

**Section 337.1040 Requirements for Criminal History Records Checks of Individuals
Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material**

- a) General Performance Objective and Requirements
 - 1) Except for those individuals listed in Section 337.1050 and those individuals grandfathered under Section 337.1030(d), each licensee subject to the provisions of this Subpart 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 NRC 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 material 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) A licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive material;
 - B) The individual returns to the same facility that granted unescorted access authorization within 365 days after termination of his or her unescorted access authorization; and
 - C) The previous unescorted access authorization was terminated under favorable conditions.
 - 4) Fingerprints are not required 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 this Subpart, the Fingerprint Orders or 10 CFR 73. An existing criminal history records check file may be transferred, in accordance with Section 337.1060(c), to the licensee asked to grant unescorted access.
 - 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 1 or category 2 quantities of radioactive material.

b) Prohibitions

- 1) 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:
 - A) An arrest more than one year old in 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 this Subpart 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 this Subpart, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit to the U.S. Nuclear Regulatory Commission, Division of Physical and Cyber Security Policy Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-~~7D04M8B20~~, Rockville MD 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.

AGENCY NOTE: 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 emailing to FORMSMAILSVS.Resource@nrc.gov.~~ Guidance on submitting electronic fingerprints can be found at <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.

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NRC". Combined payment for multiple applications is acceptable. The amount of the fingerprint check application fee is available on NRC's website. To find the current fee amount, go to the ~~Electronic Submittals~~ page at ~~<http://www.nrc.gov/site-help/e-submittals.html>~~ and see the link for the Criminal History Program under Electronic Submission Systems. Licensee Criminal History Records Checks & Firearms Background Check information page at <https://www.nrc.gov/security/chp.html> and see the link for How do I determine how much to pay for the request.

~~AGENCY NOTE: For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at (301)415-1491.~~

- 3) NRC will forward to the submitting licensee all data received from the FBI as a result of the licensee's applications for criminal history records checks.

(Source: Amended at 42 Ill. Reg. 42 Ill. Reg. 7485, effective April 4, 2018)

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