



## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 999-02137; NRC-2026-1684]**

**In the Matter of Blue Energy, Inc.**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Order; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing this Order, immediately effective on March 26, 2026, to impose additional requirements necessary for the adequate protection of Safeguards Information in the possession of Blue Energy, Inc.

**DATES:** The Order was issued on March 26, 2026.

**ADDRESSES:** Please refer to Docket ID NRC-2026-1684 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2026-1684. Address questions about Docket IDs in Regulations.gov to Bridget Curran; telephone: 301-415-1003; email: [Bridget.Curran@nrc.gov](mailto:Bridget.Curran@nrc.gov). For technical questions, contact the individual(s) listed in the "For Further Information Contact" section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). The Order is available in ADAMS under ADAMS Accession No. ML26015A065.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Brian Yip, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3154; email: [Brian.Yip@nrc.gov](mailto:Brian.Yip@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The text of the Order is attached.

(Authority: 42 U.S.C. 2011 *et seq*)

Dated: April 15, 2026.

For the Nuclear Regulatory Commission.

**Kevin Williams,**  
*Acting Director,*  
*Office of Nuclear Security and Incident*  
*Response.*

**ATTACHED – Order.**

**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

In the Matter of	)	
	)	
BLUE ENERGY, INC.	)	Docket No. 99902137
	)	EAF-NSIR-2026-0007
	)	

**ORDER IMPOSING SAFEGUARDS INFORMATION PROTECTION REQUIREMENTS  
FOR ACCESS TO SAFEGUARDS INFORMATION (EFFECTIVE IMMEDIATELY)**

I

Blue Energy Global, Inc. (Blue Energy) submitted a letter of intent to the U.S. Nuclear Regulatory Commission (NRC) in 2025 for a future construction permit application.

On June 2009, the Commission published a rulemaking in the *Federal Register* (FR) (74 FR 28112) requiring applicants for a variety of licensing activities, including nuclear power plant designers to perform a design-specific assessment of the effects of the impact of a large commercial aircraft and to incorporate design features and functional capabilities into the nuclear power plant design to provide additional inherent protection with reduced use of operator actions. To assist designers in completing this assessment, the Commission has decided to provide the detailed aircraft impact characteristics that should be used as reasonable inputs for reactor vendors and architect/engineers who have the need to know and who meet the NRC's requirements for the disclosure of such information to use in the required aircraft impact assessments.

The NRC derived the characteristics from agency analyses performed on operating reactors to support, in part, the development of a broadly effective set of mitigation strategies to combat fires and explosions from a spectrum of hypothetical aircraft impacts. Although the detailed characteristics were not selected as a basis for designing new reactors, the staff is suggesting them as a starting point for aircraft impact

assessments. The detailed aircraft characteristics that are the subject of this Order are hereby designated as Safeguards Information (SGI)<sup>1</sup> in accordance with Section 147 of the AEA.

On October 24, 2008, the NRC revised Title 10 of the *Code of Federal Regulations* (10 CFR) 73.21, "Protection of Safeguards Information: Performance Requirements," to include applicants in the list of entities required to protect SGI (73 FR 63546). The NRC is issuing this order to Blue Energy to impose requirements for the protection of SGI in addition to the requirements set forth in 10 CFR 73.21. These additional requirements include nomination of a reviewing official, restrictions on storage of SGI, and access to SGI by certain individuals.

To implement this Order, Blue Energy must nominate an individual who will review the results of the Federal Bureau of Investigation (FBI) criminal history records check to make SGI access determinations. This individual, called the reviewing official, must be someone who seeks access to SGI. Based on the results of the FBI criminal history records check, the NRC staff will determine if this individual may have access to SGI. If the NRC determines that the individual may not be granted access to SGI, the enclosed order prohibits that individual from obtaining access to any SGI. Once the NRC approves a reviewing official, this reviewing official—and only this reviewing official—can make SGI access determinations for other individuals who Blue Energy identifies as having a need for SGI, who have been fingerprinted, and who have had criminal history records and background check in accordance with this Order. The reviewing official can only make SGI access determinations for other individuals but cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official. Therefore, if Blue Energy wishes to have a new or additional reviewing official, the NRC must approve this individual before he or she can act in that capacity.

