June 5, 2008

TO: ALL CALIFORNIA RADIOACTIVE MATERIALS LICENSEES AUTHORIZED TO POSSESS RADIOACTIVE MATERIAL IN QUANTITIES OF CONCERN

SUBJECT: IMPLEMENTATION OF FINGERPRINTING AND CRIMINAL HISTORY RECORD CHECKS FOR UNESCORTED ACCESS TO RADIOACTIVE MATERIAL IN QUANTITIES OF CONCERN

Dear Licensee:

The U.S. Nuclear Regulatory Commission (USNRC) and the Agreement States (those States that have entered into an agreement with the USNRC pursuant to section 274b of the Atomic Energy Act, as amended) are in the process of implementing requirements for fingerprinting and criminal history record checks for unescorted access to radioactive materials in quantities of concern. The USNRC has determined that pursuant to section 149 of the Atomic Energy Act, as amended by the Energy Policy Act of 2005, section 652, additional requirements need to be implemented to supplement the requirements of the Increased Controls, issued to certain California Radioactive Materials Licensees November 15, 2005. These requirements are a matter of mandatory and immediate compatibility with USNRC and must be implemented in the timeframe described in this letter.

Your California Radioactive Materials License has been identified as authorizing possession of radioactive material in quantities of concern, as described in Attachment 1 (Table 1: Radionuclides of Concern) to the enclosed Order of the California Department of Public Health (the Department) dated June 5, 2008 (Enclosure 1). Therefore, in accordance with the enclosed Order and the California Code of Regulations, title 17, section 30205(a), your license has been amended to require you to comply with the following requirements:

A.

1. The Licensee shall, within ninety (90) days of the date of this letter, establish and maintain a fingerprinting program that meets the requirements of Enclosure 2 of this letter for individuals that require unescorted access to certain radioactive materials.
2. The Licensee shall, within sixty (60) days of the date of this letter, notify the Department, in writing, 1) if it is unable to comply with any of the requirements described in this letter or in Enclosure 2 to this letter, 2) if compliance with any of the requirements is unnecessary in its specific circumstances, or 3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Department regulation or its license. The notification shall provide the Licensee’s justification for seeking relief from or variation of any specific requirement.

3. The Licensee shall, within ninety (90) days of the date of this letter, provide under oath or affirmation, a certification that the Trustworthiness and Reliability (T&R) Official (an individual with the responsibility to determine the trustworthiness and reliability of another individual requiring unescorted access to the radioactive materials identified in Attachment 1 to the enclosed Order) is deemed trustworthy and reliable by the Licensee as required in paragraph B.2 of this letter.

4. The Licensee shall complete implementation of the program established in accordance with paragraph A.1 of this Order by December 2, 2008. In addition to the notifications in paragraphs 2 and 3 above, the Licensee shall notify the Department within twenty-five (25) days after they have achieved full compliance with the requirements described in Enclosure 2 to this letter. If by December 2, 2008, the Licensee is unable, due to circumstances beyond its control, to complete implementation of the requirements enumerated in this letter, the Licensee shall submit a written request to the Department explaining the need for an extension of time to implement the requirements. The request shall provide the Licensee’s justification for seeking more time to comply with the requirements of this letter.

5. Licensees shall notify the Department by contacting the local Radiologic Health Branch Inspection Office (during normal business hours) or through the Office of Emergency Services Warning Center at 800-852-7550 (after hours) within 24 hours if the results from a FBI identification and criminal history records check indicate that an individual is identified on the FBI’s Terrorist Screening Data Base.

Local Radiologic Health Branch Inspection Office telephone numbers are:

Northern California (510) 620-3416 or (510) 620-3419
Southern California (714) 257-2025 or (714) 257-2031
Los Angeles County (213) 351-7897 or (213) 351-7387
San Diego County (858) 694-3621 or (858) 694-3616.
IMPLEMENTATION OF FINGERPRINTING AND CRIMINAL HISTORY RECORD CHECKS FOR UNESCORTED ACCESS TO RADIOACTIVE MATERIALS IN QUANTITIES OF CONCERN

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B.

