



# Fingerprinting Orders

Marvin Mendonca



# Fingerprinting Orders

- Topics
  - Section 652 of the Energy Policy Act of 2005
  - Implementation by Orders
    - Fingerprinting and alternatives
    - Reviewing Official nomination
    - Reviewing Official determination of others
  - NRC Determination on Reviewing Official
  - Process including appeals



# Fingerprinting Orders

- Section 652 of the Energy Policy Act of 2005 (EPAct), enacted on August 8, 2005, amended the fingerprinting requirements of the Atomic Energy Act (AEA).
  - EPAct amended Section 149 of the AEA to require FBI fingerprinting identification and criminal history records check before anyone is given access to Safeguards Information (SGI).
  - Section 149, as amended, also requires a identification and criminal records history check based on the fingerprints for facility access, but allowed to be done by NRC.



# Fingerprinting Orders

- Orders needed to ensure compliance to the EPA Act and because access to SGI is needed to ensure adequate protection of licensed facilities and associated material. Include:
  - FBI fingerprinting and criminal history checks for individuals who seek access to SGI
  - Apply to all SGI described in the Order, including the SGI that is subject to the “modified” handling requirements (Safeguards Information-Modified Handling or SGI-M).
- Orders do not obviate the need for Licensees to continue to meet the applicable requirements, and to maintain the effectiveness of security measures.



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- For access to SGI, the NRC's implementation cannot await the completion of the SGI rulemaking, which is underway
  - Orders issued to require fingerprinting
  - NRC has determined that individuals who have
    - active federal security clearances or
    - a favorably-decided U.S. Government criminal history check within the last five (5) years, and
    - can provide satisfactory documentation
  - have already been subjected to fingerprinting and criminal history checks and thus have satisfied the EPAct fingerprinting requirement.



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- To implement, Licensees must nominate “reviewing official” who will review the results of the FBI criminal history check
  - Must be someone who
    - previously has been granted access to SGI and
    - seeks continued access to SGI.
  - Based on the results of the FBI criminal history check, the NRC staff will determine whether this individual may continue to have access to SGI.
  - Once a reviewing official is approved by the NRC, only the reviewing official can make SGI access determinations for others who have been fingerprinted and criminal history checked.
- The reviewing official can only make SGI access determinations for other individuals but cannot approve other individuals to act as reviewing officials.



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- If the NRC determines that the individual may not be granted access to SGI, the Order prohibits that individual from obtaining access to any SGI.
  - The Licensee may nominate a different individual to be the reviewing official.
  - If the Licensee decides to withdraw the nomination of a reviewing official after submitting fingerprints to the FBI through the NRC, the NRC will nonetheless complete the review process to determine access to SGI.



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- The NRC process that will govern this determination, and the rights of the individual nominated to be the “reviewing official,” include
  - Prior to a negative determination, the individual shall:
    - Be provided the contents of records obtained from the FBI for the purpose of assuring correct and complete information.
    - If incorrect or incomplete, the individual may initiate challenge procedures to correct.
    - Be afforded 10 days to initiate an action challenging the results
    - If such a challenge is initiated, the NRC may make a determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record.
    - Be afforded an opportunity to submit information relevant to the individual’s trustworthiness and reliability. The NRC shall, in writing, notify the individual of this opportunity, and any deadlines for submitting this information.
  - Procedures to Notify an Individual of the NRC’s Determination to Deny or Revoke Access to SGI include a written explanation of the basis for this determination.
  - Procedures to Appeal an NRC Determination to Deny or Revoke Access to SGI.
  - Opportunity to appeal in writing or in person within 20 days
  - Decision on appeal rendered within 60 days after receipt.



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- Questions