## II

The Commission has broad statutory authority to protect and prohibit the

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<sup>1</sup> SGI is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under Section 147 of the Atomic Energy Act of 1954, as amended (AEA).

unauthorized disclosure of SGI. Section 147 of the AEA grants the Commission explicit authority to issue such orders, as necessary, to prohibit the unauthorized disclosure of SGI. To provide assurance that Blue Energy continues to implement appropriate measures to ensure a consistent level of protection to prohibit unauthorized disclosure of SGI, as well as to comply with the fingerprinting, criminal history records check, and background check requirements for access to SGI, Blue Energy shall implement the requirements for the protection of SGI as set forth in 10 CFR 73.21, 10 CFR 73.22, "Protection of Safeguards Information: Specific Requirements," and this Order.

By rule, certain categories of individuals are exempted from the fingerprinting requirements under 10 CFR 73.59, "Relief from Fingerprinting, Identification and Criminal History Records Checks and Other Elements of Background Checks for Designated Categories of Individuals." Those individuals include Federal, State, and local law enforcement personnel in the U.S.; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of the U.S. Congress; certain employees of members of Congress or congressional committees who have undergone fingerprinting for a previous U.S. Government criminal history check; and representatives of the International Atomic Energy Agency or certain foreign government organizations. In addition, individuals who have had a favorably decided U.S. Government criminal history check within the last 5 years, or individuals who have active U.S. Federal security clearances (provided in either case that they provide the appropriate documentation), have already been subjected to fingerprinting and criminal history checks and, thus, have satisfied the fingerprinting requirement.

In addition, under 10 CFR 2.202, "Orders," the NRC finds that, in light of the matters identified above which warrant the issuance of this Order, the public health, safety, and interest require that this Order be effective immediately.

### III

Accordingly, under sections 147, 149, 161b, 161i, 161o, 182, and 186 of the AEA, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 73, "Physical

Protection of Plants and Materials,” IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT BLUE ENERGY AND ALL OTHER PERSONS WHO SEEK OR OBTAIN ACCESS TO SGI AS DESCRIBED HEREIN SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN 10 CFR 73.21, 10 CFR 73.22, AND THIS ORDER.

A.

- (1) No person shall have access to any SGI if the NRC, when making an SGI access determination for a nominated reviewing official, has determined, based on fingerprinting and an FBI identification and criminal history records check, that the person nominated may not have access to SGI.
- (2) Blue Energy shall store SGI designated by this Order only in the facility or facilities specifically approved in writing by the NRC for storage of SGI designated by this Order. Blue Energy may request, in writing, NRC approval of additional facilities for the storage of the SGI designated by this Order that the NRC will consider on a case-by-case basis.
- (3) Blue Energy may provide SGI designated by this Order to individuals (such as foreign/non-U.S. nationals, U.S. citizens living in foreign countries, or individuals under the age of 18) for whom fingerprinting and an FBI criminal history records check are not reasonably expected to yield sufficient criminal history information to form the basis of an informed decision on granting access to SGI, provided that the individual satisfies the requirements of this Order, and that Blue Energy has implemented measures, in addition to those set forth in this Order, to ensure that the individual is suitable to have access to the SGI designated by this Order. Such additional measures must include, but are not limited to, equivalent criminal history records checks conducted by a U.S. local, U.S. State, or foreign governmental agency and enhanced background checks, including employment and credit history. The NRC must review these additional measures and approve them in writing.

B. No person may provide SGI to another person, except in accordance with section III.A. above. Before a person provides SGI to any person, a copy of this Order shall be provided to that person.

C. Blue Energy shall comply with the following requirements:

(1) Blue Energy shall, within 20 days of the date of this Order, submit the fingerprints of one individual whom (a) it nominates as the reviewing official for determining access to SGI by other individuals, and (b) has an established need to know the information. The NRC will determine if this individual (or any subsequent reviewing official) may have access to SGI and, therefore, will be permitted to serve as Blue Energy's reviewing official.<sup>2</sup> Blue Energy may, at the same time or later, submit the fingerprints of other individuals to whom it seeks to grant access to SGI. Fingerprints shall be submitted and reviewed in accordance with the procedures described in the attachment to this Order.

