

October 17, 2006

EA-06-250

TO: Holders of Material Licenses Authorized to Manufacture or Distribute Items Containing Radioactive Material of Concern

SUBJECT: ISSUANCE OF ORDER IMPOSING FINGERPRINTING AND CRIMINAL HISTORY CHECK REQUIREMENTS FOR UNESCORTED ACCESS TO CERTAIN RADIOACTIVE MATERIALS, AND MODIFICATION OF THE ORDER IMPOSING ADDITIONAL SECURITY MEASURES TO MANUFACTURING AND DISTRIBUTION LICENSEES

You have recently received an Order from the U.S. Nuclear Regulatory Commission (NRC or Commission) requiring fingerprinting and criminal history records check for access to Safeguards Information (SGI), Order EA-06-155 dated August 21, 2006, as part of the implementation of Section 652 of the Energy Policy Act of 2005 (EPAct). As a result of the implementation of EA-06-155, the NRC will approve one or more individuals, as requested by the Licensee, to act as a reviewing official. The reviewing official is responsible for determining other Licensee employees' need-to-know SGI, and for reviewing the results of the Federal Bureau of Investigation (FBI) criminal history records check, based on fingerprints, in conjunction with other trustworthy and reliability information to make SGI access determinations for those individuals.

Section 652 of the EPAct imposed additional fingerprinting requirements on all individuals who seek or currently have unescorted access to radioactive materials determined by the Commission to be of significance to the public health and safety or common defense and security. "Access" to these radioactive materials means that an individual could exercise some physical control over the material or device. Thus, the NRC is issuing the enclosed Order (Enclosure 1) to expeditiously implement, in part, these additional requirements. To implement the enclosed Order, the Licensee must submit fingerprints of individuals who seek or currently have unescorted access to radioactive materials as a result of the implementation of the "Order Imposing Additional Security Measures to Manufacturing and Distribution Licensees," EA-03-225 dated January 12, 2004, or the Order for "Certain Licensees Authorized to Manufacture and Distribute Items Containing Radioactive Material," EA-05-126M dated September 16, 2005. The reviewing official must consider the results of the FBI criminal history records check in conjunction with the information obtained in response to the trustworthiness and reliability requirements of Order EA-03-225 or Order EA-05-126M (M&D Order) in making a determination of whether an individual may be granted or given continued unescorted access to the radioactive materials subject to the enclosed Order (see Attachment 2 to the Order and Enclosure 2 to this letter). The reviewing official, and only the reviewing official, can make unescorted access to radioactive materials determinations for other Licensee employees who have been fingerprinted and criminal history record checked. Individuals who have been fingerprinted and granted access to SGI under EA-06-155 do not need to be fingerprinted again and the reviewing official need not make a separate determination for unescorted access.

This Order does not obviate the need for Licensees to continue to meet the requirements of previous Orders, and to maintain the effectiveness of security measures taken in response to the events of September 11, 2001. These requirements, which will remain in effect until the Commission determines otherwise, supplement, but do not replace existing requirements concerning unescorted access to radioactive materials.

In addition, the enclosed Order modifies selected portions of the M&D Order to reflect recent NRC Orders and regulations.

NRC has determined that certain requirements of the M&D Order no longer meet the criteria for Safeguards Information – Modified Handling (SGI-M) as they can no longer be of any use to a potential adversary. However, Licensees are reminded that information about their detailed security measures (including security plans, procedures, and equipment) for the physical protection of byproduct material must continue to be protected as SGI-M. The following sections of the M&D Order, previously designated as SGI-M, are removed from the SGI-M category and considered uncontrolled (U): ASM 1, ASM 1.a, ASM 1.b, ASM 1.c, ASM 2, ASM 3, ASM 3.b, ASM 5, ASM 5.a, ASM 5.c, ASM 6.c, ASM 6.d, ASM 7, ASM 7.a, ASM 7.b, ASM 7.c, and ASM 7.d.

Licensees have 90 days from the date of this Order to submit fingerprints and complete their review of the FBI criminal history records for all individuals currently authorized unescorted access under the Irradiator Order. Individuals approved by the reviewing official for access to SGI do not need to submit fingerprints again for compliance with this Order.

Licensees are required to submit fingerprints in accordance with this Order. The current processing fee is \$27.00 per submission and payment payable to "U.S. NRC" must accompany the request. Details regarding fingerprint submittals and payment of fees are found in Attachment 2 to the Order. The enclosed Order requires that all Licensees respond to this Order within twenty (20) days of the date of its issuance, and implement the requirements before allowing unescorted access to radioactive materials to any individual.

Licensee responses to the enclosed Order (not fingerprint cards) are required to be submitted to the Director, Office of Federal and State Materials and Environmental Management Programs, and should be addressed to the attention of Ernesto Quiñones, Mail Stop T8F3. The following mailing addresses should be used:

For normal postal delivery, mail to:

Director, Office of Federal and State Materials and Environmental Management
Programs
U.S. NRC
Washington, D.C., 20555-0001
Attn: Ernesto Quiñones, Mail Stop T8F3

For delivery services requiring a street address, mail to:

Director, Office of Federal and State Materials and Environmental Management
Programs
U.S. NRC
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Attn: Ernesto Quiñones, Mail Stop T8F3

Licensee fingerprint cards are required to be submitted to the Director, Division of Facilities and Security, and should be addressed to the attention of the Criminal History Program, Mail Stop T-6E46. The following mailing addresses should be used:

For normal postal delivery, mail to:

Director, Division of Facilities and Security
U.S. NRC
Washington, D.C., 20555-0001
Attn: Criminal History Program, Mail Stop T-6E46

For delivery services requiring a street address, mail to:

Director, Division of Facilities and Security
U.S. NRC
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
Attn: Criminal History Program, Mail Stop T-6E46

Please include the docket number listed in Attachment 1 to the enclosed Order in all your correspondence with NRC. In addition, Licensee responses shall be marked as "Security-Related Information - Withhold Under 10 CFR 2.390."

Please contact Ernesto Quiñones (301) 415-0271, eqp@nrc.gov, or Nima Ashkeboussi (301) 415-7637, naa@nrc.gov, to facilitate resolution of any issues or questions related to compliance with the requirements in the enclosed Order. The enclosed Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Charles L. Miller, Director
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Order Imposing Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Materials and Modification of the Additional Security Measures
2. Guidance for Licensee's Evaluation of Unescorted Access to Radioactive Materials, With the Inclusion of Criminal History (Fingerprint) Checks

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NAME	NAshkeboussi for EQuinones	THarris	EKraus	RSeltzer	WDean for RZimmerman
DATE	10 / 4 /06	10 / 10 /06	10 / 5 /06	10 / 12 /06	10 / 12 /06

OFFICE	OE:OD	OGC	FSME: DD	FSME: OD
NAME	MBurrell for CCarpenter	JGoldberg	JSchlueter	CMiller
DATE	10 / 10 /06	10 / 16 /06	10 / 13 /06	10 / 17 /06

