

Fingerprinting Requirements

- ❖ The following pages are **FOR INFORMATION ONLY**.
- ❖ This publication **DOES NOT** constitute a regulatory position of the N.C. Radiation Protection Section.
- ❖ This publication **DOES NOT** contain any regulatory requirements.



Energy Policy Act of 2005

- Section 652 of the EPAct amended Section 149 of the Atomic Energy Act to state:
 - “The Commission shall require to be fingerprinted any individual who is permitted unescorted access to radioactive material...that the Commission determines to be of such significance...as to warrant fingerprinting and background checks.”
- Initial round of Orders went to Large Panoramic Irradiators and Manufacturers and Distributors – i.e., those who had previously received Orders directly from the NRC
- In March 2007 – Commission determined that the Increased Controls Quantities of Concern were of such “significance” as to warrant fingerprinting and background checks

NRC – Agreement State Working Group

- Commission Direction:
 - SRM 07-0011: <http://www.nrc.gov/reading-rm/doc-collections/commission/srm/2007/2007-0011srm.pdf>
 - Disapproved proposal for Rulemaking
 - Expeditiously engage the Agreement States, with a goal of issuing requirements by September 2007

Fingerprinting Working Group Membership

- Tim Harris, NRC, Co-Chair
- Alice Rogers (TX), Co-Chair
- Jared Thompson (AR) and Julia Schmitt (NE), Agreement States
- NRC HQ and Regional staff
 - NSIR
 - OGC
 - Regions

Significant Issues

- State Issues
 - Request to States regarding legal issues
 - 20 out of 34 States responded:
 - 12 said they could implement
 - 5 said they could not
 - 3 were uncertain
- Licensee Concerns
 - No formal comment period, but comments received at State level are passed to WG

States' Issues

- Applicability of requirements (i.e., who should be fingerprinted) should be through rulemaking process, not through Commission decision
- Concern that amendment to AEA does not automatically confer the same authority to Agreement States (e.g., Uranium Mill Tailings Radiation Control Act required amendment of agreement; NARM rule provided for specific transition plan)

States' Issues (cont.)

- Some States expressed concern that the requirements may violate an individual's civil rights or conflict with "right to work" laws
- Equity issues if all states and NRC can't implement requirement concurrently
- If NRC served as central collection agency, there may not be legal authority for NRC to collect fees from non-NRC licensees
- Licensees need opportunity for input

State's Issues (cont.)

- California Response:
 - In NRC's ADAMS at Accession Number:
[ML072120107](#)
 - State cannot submit directly to FBI without authorization in state statute
 - Congress directed NRC to implement, not the Agreement States

Licensee Concerns

- Need sufficient time for implementation
- Need to allow access for workers until fingerprinting process complete
- Need specific adjudication criteria

Licensee Concerns (cont.)

- Reciprocity with other fingerprinting requirements (e.g., those done for use of explosives)
- NRC administrative processing time
- FBI processing time

Current Proposal

- Not approved yet
- Fingerprinting and consideration of criminal histories will be required in the future for all IC licensees as part of the T&R determination
- NRC and Agreement States issue Orders or legally binding requirements to IC licensees
- Licensee collects fingerprints through local law enforcement or other certified fingerprinting authority

Current Proposal (Cont.)

- Fingerprints submitted “through” NRC for processing by the FBI
- NRC returns criminal history records information (CHRI) to licensee
- Licensee’s T&R official determines whether to grant unescorted access
- NRC/Agreement States confirm licensee’s implementation through inspection

When?

- Schedule for issuing Orders or Legally-Binding Requirements (LBRs) to be determined
- Licensee would have 180 days to implement under current proposal
- NRC/Agreement State inspection schedule to be determined

Cost?

- LLEA fees for taking the fingerprints may vary
- NRC's current fee for processing fingerprints is \$27 (soon to be increased to \$30-something)

Next Steps

- Obtain Commission approval of current proposal
- Work with Agreement States to resolve legal issues on a State-by-State basis
- Solicit and consider stakeholder input
- Finalize requirements, guidance, and Q&A's
- Issue Orders/Requirements

In Other News

- GAO Sting – Early 2007
 - <http://www.gao.gov/new.items/d071038t.pdf>
- PSI Hearing – July 12, 2007
 - Dirty Bomb Vulnerabilities: Fake Companies, Fake Licenses, Real Consequences
 - Report:
http://hsgac.senate.gov/_files/REPORTDIRTYBOMBVULNERABILITESFINAL1007.pdf
 - Hearing On-line: <http://hsgac.senate.gov/>
 - Click on “Hearings” tab

In Other News (cont.)

- Action Plan in Response to GAO
 - SRM SECY 07:
 - <http://www.nrc.gov/reading-rm/doc-collections/commission/srm/2007/2007-0147srm.pdf>
 - SECY 07-147:
 - <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2007/secy2007-0147/2007-0147scy.pdf>