

*****DRAFT - NOT FOR FILING*****

3701:1-37-10 Requirements for criminal history records checks of individuals granted unescorted access to category one or category two quantities of radioactive material.

(A) General performance objectives and requirements:

- (1) Except for those individuals listed in rule 3701:1-37-11 of the Administrative Code and those individuals grandfathered under paragraph (B) of rule 3701:1-37-09 of the Administrative Code, each licensee subject to the provisions of rules 3701:1-37-07 to 3701:1-37-13 of the Administrative Code shall fingerprint each individual who is to be permitted unescorted access to category one or category two quantities of radioactive material. Licensees shall transmit all collected fingerprints to the U. S. nuclear regulatory commission for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category one or category two quantities of radioactive materials for that individual.
- (2) The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.
- (3) Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category one or category two quantities of radioactive materials if:
 - (a) The individual returns to the same facility that granted unescorted access authorization within three hundred sixty-five days of the termination of his or her unescorted access authorization; and
 - (b) The previous access was terminated under favorable conditions.
- (4) Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category one or category two quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under rules 3701:1-37-07 to 3701:1-37-13 of the Administrative Code, the fingerprint orders, or 10 CFR 73 (in effect on the effective date of this rule). An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of paragraph (C) of rule 3701:1-37-12 of the Administrative Code.
- (5) Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category one or category two quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

(B) Prohibitions:

- (1) Licensees may not base a final determination to deny an individual unescorted access authorization to category one or category two quantities of radioactive material solely on the basis of information received from the FBI involving:
 - (a) An arrest more than one year old for which there is no information of the disposition of the case; or
 - (b) An arrest that resulted in dismissal of the charge or an acquittal.
- (2) Licensees may not use information received from a criminal history records check obtained under rules

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3701:1-37-07 to 3701:1-37-13 of the Administrative Code 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 licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

(C) Procedures for processing of fingerprint checks:

- (1) For the purpose of complying with rules 3701:1-37-07 to 3701:1-37-13 of the Administrative Code, licensees shall submit to the "U.S. Nuclear Regulatory Commission, Director, Division of ~~Facilities and Security~~Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop ~~TWB-05-B32MT-07D04M~~, Rockville, Maryland 20852," one completed, legible standard fingerprint card (form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category one or category two quantities of radioactive material. Copies of these forms may be obtained by ~~writing the "Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC-20555-0001," by calling "(630)829-9565," or by email to "FORMS.Resource@nrc.gov."~~emailing "MAILSVS.Resource@nrc.gov." Guidance on submitting electronic fingerprints can be found at ~~<http://www.nrc.gov/site-help/e-submittals.html>~~<https://www.nrc.gov/security/chp.html>.
- (2) Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through 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 "Security Branch, Division of Facilities and Security at (301)-492-3534~~Division of Physical and Cyber Security Policy by emailing Crimhist.Resource@nrc.gov. Combined payment for multiple applications is acceptable. The U.S. nuclear regulatory commission publishes the amount of the fingerprint check application fee on the NRC public web site. To find the current fee amount, go to the ~~electronic submittals page at <http://www.nrc.gov/site-help/e-submittals.html>~~"Licensee Criminal History Records Checks & Firearms Background Check" information page at <https://www.nrc.gov/security/chp.html> and see the link for ~~the "Criminal History Program under Electronic Submission Systems."~~"How do I determine how much to pay for the request?"
- (3) The U. S. nuclear regulatory 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.