1. Except as provided in paragraph E for individuals who are currently approved for unescorted access, the Licensee shall grant access to radioactive material in Attachment 1 to the enclosed Order in accordance with the requirements of IC.1 of the Increased Controls (as referenced in the License) and the requirements of this letter.

2. The T&R Official, if he/she does not require unescorted access to radioactive materials in quantities of concern, must be deemed trustworthy and reliable by the Licensee in accordance with the requirements of IC.1. of the Increased Controls Order (as referenced in the License) before making a determination regarding the trustworthiness and reliability of another individual. If the T&R Official requires unescorted access to radioactive materials in quantities of concern, the Licensee must consider the results of fingerprinting and the review of an FBI identification and criminal history records check as a component in approving a T&R Official.

C. Prior to requesting fingerprints from any individual, the Licensee shall provide a copy of this letter to that person.

D. Upon receipt of the results of FBI identification and criminal history records checks, the Licensee shall control such information as specified in the “Protection of Information” section of Enclosure 2 of this letter and in requirement IC.5 of the increased Controls (as referenced in the License).

E. The Licensee shall make determinations on continued unescorted access for persons currently granted unescorted access, by December 2, 2008, based upon the results of the fingerprinting and FBI identification and criminal history records check. The Licensee may allow any individual who currently has unescorted access to certain radioactive materials in accordance with the IC Order to continue to have unescorted access, pending a decision by the T&R Official. After December 2, 2008 no individual may have unescorted access to radioactive materials without a determination by the T&R Official (based upon fingerprinting, an FBI identification and criminal history records check and a previous trustworthiness and reliability determination) that the individual may have unescorted access to such materials.

F. 1. The Licensee shall comply with; and to the extent the recipient of this letter is also subject to the Increased Controls (as referenced in the
IMPLEMENTATION OF FINGERPRINTING AND CRIMINAL HISTORY RECORD CHECKS FOR UNESCORTED ACCESS TO RADIOACTIVE MATERIALS IN QUANTITIES OF CONCERN

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License), paragraph IC 1.b of the Increased Controls is superseded by the following:

“For individuals employed by the licensee for three years or less, and for non-licensee personnel, such as physicians, physicists, house-keeping personnel, and security personnel under contract, trustworthiness and reliability shall be determined, at a minimum, by verifying employment history, education, personal references, and fingerprinting and the review of an FBI identification and criminal history records check. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the employee (i.e. seeking references not supplied by the individual). For individuals employed by the licensee for longer than three years, trustworthiness and reliability shall be determined, at a minimum, by a review of the employees’ employment history with the licensee and fingerprinting and an FBI identification and criminal history records check”.

2. The Licensee shall comply with; and to the extent the recipient of this letter is also subject to the Increased Controls (as referenced in the License), Paragraph IC 1.c of the Increased Controls is superseded by, the following:

“Service provider licensee employees shall be escorted unless determined to be trustworthy and reliable by an NRC-required background investigation. Written verification attesting to or certifying the person’s trustworthiness and reliability shall be obtained from the licensee providing the service.”

Licensees are required to submit fingerprints in accordance with this letter. The current processing fee is $36.00 per submission and payment must be made electronically through http://www.pay.gov. Details regarding fingerprint submittals and payment of fees are found in Enclosure 3 to this letter. Also, guidance for evaluating FBI identification and criminal history records checks for allowing unescorted access to certain radioactive material to aid Licensees in their review of criminal history records, may be found in Enclosure 4. Additional guidance may be found at http://www.nrc.gov/security/bypdf/2010/orders.html#fingerprinting.

Licensee responses to A.2., A.3. and A.4., above shall be submitted to the California Department of Public Health, Radiologic Health Branch, Radioactive Materials Licensing Section, Increased Controls Program, MS 7610, P.O. Box 997414, Sacramento, CA 95899-7414. Licensee responses shall be marked as Sensitive Security-Related Information ~ Withhold from Public Disclosure. The Branch Chief, Radiologic Health
Branch, California Department of Public Health may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the Licensee.

