

641—37.27(136C) Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.**37.27(1) General performance objective and requirements.**

a. Except for those individuals listed in rule 641—37.29(136C) and those individuals grandfathered under 37.25(2), each licensee subject to the provisions of these rules shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the 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 1 or category 2 quantities of radioactive materials for that individual.

b. The licensee shall notify each affected individual that the individual's fingerprints will be used to secure a review of the individual's criminal history record, and shall inform the individual of the procedures for revising the record or adding explanations to the record.

c. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:

(1) The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of the individual's unescorted access authorization; and

(2) The previous access was terminated under favorable conditions.

d. 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 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under these rules, the fingerprint orders, or 10 CFR Part 73. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of 37.31(3).

e. 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 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

37.27(2) Prohibitions.

a. Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:

(1) An arrest more than one year old for which there is no information of the disposition of the case; or

(2) An arrest that resulted in dismissal of the charge or an acquittal.

b. Licensees may not use information received from a criminal history records check obtained under these rules 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.

37.27(3) Procedures for processing of fingerprint checks.

a. For the purpose of complying with these rules, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit to the U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB-05 B32M, 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 1 or category 2 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. Guidance on submitting electronic fingerprints can be found at www.nrc.gov/site-help/e-submittals.html.

b. 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 1-301-492-3531.) Combined payment for multiple applications is acceptable. The Nuclear Regulatory Commission publishes the amount of the fingerprint check application fee on the NRC's public website. (To find the current fee amount, go to the Electronic Submittals page at www.nrc.gov/site-help/e-submittals.html and see the link for the Criminal History Program under Electronic Submission Systems.)

c. The 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.

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