

**Requirements for Fingerprinting and Criminal History Records Checks of Individuals
When Licensee's Reviewing Official is Determining Unescorted Access to
Radioactive Material or Other Property**

General Requirements

Licensees shall comply with the following requirements of this Attachment.

1. Each Licensee subject to the provisions of this Attachment shall fingerprint each individual who is seeking or permitted unescorted access to radioactive material or other property. The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) 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 for unescorted access, has had a favorably-decided U.S. Government criminal history records check within the last five (5) years, or has an active Federal security clearance. Written confirmation from the Agency/employer which granted the Federal security clearance or reviewed the criminal history records 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 radioactive material or other property 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's Reviewing Official shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements established by the previous ASM or ICM Security Orders, in making a determination whether to grant, or continue to allow, unescorted access to radioactive material or other property.
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 the radioactive material or other property.
7. The Licensee shall document the basis for its determination whether to grant, or continue to allow, unescorted access to the radioactive material or other property.

Prohibitions

A Licensee shall not base a final determination to deny an individual access to radioactive material or other property solely on information received from the FBI involving an arrest more than one (1) year old, for which there is no information as to 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 records 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.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the Nuclear Regulatory Commission's (NRC's) Division of Facilities and Security, Mail Stop T-6E46, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking unescorted access to radioactive material or other property, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 415-5877, or via e-mail to forms@nrc.gov. Practicable alternative formats are set forth in 10 CFR 73.4. The Licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one resubmission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free resubmission must have the FBI Transaction Control Number reflected on the resubmission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415-7404]. Combined payment for multiple applications is acceptable. The application fee (\$36 starting October 1, 2007) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submissions. The Commission will directly notify Licensees who are subject to this regulation of any fee changes.

The Commission will forward, to the submitting Licensee, all data received from the FBI as a result of the Licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

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 the record 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 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 allow at least ten (10) days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available for his/her review. The Licensee may make a final determination for unescorted access to radioactive material or other property based on the criminal history records check, only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination for unescorted access to radioactive material or other property, the Licensee shall provide the individual its documented basis for denial. During this review process for assuring correct and complete information, unescorted access to radioactive material or other property shall not be granted to an individual.

Protection of Information

1. Each Licensee who obtains a criminal history records check for 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 nor 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 unescorted access to the radioactive material or other property. No individual authorized to have access to the information may 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 records check may be transferred to another Licensee if the Licensee holding the criminal history record receives the individual's written request to 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 fingerprint and criminal history records received from the FBI, or a copy, if the individual's file has been transferred, for three (3) years after termination of employment or denial to unescorted access to radioactive material or other property. 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.