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Fingerprinting Requirements for Increased Controls Licensees

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Purpose

- Discuss contents of Order
- Discuss fingerprinting process
- Important dates
- Discuss common questions and answers



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Fingerprinting Order (EA-07-305) Issued December 5, 2007

- Issued to NRC licensees authorized to possess radioactive material quantities of concern
 - 991 Orders were issued
 - Of these approximately 350 are implementing the Increased Controls (IC)
 - On December 6, 2007 an administrative correction was issued to correct the date on signature page (11)
- Licensees implementing IC are required to implement the fingerprinting Order
- Agreement States will be issuing similar requirements by June 5, 2008



Increased Controls (IC)

- Issued late 2005, FRN 72128
- Trustworthy and Reliability (T&R) determinations required for unescorted access to radioactive material quantities of concern
- Based on verification of:
 - Employment
 - Education
 - Personal references
- Fingerprinting Order requires FBI criminal history record check results must also be evaluated



Why now?

- Implementation of Fingerprinting Requirements in Section 652 of EPA Act
- Staff Requirements Memorandum, SRM-SECY-07-0011, dated March 12, 2007 instructed the NRC staff to:
 - Engage the Agreement States to develop a plan to require fingerprinting of IC licensees



How was the Order developed?

- Established a Joint NRC/Agreement State Working Group
- Purpose is:
 - to modify IC requirements to include fingerprinting and criminal history checks
 - to address issues associated with the implementation of the fingerprinting requirements for unescorted access at facilities implementing the IC, and
 - issue fingerprinting requirements to all IC licensees



Increased Controls Fingerprinting Working Group (ICFWG)

- **Co-Chaired between NRC and Organization of Agreement States (OAS)**
 - Chris Einberg replaced Tim Harris, NRC, Office of Federal and State Materials and Environmental Management Programs
 - Alice Rogers (TX), Representing OAS
- **NRC Representatives**
 - Frederick Sturz, Office of Nuclear Security Incident Response
 - Tison Campbell, Office of the General Counsel
 - Andrew Pretzello, Office of Administration
 - Deborah Piskura, Region III Office
 - Robert Brown, Region IV Office
- **Agreement State Representatives**
 - Jared Thompson (AR) – CRCPD
 - Julia Schmitt (NE) – OAS



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What's the process?

- NRC and Agreement States issue Orders or legally binding requirements, respectively to licensees that are authorized to possess radioactive material quantities of concern or are implementing the increased controls
- Licensees that do not possess Table I quantities need to inform the NRC that they are not required to implement
- Licensees collect fingerprints through local law enforcement agencies, private entities, or establish an on-site fingerprinting program for individuals allowed unescorted access to radioactive material