FOR THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

Gary W. Butner, Chief
Radiologic Health Branch

Enclosures:
1. Order to Implement Fingerprinting and Criminal History Record Checks for Unescorted Access to Radioactive Material in Quantities of Concern
2. Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks
3. Procedures for Processing Fingerprint Checks
TO: ALL CALIFORNIA RADIOACTIVE MATERIALS LICENSEES AUTHORIZED TO
POSSESS RADIOACTIVE MATERIAL IN QUANTITIES OF CONCERN

SUBJECT: ORDER TO IMPLEMENT FINGERPRINTING AND CRIMINAL HISTORY
RECORD CHECKS FOR UNESCORTED ACCESS TO RADIOACTIVE
MATERIAL IN QUANTITIES OF CONCERN

WHEREAS, the State of California entered into an agreement (HSC section 115230 et. seq.) with the United States Nuclear Regulatory Commission (the Commission) in 1962, and the State Legislature ratified and approved that agreement designated as the "Agreement between the United States Atomic Energy Commission and the State of California for Discontinuance of Certain Commission Regulatory Authority and Responsibility with the State pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended."

WHEREAS, Health and Safety Code Section 115235, Article V, provides that the State will use its best efforts to maintain continuing compatibility between its programs and the program of the Commission for the regulation of like materials.

WHEREAS, on November 14, 2005, the Commission issued an Order imposing Increased Controls (EA-05-090) to certain Licensees of the Commission who are authorized to possess radioactive materials in quantities of concern.

WHEREAS, on November 15, 2005, the State of California issued an Order to Implement Increased Controls over Certain Radioactive Materials imposing requirements that were essentially identical to the Commission's requirements to certain Licensees of the California Department of Public Health.

WHEREAS, on December 5, 2007, the Commission issued an Order Imposing Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Certain Radioactive Material (EA-07-305) pursuant Section 652 of the Energy Policy Act of 2005 (EPAct). Specifically, the EPAct amended section 149 of the Atomic Energy Act to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check for any individual who is permitted unescorted access to radioactive materials or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks.
WHEREAS, the Commission has determined the requirements of Order EA-07-305 to be a matter of immediate and mandatory compatibility for all States regulating radioactive material under an Agreement pursuant to Section 274(b) of the Atomic Energy Act, as amended.

THEREFORE, pursuant to the Commission's finding that unescorted access to radioactive materials in quantities of concern is of such significance to the public health and safety as to warrant fingerprinting and criminal history record checks.

IT IS HEREBY ORDERED, pursuant to Health and Safety Code Section 115150, that all specific radioactive materials licensees of CDPH, possessing radioactive materials in quantities of concern as identified in Attachment 1 to this Order to implement fingerprinting and criminal history record check requirements for unescorted access to certain radioactive materials as specified in an amendment to each affected licensee's specific California Radioactive Materials License, which amendment will be issued by the California Department of Public Health.

Licenses issued or amended after the date of this Order, and which authorize the possession of radioactive materials in quantities of concern shall be required to implement the fingerprinting and criminal history record check requirements prior to receipt of radioactive materials in quantities of concern, pursuant to this Order, and as specified in their California Radioactive Materials License.

IT IS SO ORDERED

DATED: June 5, 2008

[Signature]
GARY W. BUTNER, CHIEF
RADIOLOGIC HEALTH BRANCH
**Table 1: Radionuclides of Concern**

