

March 30, 2010

EA-10-058

TO: Service Provider Licensees that are not Manufacturers or Distributors and that Request Unescorted Access to Certain Radioactive Material

SUBJECT: ISSUANCE OF ORDERS IMPOSING TRUSTWORTHINESS AND RELIABILITY REQUIREMENTS FOR UNESCORTED ACCESS TO CERTAIN RADIOACTIVE MATERIAL

In response to your request, the U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing the enclosed Order (Enclosure 1). The Order requires you to implement specific measures to ensure the trustworthiness and reliability (T&R) of your service representatives that need to have unescorted access to radioactive material in quantities greater than or equal to the quantities in Table 1 (Attachment 2 to Enclosure 1). You must respond to this Order, in writing and under oath or affirmation, either consenting to the Order, or providing the reasons why you now believe the Order should not have been issued.

Section 652 of the Energy Policy Act of 2005 (EPAct) requires fingerprinting and criminal history record checks of 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 the common defense and security. Because your licensed activities require such access and you desire that the access be unescorted, you must establish a program to fingerprint and check criminal history records of those individuals who will require unescorted access to radioactive material in quantities of concern at a customer's facility. The fingerprinting program must meet the requirements in this Order (Attachment 3 to Enclosure 1).

To establish a fingerprinting program, you must designate an individual who will be the Reviewing Official for your company. This individual must be permitted unescorted access as part of his or her job duties and will be responsible for reviewing the results of Federal Bureau of Investigation (FBI) criminal history records checks concerning other individuals in your company. The Reviewing Official will use the criminal history records check results along with other T&R requirements to make determinations for unescorted access to radioactive materials in quantities of concern for those individuals. You must submit the designated individual's fingerprints to the NRC. Based on an FBI criminal history records check using the fingerprint results, the NRC staff will determine if the designated individual should have unescorted access to radioactive material in quantities of concern and be approved to serve as your company's Reviewing Official. If the NRC determines that the designated individual should be prohibited unescorted access, the individual may appeal the decision by following the procedures in Enclosure 5 to this letter, or you may designate a different individual.

The enclosed Order is effective immediately. These requirements will remain in effect until the Commission determines otherwise. You must respond to this Order within twenty-five (25) days of the date of its issuance, and implement the requirements before allowing unescorted access to radioactive material in quantities of concern to any individual. Please refer to the enclosed guidance and procedures (Enclosures 2-5) for further information. Some of the implementing guidance with included Questions and Answers (Q&A's), specifically Enclosure 2, were developed as part of previously-issued Orders and may not be directly applicable to service provider licensees that are not manufacturers or distributors.

You must submit fingerprints in accordance with the procedures in this Order. The current processing fee is \$26.00 per submission and payment must be made as described in Enclosure 3.

To facilitate resolution of any issues or questions related to compliance with the requirements in the enclosed Order please contact Sarenee C. Hawkins at 301-415-7562 or e-mail to sarenee.hawkins@nrc.gov.

Licensee responses to the Order (**not fingerprint cards**) are required to be submitted to the Director, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs, and should be addressed to the attention of Sarenee C. Hawkins, Source Management and Protection Branch (SMPB), Mail Stop T8-E24. Responses to the Order should be mailed to one of the following addresses:

For normal postal delivery, mail to:

Director
Division of Materials Safety and
State Agreements
Office of Federal and State Materials
and Environmental Management Programs
U.S. NRC
Washington, D.C., 20555-0001
Attn: Sarenee C. Hawkins, Mail Stop T8-E24

For delivery services requiring a street address, mail to:

Director
Division of Materials Safety and
State Agreements
Office of Federal and State Materials
and Environmental Management Programs
U.S. NRC
11545 Rockville Pike
Rockville, MD 20852-2738
Attn: Sarenee C. Hawkins, Mail Stop T8-E24

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 TWB-05B32M. A short cover letter should be included listing the reviewing official(s) and the docket number (for NRC licensees) or for Agreement State licensees, the two letter State abbreviation followed by a dash and the State-issued license number (e.g., CA-123456). The following mailing address should be used:

For delivery services requiring a street address, mail to:

Director, Division of Facilities and Security
U.S. NRC
11545 Rockville Pike
Rockville, MD 20852-2738
Attn: Criminal History Program, Mail Stop TWB-05B32M

The enclosed Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

Robert J. Lewis, Director */RA/*
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Order Imposing Trustworthiness and Reliability Requirements for Unescorted Access to Certain Radioactive Material
2. Implementing Guidance for Service Provider Licensees that are not Manufacturers or Distributors
3. Procedures for Processing Fingerprint Checks
4. Guidance for Evaluating FBI Identification and Criminal History Records Checks for Allowing Unescorted Access to Certain Radioactive Material
5. Process to Challenge NRC Denials or Revocations of Unescorted Access to Certain Radioactive Material

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OFC	MSSA/SMPB	MSSA/SMPB	MSSA/SMPB	OE
NAME	SHawkins	EQuinones (via email)	AMauer	NHilton (via email) for RZimmerman
DATE	03/24/10	03/26/10	03/29/10	03/24/10
OFC	OGC	NSIR/DSP	MSSA	
NAME	MClark for CScott	RCorreia	RLewis	
DATE	03/29/10	03/23/10	03/30/10	

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