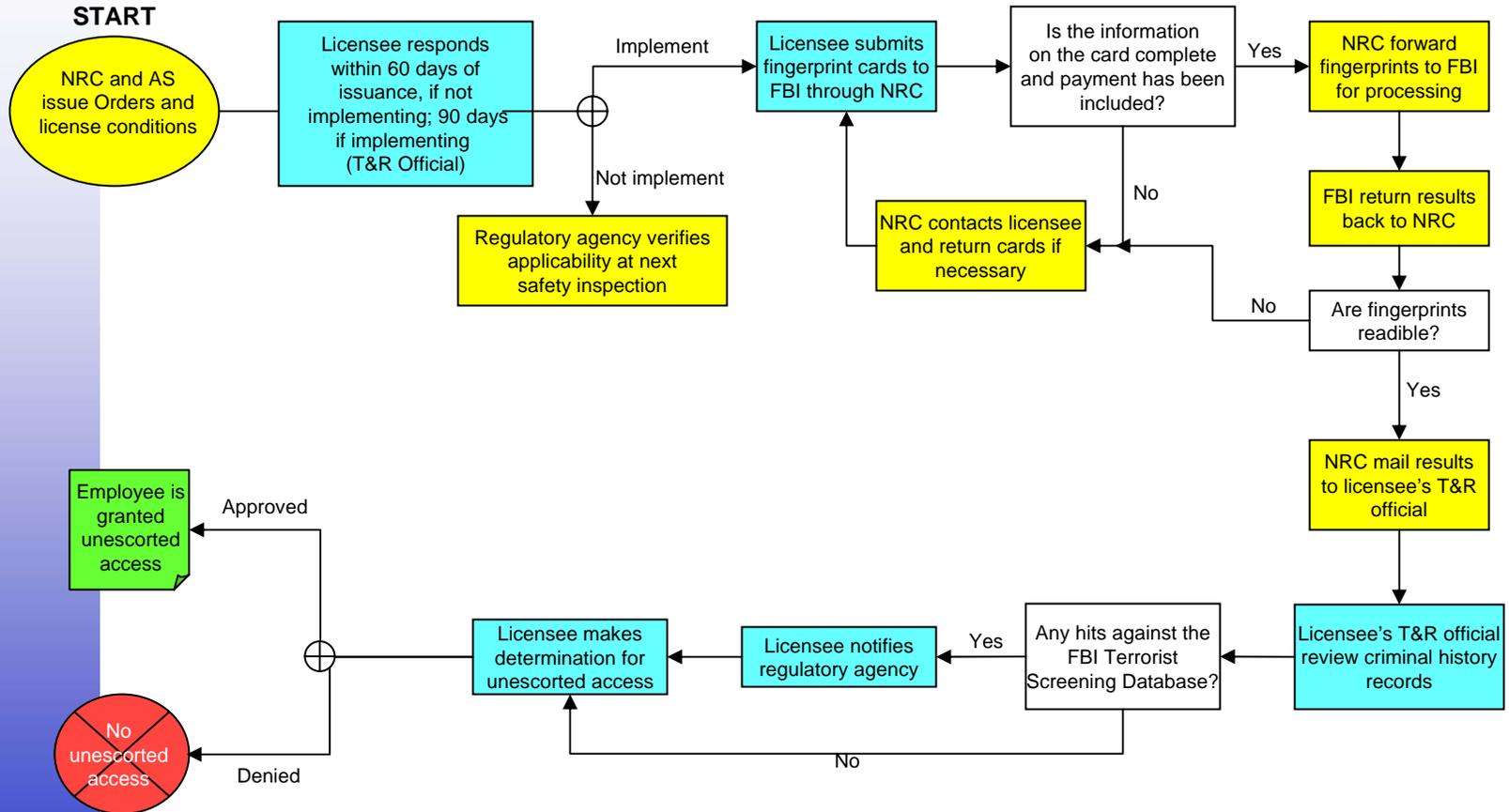
Process (continued)

- Fingerprints are submitted directly to the NRC for processing by the FBI
- The resulting criminal history records are returned to the licensee by the NRC for their evaluation
- The licensee's T&R official determines whether to grant, or continue to grant, unescorted access to material based on review of the results of the FBI criminal history check and in conjunction with the T&R information gathered as part of the implementation of the increased control requirements



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Increased Controls Fingerprinting Process





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Organization of Fingerprinting Order

- Cover Letter
- Enclosure 1: Order Imposing Fingerprinting and Criminal History Check Requirements for Unescorted Access to Certain Radioactive Material
 - Att. 1 – List of Applicable Material Licensees
 - Att. 2 – Radionuclides of Concern
 - Att. 3 – Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks



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Organization of Fingerprinting Order (cont.)

- Enclosure 2 – Procedures for Processing Fingerprinting Checks
- Enclosure 3 – Guidance for Evaluating FBI Identification and Criminal History Check for Allowing Unescorted Access to Certain Radioactive Material
- Enclosure 4 – Questions and Answers with Regards to Fingerprinting and Criminal History Records Checks



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Important Dates for NRC Licensees

- **January 4, 2008** – 30 days
 - Request for hearing
- **February 3, 2008** – 60 days
 - Notify NRC if compliance with order is unnecessary or unable to comply
- **March 4, 2008** – 90 days
 - Establish and maintain a fingerprinting program
 - Certification to NRC that Trustworthiness and Reliability Official is deemed trustworthy and reliable
- **June 2, 2008** – 180 days
 - Complete implementation of all requirements
 - Must notify NRC within 25 days after full implementation is achieved