(2) Blue Energy shall, in writing, within 20 days of the date of this Order, notify the Commission (1) if it is unable to comply with any of the requirements described in the Order, including the attachment, or (2) if compliance with any of the requirements is unnecessary in its specific circumstances.

The notification shall provide Blue Energy's justification for seeking relief from, or variation of, any specific requirement.

Blue Energy shall submit responses to C.(1) and C.(2) above to the Director, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Blue Energy shall mark its responses as "Security-Related Information-Withhold Under 10 CFR 2.390."

Except for the requirements for fingerprinting, the Director, Office of Nuclear

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<sup>2</sup> The NRC's determination of this individual's access to SGI in accordance with the process described in Enclosure 3 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

Security and Incident Response, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by Blue Energy.

#### IV

In accordance with 10 CFR 2.202, Blue Energy must, and any other person adversely affected by this Order may, submit a written answer to this Order under oath or affirmation within 20 days of its publication in the *Federal Register*. Blue Energy's answer may consent to the Order and be submitted to the NRC in accordance with 10 CFR 50.4. In addition, Blue Energy and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the *Federal Register*. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for such an extension of time must be made in writing to the Director, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315, "Participation by a person not a party," paragraph (c) must be filed in accordance with 10 CFR 2.302, "Filing of documents." The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13031A056), and on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the NRC Office of the Secretary by email at [Hearing.Docket@nrc.gov](mailto:Hearing.Docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a

digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in portable document format (pdf). Guidance on submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. eastern time (ET) on the due date. Upon receipt of a transmission, the E-Filing system timestamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m.,

ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair-Use application, participants should not include copyrighted materials in their submission.

If a person other than Blue Energy requests a hearing, that person shall set forth with particularity the manner in which their interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by Blue Energy or a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be

whether this Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in section III shall be final 20 days from the date this Order is published in the *Federal Register* without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in section III shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland, this day March 26, 2026.

For the U.S. Nuclear Regulatory Commission,

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Kevin Williams, Acting Director  
Office of Nuclear Security and Incident Response

## **Guidance for Evaluation of Access to Safeguards Information with the Inclusion of Criminal History Records (Fingerprint) Checks**

When a licensee or other person<sup>3</sup> submits fingerprints to the U.S. Nuclear Regulatory Commission (NRC) under an NRC Order, they will receive a summary of criminal history information, provided in U.S. Federal records, covering the time period since the individual's 18th birthday. Individuals retain the right to correct and complete information and to initiate challenge procedures described in Enclosure 3. The licensee will receive the information from the criminal history records check for those individuals requiring access to Safeguards Information (SGI), and the reviewing official will evaluate that information using the guidance below. Furthermore, the requirements for all Orders, which apply to the information and material to which access is being granted, must be met.

The licensee's reviewing official is required to evaluate all pertinent and available information in making a determination regarding an individual's access to SGI, including the criminal history information about the individual as required by the NRC Order. The criminal history records check is used when determining if an individual has a record of criminal activity that indicates that the individual should not have access to SGI. Each determination of access to SGI, which includes a review of criminal history information, must be documented to include the basis for the decision that is made and must meet the following requirements:

- (1) If negative information is discovered that the individual did not provide, or which is different in any material respect from the information that the individual provided, this information should be considered, and decisions made based on these findings must be documented.
- (2) Any record containing a pattern of behaviors that indicates that the behaviors could recur or continue, or recent behaviors that cast doubt on whether an

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<sup>1</sup> As used herein, "licensee" means any licensee or other person who is required to conduct fingerprinting.

individual should have access to SGI should be carefully evaluated before any authorization of access to SGI.

If either of the following occurs, the licensee must resubmit fingerprints:

- (1) The FBI determines that the fingerprints cannot be classified because of poor quality in the mechanics of taking the initial impressions.
- (2) The initial submission is lost.

If the FBI determines that a set of fingerprints is unclassifiable because they are unreadable, they will provide a response similar to the following:

“The quality of the characteristics is too low to be used. Candidate(s) were found. Please resubmit a new set of fingerprints for comparison.”