<table>
<thead>
<tr>
<th>Radionuclide</th>
<th>Quantity of Concern¹ (TBq)</th>
<th>Quantity of Concern² (Ci)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Am-241</td>
<td>0.6</td>
<td>16</td>
</tr>
<tr>
<td>Am-241/Be</td>
<td>0.6</td>
<td>16</td>
</tr>
<tr>
<td>Cf-252</td>
<td>0.2</td>
<td>5.4</td>
</tr>
<tr>
<td>Cm-244</td>
<td>0.5</td>
<td>14</td>
</tr>
<tr>
<td>Co-60</td>
<td>0.3</td>
<td>8.1</td>
</tr>
<tr>
<td>Cs-137</td>
<td>1</td>
<td>27</td>
</tr>
<tr>
<td>Gd-153</td>
<td>10</td>
<td>270</td>
</tr>
<tr>
<td>Ir-192</td>
<td>0.8</td>
<td>22</td>
</tr>
<tr>
<td>Pm-147</td>
<td>400</td>
<td>11,000</td>
</tr>
<tr>
<td>Pu-238</td>
<td>0.6</td>
<td>16</td>
</tr>
<tr>
<td>Pu-239/Be</td>
<td>0.6</td>
<td>16</td>
</tr>
<tr>
<td>Ra-226</td>
<td>0.4</td>
<td>11</td>
</tr>
<tr>
<td>Se-75</td>
<td>2</td>
<td>54</td>
</tr>
<tr>
<td>Sr-90 (Y-90)</td>
<td>10</td>
<td>270</td>
</tr>
<tr>
<td>Tm-170</td>
<td>200</td>
<td>5,400</td>
</tr>
<tr>
<td>Yb-169</td>
<td>3</td>
<td>81</td>
</tr>
<tr>
<td>Combinations of radioactive materials listed above³</td>
<td>See Footnote Below⁴</td>
<td></td>
</tr>
</tbody>
</table>

¹ The aggregate activity of multiple, collocated sources of the same radionuclide should be included when the total activity equals or exceeds the quantity of concern.

² The primary values used for compliance with this Order are TBq. The curie (Ci) values are rounded to two significant figures for informational purposes only.

³ Radioactive materials are to be considered aggregated or collocated if breaching a common physical security barrier (e.g., a locked door at the entrance to a storage room) would allow access to the radioactive material or devices containing the radioactive material.

⁴ If several radionuclides are aggregated, the sum of the ratios of the activity of each source, i of radionuclide, n, Aᵢₙ/n, to the quantity of concern for radionuclide n, Qᵢₙ listed for that radionuclide equals or exceeds one: 

\[
\frac{[\text{aggregated source activity for radionuclide A}] + [\text{aggregated source activity for radionuclide B}] + \ldots}{\text{quantity of concern for radionuclide A}] + [\text{quantity of concern for radionuclide B}] + \ldots} \geq 1
\]
Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks

The new fingerprinting requirements supplement previous requirements in the Increased Controls (as referenced in the License).

Licensees currently have a program to grant unescorted access to individuals. As required by condition A.1 of the letter, Licensees shall modify its current trustworthiness and reliability program to include the following:

1. Each Licensee subject to the provisions of this enclosure shall fingerprint each individual who is seeking or permitted unescorted access to risk significant radioactive materials equal to or greater than the quantities listed in attachment 1 to enclosure 1. The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) identification and criminal history records check and ensure that the provisions contained in the cover letter and this enclosure are satisfied.

2. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the “Right to Correct and Complete Information” section of this enclosure.

3. Fingerprints for unescorted access need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR § 73.61, or any person who has been favorably-decided by a U.S. Government program involving fingerprinting and an FBI identification and criminal history records check (e.g. National Agency Check, Transportation Worker Identification Credentials in accordance with 49 CFR Part 1572, Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR Part 555, Health and Human Services security risk assessments for possession and use of select agents and toxins in accordance with 42 CFR Part 73, Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license in accordance with 49 CFR Part 1572, Customs and Border Patrol's Free and Secure Trade Program) within the last five (5) calendar years, or any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation).

Written confirmation from the Agency/employer which granted the federal security clearance is required.

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1 The FAST program is a cooperative effort between the Bureau of Customs and Border Patrol and the governments of Canada and Mexico to coordinate processes for the clearance of commercial shipments at the U.S. - Canada and U.S. - Mexico borders. Participants in the FAST program, which requires successful completion of a background records check, may receive expedited entrance privileges at the northern and southern borders.