Enclosure 1 – The Order

- Licensees have 60 days to notify the NRC if they are unable to comply with the requirements of the Order or if compliance is unnecessary (reqt. A3)
- Licensees have 90 days to establish and maintain a fingerprinting program (reqt. A1)
- Licensees have 90 days to fingerprint and approve a Trustworthiness and Reliability (T&R) Official if he/she has unescorted access to material (reqt. A2)
 - T&R Official is the individual who will be making the T&R determinations for individuals who require unescorted access
- Licensees have until June 2, 2008 to complete implementation of the program and 25 days to notify after reaching full compliance (reqt. A4)



Enclosure 1 – The Order

- Licensees are required to notify the NRC's Headquarters Operations Office within 24 hours if results indicate that an individual is on the FBI's terrorist screening data base. (reqt. A5)
- Licensees may allow any individual who had unescorted access at the time the Order was issued (i.e. December 5, 2007) to continue to have unescorted access to material pending a decision by the T&R Official.
 - After June 2, 2008, no-one will be allowed unescorted access without a T&R determination that also considered FBI criminal history results.



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Attachments 1 & 2 to Enclosure 1 (Order)

- Att. 1: List of Licensees (Redacted and withheld from public disclosure)
- Att. 2: Radionuclides of Concern
 - Includes RA-226
 - Footnote 5, Reflects new NRC authority



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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	



Attachment 3 to Enclosure 1 (Order)

- Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks
 - All individuals seeking unescorted access must be fingerprinted
 - If previously favorably decided by a US government program that required an FBI fingerprinting check within the past five years, new fingerprints do not need to be taken for unescorted access. (e.g., Transportation Worker Identification Credentialing, TWIC)



Attachment 3 to Enclosure 1 (Order) continued

- All fingerprints are submitted to NRC for submission to FBI
- Results are returned to NRC who sends them to licensee's T&R official
- Licensees review results in conjunction with the other 3 components of making a T & R determination
 - Verification of employment, education and personal references.



Enclosure 2 – Procedures for Processing Fingerprints

- Payments must be through pay.gov
- Submit one legible fingerprint card (Form FD-258)
 - Only available from NRC
 - Local law enforcement can take them
- Include the name and address of the T&R official to whom the results should be returned
 - Must include a copy of the oath and affirmation of the T&R Official with each submittal of the cards
- Can resubmit once for free



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Enclosure 3 – Guidance for Evaluating FBI Identification and Criminal History Records Checks

- Attachment 3 of Enclosure 1 states:
 - *“The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements of the IC Order (EA-05-090), in making a determination whether to grant unescorted access to certain radioactive materials.”*
 - *“The Licensee shall document the basis for its determination whether to grant, or continue to allow unescorted access to radioactive materials equal to or greater than quantities listed in attachment 2.”*



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Enclosure 3 – Guidance (cont.)

- Each Licensee is responsible for determining whether to grant unescorted access.
- Licensees should establish criteria that would disqualify someone from being granted authorized access.
- The guidance is provided to assist the Licensee in evaluating the results of FBI criminal history records check results as a component of the T&R determination.



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Enclosure 3 – Guidance (cont.)

- The guidance provides minimum elements that the licensee should consider when evaluating the results.
- Each T&R determination for unescorted access must be documented to include the basis for the decision made.



Enclosure 4 – Q's and A's

- Provides answers to some frequently asked questions.
- Additionally, new Questions and Answers are posted to our website at:
- <http://www.nrc.gov/security/byproduct/orders.html#fingerprinting>



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Answers to Common Questions



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Q: If I do not have the quantities of material in Table 1, in aggregate or individually, do I need to implement the requirements in this Order? What should I do?