If the licensee receives two such responses, indicating that the fingerprints for a given individual are unclassifiable, then the licensee may request an exemption—based on the results of a name-based criminal history records check—through the NRC’s Criminal History Program Specialist or Access Authorization Program Security Specialist. (The Criminal History Program Specialist can be reached by email at [CrimHist.Resource@nrc.gov](mailto:CrimHist.Resource@nrc.gov).) The NRC will thereafter provide an electronic response back to the licensee communicating the approval or denial of the exemption. If approved, the licensee will then submit the required form for a name-based check.

## **Process to Challenge NRC Denials or Revocations of Access to Safeguards Information**

### **1. Policy**

This policy establishes a process for an individual, whom the U.S. Nuclear Regulatory Commission (NRC) licensee<sup>4</sup> has nominated to serve as a reviewing official, to challenge and appeal NRC denials or revocations of access to Safeguards Information (SGI). Any individual nominated as a licensee reviewing official whom the NRC has determined may not have access to SGI shall, to the extent provided below, be afforded an opportunity to challenge and appeal the NRC's determination. This policy shall not be construed to require the disclosure of SGI to any person; neither shall it be construed to create a liberty or property interest of any kind in the access of any individual to SGI.

### **2. Applicability**

This policy applies solely to those employees of licensees who are nominated to serve as reviewing officials, and who have thus been considered by the NRC for initial or continued access to SGI in that position.<sup>5</sup>

### **3. SGI Access Determination Criteria**

The NRC will determine whether access to SGI will be granted to an individual nominated to be a reviewing official. Access to SGI shall be denied or revoked whenever it is determined that an individual does not meet the applicable standards. Any doubt about an individual's eligibility for initial or continued access to SGI shall be resolved in favor of national security interests, and access will be denied or revoked.

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<sup>1</sup> As used herein, "licensee" means any licensee or other person who is required to conduct fingerprinting.

<sup>5</sup> The licensee should have an approved SGI program or an SGI program under NRC review.

#### **4. Procedure to Challenge the Contents of Records Obtained from the FBI**

Before a determination, by the responsible NRC branch chief, that an individual's nomination to serve as a reviewing official is denied or that the individual's access to SGI is revoked, the individual shall—

- (i) be given the contents of records obtained from the FBI for the purpose of assuring correct and complete information. 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, including 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 Federal Bureau of Investigation, as set forth in Title 28 of the *Code of Federal Regulations* sections 16.30 through 16.34. In the latter case, the FBI will forward the challenge to the submitting agency and request 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 necessary changes in accordance with the information supplied by that agency.
- (ii) be afforded 10 days to initiate an action challenging the results of an FBI criminal history records check (described in (i), above) after the record is made available to the individual for his or her review. If the individual initiates such a challenge, the responsible NRC branch chief will make a determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record.

## **5. Procedure to Provide Additional Information**

Before a determination, by the responsible NRC branch chief, that an individual's nomination to serve as a reviewing official is denied or that the individual's access to SGI is revoked, the individual shall 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. The responsible NRC branch chief may make a determination of access to SGI only upon receipt of the additional information that the individual submits or, if no such information is submitted, when the deadline to submit such information has passed.

## **6. Procedure to Notify an Individual of the NRC's Determination to Deny or Revoke Access to SGI**

Upon a determination, by the responsible NRC branch chief, that an individual nominated as a reviewing official is denied or has his or her access to SGI revoked, the individual shall be given a written explanation of the basis for this determination.

## **7. Procedure to Appeal an NRC Determination to Deny or Revoke Access to SGI**

Upon a determination, by the responsible NRC branch chief, that an individual's nomination to serve as a reviewing official is denied or that the individual's access to SGI is revoked, the individual shall be given an opportunity to appeal this determination to the responsible division director. The determination must be appealed within 20 days of receipt of the written notice of the determination by the branch chief, and the appeal may be submitted in writing or presented in person. Any appeal made in person shall take place at the NRC's headquarters and shall be at the individual's own expense. The determination by the responsible division director shall be rendered within 60 days after receipt of the appeal.