2 This documentation must allow the T&R Official to verify that the individual has fulfilled the unescorted access requirements of Section 149 of the AEA by submitting to fingerprinting and an FBI identification and criminal history records check.
security clearance or reviewed the FBI criminal history records results based upon a fingerprint identification check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires unescorted access to certain radioactive material associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to the letter must be submitted to the Commission for transmission to the FBI. Additionally, the Licensee shall submit a certification of the trustworthiness and reliability of the T&R Official as determined in accordance with paragraph B.2 of the letter.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements of the Increased Controls, in making a determination whether to grant unescorted access to certain radioactive materials.

6. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access to risk significant radioactive materials equal to or greater than the Table 1 quantities.

7. The Licensee shall document the basis for its determination whether to grant, or continue to allow unescorted access to risk significant radioactive materials equal to or greater than the Table 1 quantities.

**Prohibitions**

A Licensee shall not base a final determination to deny an individual unescorted access to certain radioactive material solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order 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 the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

**Right to Correct and Complete Information**

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification.

If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history
record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537-9700 (as set forth in 28 CFR Part 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an Official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI identification and criminal history records check after the record is made available for his/her review. The Licensee may make a final unescorted access to certain radioactive material determination based upon the criminal history record only upon receipt of the FBI’s ultimate confirmation or correction of the record. Upon a final adverse determination on unescorted access to certain radioactive material, the Licensee shall provide the individual its documented basis for denial. Unescorted access to certain radioactive material shall not be granted to an individual during the review process.

Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining unescorted access to certain radioactive material. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual’s name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprint and criminal history records from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or determination of unescorted access to certain radioactive material (whether unescorted access was approved or denied). After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.
Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall:

1. Submit one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ) for each individual seeking access to unescorted access to certain radioactive material.

2. Submit to the NRC's Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program, Mail Stop T-6E46, Rockville, MD 20852. Overnight mail is preferred.

3. Include the name and address of the individual (T&R Official) to whom the criminal history records should be returned.

4. Fingerprints for unescorted access need not be taken if an employed individual (e.g., a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR § 73.61, or any person who has been favorably-decided by a U.S. Government program involving fingerprinting and an FBI identification and criminal history records check (e.g. National Agency Check, Transportation Worker Identification Credentials in accordance with 49 CFR Part 1572, Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR Part 555, Health and Human Services security risk assessments for possession and use of select agents and toxins in accordance with 42 CFR Part 73, Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license in accordance with 49 CFR Part 1572, Customs and Border Patrol's Free and Secure Trade Program) within the last five (5) calendar years, or any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation). Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the FBI criminal history records results based upon a fingerprint identification check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires unescorted access to certain radioactive material associated with the Licensee's activities.

Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling (301) 415-5877, or by e-mail to forms@nrc.gov. The Licensee shall establish procedures to

1 The FAST program is a cooperative effort between the Bureau of Customs and Border Patrol and the governments of Canada and Mexico to coordinate processes for the clearance of commercial shipments at the U.S.-Canada and U.S.-Mexico borders. Participants in the FAST program, which requires successful completion of a background records check, may receive expedited entrance privileges at the northern and southern borders.

2 This documentation must allow the T&R Official to verify that the individual has fulfilled the unescorted access requirements of Section 149 of the AEA by submitting to fingerprinting and an FBI identification and criminal history records check.
ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

Licensees must have their fingerprints taken by local law enforcement (or a private entity authorized to take fingerprints) because an authorized official must certify the identity of the person being fingerprinted.

The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application (Note: other fees may apply to obtain fingerprints from your local law enforcement agency). Licensees shall submit payments electronically via http://www.pay.gov. Payments through Pay.gov can be made directly from the Licensee's credit/debit card. Licensees will need to establish a password and user ID before they can access Pay.gov. To establish an account, Licensee requests must be sent to paygo@nrc.gov. The request must include the Licensee's name, address, point of contact, e-mail address, and phone number. The NRC will forward each request to Pay.gov and someone from Pay.gov will contact the Licensee with all of the necessary account information.