- If you are authorized to possess, but do not actually possess the quantities listed in Table 1, you do not have to implement the requirements of the Order.
- However, you must notify the NRC within 60 days (i.e. February 3, 2008) that compliance with the Order is unnecessary.
- Signed responses can be faxed to 301-415-5955 or a signed .pdf can be e-mailed to ICfingerprint@nrc.gov.
- Mail responses can be sent to: US NRC, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20872-2738, Attn: Christian Einberg, MS T8E24



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Q: If I do not have the quantities of material in Table 1, in aggregate or individually, do I need to implement the requirements in this Order? What should I do? (cont.)

- The following sample statement can be used:
 - *"This letter is in response to your December 5, 2007, "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material" (EA-07-305). In accordance with section A.3.(2) of the Order, [enter Licensee name, license number, and docket number] the radioactive materials currently included in our inventory do not meet or exceed (either aggregated or collocated) the quantity of concern thresholds listed on Table 1 of the Increased Controls requirements, therefore, compliance with the fingerprinting requirements of Order EA-07-305 is unnecessary at this moment. It is understood that compliance with Order EA-07-305 is mandatory for individuals requiring unescorted access to radionuclides of concern (either aggregated or collocated), at or above the threshold limits of Table 1."*
- Licensees may choose to amend their license to lower possession limits if they are not possessing Table 1 quantities



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Q: I am currently implementing the Increased Controls (i.e., I have quantities of material above the Table 1 threshold). How do I certify to the NRC that my T&R Official is determined to be trustworthy and reliable?

- There are two types of T&R Officials:
 1. T&R Officials who do not require unescorted access to material (e.g., human resources staff), and
 2. T&R Officials who require unescorted access to material (e.g., radiation safety officer).
- Certifications of trustworthiness and reliability of the T&R Official must be made to the NRC under oath and affirmation within 90 days of the date of the Order (i.e. March 4, 2008)



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T&R Official Certification (cont.)

- T&R Officials who do not require unescorted access, must be determined to be trustworthy and reliable by the Licensee in accordance with the requirements of IC1 of the Increased Controls Order (EA-05-090), i.e. verification of: employment, education, and personal references.
- For T&R Officials who require unescorted access to material, the Licensee must also consider the results of FBI fingerprinting and criminal history records checks in addition to verification of: employment, education and personal references



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T&R Official Certification (cont.)

- If the T&R Official is determined to be trustworthy and reliable by the Licensee, the requirement to submit documents under oath or affirmation may be satisfied using a notary public to authenticate oaths or affirmations and to certify that the information is correct.
- Alternatively, the following unsworn declaration (affirmation) may be used, but must be verbatim:
*“ I declare [or certify, verify, state] under penalty of perjury that the foregoing is true and correct.
Executed on [date] [Signature]”*
- **Note:** A copy of the T&R certification must be submitted with all fingerprint submittals to the NRC. (Att. 3, para. 4)



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Q: How do I submit fingerprints for the nominated T&R Official who requires unescorted access? Who approves the T&R Official?

- Step 1: Submit one completed, legible standard form FD-258 for individual nominated to be T&R Official.
- Step 2: Submit to NRC's Division of Facilities and Security.
- Step 3: Include the name and address of the individual to whom the nominated T&R Official's criminal history records should be returned for review.
 - Results should be reviewed by someone other than nominated T&R Official and should be the person who will be submitting certification under oath and affirmation.
 - Preferably the same person who initially approved the T&R Official for the original Increased Control requirements, but may be the custodian or initiator of the license.
- Step 4: NRC will forward the results of the FBI criminal history records check to the person identified in Step 3.



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Do I need to be fingerprinted if I have an active federal security clearance?

- No. 10 CFR 73.61 relieves persons from the fingerprinting requirements if they have been favorably-decided by a US Government program involving fingerprinting and an FBI identification and criminal history records check within the last 5 calendar years
- Some examples are: National Agency Check, Transportation Worker Identification Credentials, ATF explosives background check, etc.
- Written confirmation from the Agency/employer which granted the clearance or reviewed the FBI criminal history record results must be provided.
- See paragraph 3 of Attachment 3 for requirements and Question 3.



