial or termination of unescorted access.

Subp. 5. **Determination basis.**

A. The reviewing official must determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all information collected to meet the requirements of parts 4731.8010 to 4731.8040.

B. The reviewing official must not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of parts 4731.8010 to 4731.8040 and determined that the individual is trustworthy and reliable. The reviewing official has authority to deny unescorted access to any individual based on information obtained at any time during the background investigation.

C. The licensee must document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

D. The reviewing official has authority to terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.

E. Licensees must maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee must remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

Subp. 6. **Procedures.** Licensees must develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.

Subp. 7. **Right to correct and complete information.**

A. Prior to any final adverse determination, licensees must provide each individual subject to parts 4731.8010 to 4731.8040 with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of one year from the date of the notification.

B. If, after reviewing a criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record and must be sent to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306, as specified in Code of Federal Regulations, title 28, sections 16.30 to 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency 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 according to the information supplied by that agency. Licensees must provide at least ten days for an individual to initiate action to challenge the results of an FBI criminal history records check after the individual has reviewed the criminal history record. The licensee shall make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

Subp. 8. Records.

A. The licensee must retain documentation regarding the trustworthiness and reliability of individual employees for three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

B. The licensee must retain a copy of the current access authorization program procedures as a record for three years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee must retain the superseded material for three years after the record is superseded.

C. The licensee must retain the list of persons approved for unescorted access authorization for three years after the list is superseded or replaced.

Statutory Authority: *MS s 144.1201; 144.1202; 144.1203; 144.1204; 144.1205*

History: *40 SR 145*

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