Licensees shall make payments for processing before submitting applications to the NRC. Combined payment for multiple applications is acceptable. Licensees shall include the Pay.gov payment receipt(s) along with the application(s). For additional guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415-7404. The application fee (currently $36) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of Licensee fingerprint submittals. The Commission will directly notify Licensees subject to this regulation of any fee changes.

It is necessary for a Licensee to resubmit fingerprints only under two conditions:

1. The FBI has determined that the fingerprints cannot be classified due to poor quality in the mechanics of taking the initial impressions; or,

2. The initial submission has been lost.

If the FBI advises the fingerprints are unclassifiable based on conditions other than poor quality, the Licensee must submit a request to NRC for alternatives. When those search results are received from the FBI, no further search is necessary. The Commission will receive and forward to the submitting Licensee all data from the FBI as a result of the Licensee's application(s) for criminal history records checks, including the FBI fingerprint record(s).
Guidance for Evaluating FBI Identification and Criminal History Records Checks for Allowing Unescorted Access to Certain Radioactive Material

Each Licensee is responsible for determining whether to grant an individual unescorted access to certain radioactive materials. The Licensee shall allow only trustworthy and reliable individuals, approved in writing by the Licensee, to have unescorted access to radioactive material quantities of concern (listed in Table 1 and devices containing that radioactive material. The T&R determination, to grant an individual unescorted access to certain radioactive materials, is made by the Licensee’s T&R Official, based on information gathered from all four elements of the background check and evaluated by the T&R Official. The minimum four background check elements are: 1) fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check, 2) verifying employment history, 3) verifying education, and 4) personal references. The purpose of this guidance is to address the fingerprinting component of the T&R determination.

Unescorted access determinations require an evaluation of a person’s trustworthiness and reliability. When a person’s life history shows evidence of unreliability or untrustworthiness, questions arise whether the person can be relied on and trusted to exercise the responsibility necessary for working with risk-significant radioactive materials. The purpose of the T&R determination requirement, for unescorted access, is to provide reasonable assurance that those individuals are trustworthy and reliable, and do not constitute an unreasonable risk to the public health and safety, including the potential to commit or aid theft and/or radiological sabotage. This is a Licensee’s business decision as to what criteria it uses for the bases of the trustworthiness and reliability determination. Some indicators that Licensees should consider for what may be a trustworthiness and reliability concern can be found in Increased Control guidance in Q and A #22 at the following web address: http://www.nrc.gov/reading-rm/doc-collections/enforcement/security/2005/ml053130233.pdf.

In evaluating the relevance of an individual’s conduct, the T&R Official should consider the following factors:

(1) The nature, extent, and seriousness of the conduct;
(2) the circumstances surrounding the conduct, to include knowledgeable participation;
(3) the frequency and recency of the conduct;
(4) the individual’s age and maturity at the time of the conduct;
(5) the extent to which participation is voluntary;
(6) the presence or absence of rehabilitation and other permanent behavioral changes;
(7) the motivation for the conduct;
(8) the potential for pressure, coercion, exploitation, or duress; and

(9) the likelihood of continuation or recurrence.

Each case must be judged on its own merits, and final determination remains the responsibility of the Licensee. In every case, the T&R Official should evaluate trustworthiness and reliability based on an accumulation of information which supports a positive finding, prior to granting unescorted access. Items to consider include:

1. The T&R Official should evaluate the information collected for consistency and adequacy.

2. True identity should be evaluated by comparing applicant provided identification and personal history data to pertinent information from the background check, and other data sources.

3. The T&R Official should determine whether inconsistencies determined through review or investigation, are intentional, innocent, or an oversight. Wilful or intentional acts of omission or untruthfulness could be grounds for denial of unescorted access.

When a Licensee submits fingerprints to the NRC, it will receive a FBI identification and criminal history record since the individual's eighteenth birthday. The Licensee will receive the information from the criminal history check of those individuals requiring unescorted access to radioactive materials, and the Licensee T&R Official should evaluate that information using the guidance below.