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Q: How far back do the FBI criminal history records checks go?

- The FBI criminal history records check provides information on all arrests since the individual's eighteenth birthday.



Who can take my fingerprints?

- Licenses may use law enforcement agencies, private entities, contractors, or establish an on-site fingerprinting program for the purpose of taking fingerprints
- The individual taking fingerprints should at a minimum:
 - Be trained to take fingerprints
 - Verify the identity of the individual being fingerprinted by checking a government-issued picture identification (*e.g. a passport or driver's license*)
 - Sign the block on the fingerprint card labeled “Signature of Official Taking the Fingerprints”



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Can I submit my fingerprints electronically?

- Yes. Some larger Licensees may wish to establish an electronic fingerprinting program with the NRC. For most licensees this option is cost prohibitive.
- To establish an electronic fingerprinting program with the NRC, please contact NRC Facilities Security Branch, Division of Facilities and Security at 301-415-6511.



Do blood irradiators contain the specified quantities?

- Yes. Blood irradiators typically exceed the Category 2 threshold quantities.

What's the Cost?

- NRC currently charges \$36 per person to process and submit fingerprints to the FBI
- Additional fees could be charged by local law enforcement and/or private companies authorized to do fingerprinting



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How do I make payment for fingerprinting?

- Payments for fingerprinting should be submitted through <http://www.pay.gov>
- Licensees must establish a password and user ID before accessing <http://www.pay.gov>.
- To establish an account, Licensee requests must be e-mailed to paygo@nrc.gov.
- Requests must include the Licensee's name, address, point of contact, e-mail address and phone number.
- Licensees who can not make payment through pay.gov, NRC will accept checks, cashier checks or money orders.



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How do I make payment for fingerprinting? (continued)

- NRC will forward each request to Pay.gov and someone from Pay.gov will contact the Licensee with all the necessary account information.
- Licensees shall make payment for processing before submitting applications to the NRC.
- Pay.gov payment receipt(s) should accompany all application(s).



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How long does it take to process fingerprints?

- The NRC administrative process is a few days and the FBI turns around the results within 24-48 hours.

Is there a “grandfather” clause for current employees?

- Employees who currently are already determined to be trustworthy and reliable under the IC Order can continue to have unescorted access during the 180 day implementation period.



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Can additional employees be granted unescorted access prior to certification that T&R Official is deemed trustworthy and reliable?

- No.
- The Order requires that within 90 days that licensees establish a fingerprinting program and provide under oath or affirmation a certification that the T&R Official is deemed trustworthy and reliable by the licensee.
- Only after the T&R Official has been certified to be trustworthy and reliable, can the T&R Official make trustworthiness and reliability determinations for any employee who requires unescorted access after the date of the Order



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Are “interim” clearances allowed?

- No. All new employees requiring unescorted access must be fingerprinted as part of the trustworthiness and reliability determination process before being authorized for unescorted access by the T&R Official.

What is the process to have the requirements modified?

- The Director of the Office of Federal and State Materials and Environmental Management Programs, may, in writing relax or rescind any of the requirements upon demonstration of good cause by the licensee.



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Important Contact Information:

Questions/Responses on Order:

- Phone: Fingerprinting for Increased Controls Support: 301-415-3340
- E-mail: ICfingerprint@nrc.gov
- Fax: 301-415-5955

Questions regarding electronic payments:

- Phone: 301-415-7404

For additional fingerprint cards (Form FD-258):

- 301-415-5877
- E-mail: forms@nrc.gov

NRC Website for Q's and A's:

- <http://www.nrc.gov/security/byproduct/orders.html#fingerprinting>



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Addresses

- Fingerprint card submittals:
Director, Division of Facilities and Security
US NRC
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Attn: Criminal History Program, Mail Stop T6E46
- Responses:
Director, Office of Federal and State Materials and
Environmental Management Programs
US NRC
Two White Flint North
11545 Rockville Pike Rockville
Rockville, MD 20852-2738
Attn: Christian Einberg, Mail Stop T8E24



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Questions?