## **8. Procedure to Notify an Individual of the Determination by the Responsible**

### **Division Director, Upon an Appeal**

A determination by the responsible division director shall be provided to the individual in writing and include an explanation of the basis for this determination. A decision by the responsible division director to affirm the responsible branch chief's determination to deny or revoke an individual's access to SGI is final and not subject to further administrative appeals.

### **General Requirements**

Licensees and other persons who are required to conduct fingerprinting shall comply with the requirements of this enclosure.<sup>6</sup>

The licensee shall notify the U.S. Nuclear Regulatory Commission (NRC), in writing, of any desired change in reviewing officials, in compliance with C.1 of the subject Order.

The NRC will determine if the individual nominated as the new reviewing official may have access to Safeguards Information (SGI) based on a previously obtained or new criminal history check and, therefore, will be permitted to serve as the licensee's NRC-approved reviewing official.

### **Procedures for Processing Fingerprint Checks (10 CFR 73.57(d))**

For the purpose of complying with this Order, licensees shall, using an appropriate method listed in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical Protection of Plants and Materials," section 4, "Communications," submit one completed legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ);<sup>7</sup> or, where practicable, other fingerprint records<sup>8</sup> for each individual seeking access to SGI; to the NRC, marked for the attention of the Criminal History Program.

The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or

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<sup>1</sup> As used herein, "licensee" means any licensee or other person who is required to conduct fingerprinting in accordance with these requirements.

<sup>2</sup> 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 301-415-5877, or by email to [FORMS.Resource@nrc.gov](mailto:FORMS.Resource@nrc.gov).

<sup>3</sup> Guidance on what alternative formats might be practicable is referenced in 10 CFR 73.4.

incomplete cards. 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.

Under 10 CFR 73.57(d)(2), the fee for processing fingerprint checks includes one free resubmission if the initial submission is returned by the Federal Bureau of Investigation (FBI) because the fingerprint impressions cannot be classified. The one free resubmission must have the FBI Transaction Control Number reflected on the resubmission. If additional submissions are necessary, they will be treated as an initial submittal and require a second payment of the processing fee. The payment of a new processing fee entitles the submitter to an additional free resubmittal, if necessary.

Previously rejected submissions may not be included with the third submission, because the submittal will be rejected automatically.

Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints, and payment must be made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds using the electronic payment methods accepted at [www.pay.gov](http://www.pay.gov). Combined payment for multiple applications is acceptable.

The application fee 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 administrative processing fee assessed by the NRC. The NRC processing fee covers administrative costs associated with NRC handling of licensee fingerprint submissions. The Commission publishes the amount of the fingerprint records check application fee on the NRC's public website. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

Additional information regarding fees and payments for criminal history records checks can be found on the NRC's public website at <https://www.nrc.gov/security/chp>.

#### **Right to Correct and Complete Information (10 CFR 73.57(e))**

Before 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 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, update the alleged deficiency, or 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 to the accuracy or completeness of any entry on the criminal history record to the FBI as set forth in 28 CFR 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 data. 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 that agency supplies. The licensee must give at least 10 days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available to that individual for his or her review. The licensee may make a final SGI access determination based on the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI, the licensee shall give the individual its documented basis for denial. Access to SGI shall not be granted to an individual during the review process.

**Protection of Information (10 CFR 73.57(f))**

- (1) Each licensee who obtains a criminal history record on an individual under 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 or her representative,

or to those who have a need to access the information in performing assigned duties in the process of determining access to SGI. 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 claim.

- (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 or her file, and the current 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 received from the FBI, or a copy if the individual's file has been transferred, for 3 years after termination of employment or determination of access to SGI (whether access was approved or denied). After the required 3 years, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

References:

- 10 CFR 73.21; 73.22; 73.23; 73.57; 73.59.  
<https://www.ecfr.gov/current/title-10/chapter-I/part-73>
- Regulatory Guide 5.79, "Protection of Safeguards Information," Revision 0, dated April 2011. <https://www.nrc.gov/docs/ML1032/ML103270219.pdf>

73 FR 63546, Oct. 24, 2008, "Protection of Safeguards Information," Final Rule.  
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