The Licensee's T&R Official is required to evaluate all available information in making a T&R determination for unescorted access to radioactive materials, including the criminal history records information pertaining to the individual. The FBI identification and criminal history records check is used in the determination of whether the individual has a record of criminal activity that indicates that the individual should not have unescorted access to radioactive materials subject to this Order. Each determination of T&R for unescorted access to radioactive materials, which includes a review of criminal history information, must be documented to include the basis for the decision made.

Licensees shall not make a final determination made solely on the basis of criminal history checks information involving an arrest more than 1 year old for which there is not information on the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

All information collected is to be considered by the Licensee in making a trustworthiness or reliability determination for unescorted access. Potentially disqualifying information obtained from confidential/unnamed sources must be substantiated and documented, and should not be used as a sole basis to deny access authorization unless corroborated. Licensees should establish criteria that would disqualify someone from being granted authorized access. In every case, the Licensee should evaluate trustworthiness and reliability based on an accumulation of information which supports a positive finding. Items to evaluate and consider include:
The FBI identification and criminal history records check is used to evaluate whether the individual has a record of criminal activity that may compromise his or her trustworthiness and reliability. Identification of a criminal history through the FBI criminal history records check does not automatically indicate unreliability or lack of trustworthiness of the employee. The licensee will have to judge the nature of the criminal activity, length of employment, and recency of the criminal activity. The licensee can authorize individuals with criminal records for unescorted access to radioactive materials, based on a documented evaluation of the basis for determining that the employee was reliable and trustworthy notwithstanding his or her criminal history. Each evaluation conducted in review of criminal history and other background checks information, should be documented to include the decision making basis.

At a minimum, the Licensee should consider the following elements when evaluating the results of the FBI Identification and Criminal History Records check:

1. Committed, attempted to commit, aided, or abetted another who committed or attempted to commit any act of sabotage, espionage, treason, sedition, or terrorism.

2. Publicly or privately advocated actions that may be inimical to the interest of the United States, or publicly or privately advocated the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.

3. Knowingly established or continued a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist, or revolutionist, or with an espionage agent or other secret agent or representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means. (Ordinarily, the Licensee should not consider chance or casual meetings or contacts limited to normal business or official relations.)

4. Joined or engaged in any activity knowingly in sympathy with or in support of any foreign or domestic organization, association, movement, group, or combination of persons which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or any State or any subdivisions thereof by unlawful means, or which advocate the use of force and violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means. (Ordinarily, the Licensee should not consider chance or casual meetings or contacts limited to normal business or official relations.)

5. Deliberately misrepresented, falsified or omitted relevant and material facts from documentation provided to the Licensee.

6. Has been convicted of a crime(s) which, in the T&R Official's opinion, indicate poor judgment, unreliability, or untrustworthiness.
These indicators are not meant to be all inclusive nor intended to be disqualifying factors. Licensees can also consider how recent such indicators occurred and other extenuating or mitigating factors in their determinations. Section 149.c.(2)(B) of the AEA requires that the information obtained as a result of fingerprinting be used solely for the purposes of making a determination as to unescorted access suitability. Unescorted access suitability is not a hiring decision, and the Department does not intend for licensees to use this guidance as such. Because a particular individual may not be suitable for Unescorted Access does not necessarily mean that he is not suitable for escorted access or some other position that does not involve Department-regulated activities.

Licensees shall notify the Department by contacting the local Radiologic Health Branch Inspection Office (during normal business hours) or through the Office of Emergency Services Warning Center at 800-852-7550 (after hours) within 24 hours if the results from a FBI identification and criminal history records check indicate that an individual is identified on the FBI's Terrorist Screening Data Base.

Local Radiologic Health Branch Inspection Office telephone numbers are:

- Northern California: (510) 620-3416 or (510) 620-3419
- Southern California: (714) 257-2025 or (714) 257-2031
- Los Angeles County: (213) 351-7897 or (213) 351-7387
- San Diego County: (858) 694-3621 or (858) 694-3616