

exposure rate would be 0.003 mrem/hr, which would equate to an exposure of 0.072 mrem in a 24-hour period, a very minor exposure.

RMD system specialists, the local utility managers and operators are not expected to receive annual radiation doses anywhere near the individual monitoring thresholds prescribed in 10 CFR 20.1502, "Conditions Requiring Individual Monitoring of External and Internal Occupational Dose." These aforementioned thresholds are 500 mrem/yr for adults or 100 mrem/yr for children or pregnant women. RMD has estimated maximum dose rates on the sides of the tanks to be between 0.2 to 0.3 mrem/hr and only 0.003 mrem/hr at 30 centimeters. RMD provided estimates of time operators should spend in the proximity of the vessels. The tables showed a maximum of 100 hours/year for the operational personnel. That time

would result in an exposure of only 3 mrem for the year. This is a small fraction of the 340 mrem of background radiation those same individuals receive from natural sources. To ensure that source material is handled in a proper manner, uranium-laden (spent) IX resin is not to be stored at the CWS for greater than 60 days and will only be contained within the IX vessel.

Spent uranium-laden resin will be periodically removed from the URS and transported to a licensed waste management facility or used as alternate feed at a licensed uranium recovery facility. Use of either disposal method will result in a small increase in waste material. If uranium-laden resin is used as an alternate feed material for uranium recovery facilities, the uranium removed from drinking water may enter the nuclear fuel cycle and may ultimately be used for domestic power generation.

III. Finding of No Significant Impact

On the basis of the EA, NRC has concluded that there are no significant environmental impacts from the proposed licensing action, and NRC staff has determined not to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including RMD's license application and supporting documentation, are available electronically at NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are as follows:

Document	ADAMS Accession No.	Date
Final Environmental Assessment for Proposed Performance-Based, Multi-site License for a Uranium Water Treatment Program NRC License No. SUB-(TBD) R.M.D. Operations, LLC.	ML062490415	September 5, 2006.
NUREG-1620, Rev. 1, Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978—Final Report, "Nuclear Regulatory Commission, Washington, DC.	ML032250190	June 30, 2003.
NUREG-1748, "Environmental Review Guidance for Licensing Actions Associated With NMSS Programs—Final Report," Nuclear Regulatory Commission, Washington, DC.	ML031000403	April 10, 2003.
R.M.D. Operations, LLC License Application for Performance-Based, Multi-Site License for Uranium Water Treatment Program.	ML052730008	September 27, 2005.
R.M.D. Operations, LLC Environmental Report in Support of a Performance-based, Multi-site License Application (non-proprietary).	ML062440255	September 27, 2005.

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 26th day of September, 2006.

For the Nuclear Regulatory Commission.

Ron C. Linton,

Project Manager, Uranium Processing Section, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.
[FR Doc. E6-16563 Filed 10-5-06; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[EA-06-203]

In the Matter of All Licensees Identified in Attachment 1 (Redacted) and All Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein, Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information (Effective Immediately)

I

The Licensees identified in Attachment 1¹ to this Order hold licenses issued in accordance with the Atomic Energy Act (AEA) of 1954, as amended, the U.S. Nuclear Regulatory Commission (NRC or Commission) or Agreement States, authorizing them to engage in an activity subject to regulation by the Commission or Agreement States. On August 8, 2005, the Energy Policy Act of 2005 (EPAct)

was enacted. Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is to be permitted to have access to Safeguards Information (SGI)². The NRC's implementation of this requirement cannot await the completion of the SGI rulemaking, which is underway, because the EPAct fingerprinting and criminal history records check requirements for access to SGI were immediately effective upon enactment of the EPAct. Although the EPAct permits the Commission by rule to except certain categories of individuals from the fingerprinting requirement, which the Commission has done (*see* 10 CFR 73.59, 71 FR 33,989 (June 13, 2006)), it is unlikely that licensee employees or others are excepted from the fingerprinting requirement by the "fingerprinting

¹ Attachment 1 contains sensitive information and will not be released to the public.

² Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under section 147 of the AEA.

relief" rule. Individuals relieved from fingerprinting and criminal history records checks under the relief rule include Federal, State, and local officials and law enforcement personnel; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees, and representatives of the International Atomic Energy Agency (IAEA) or certain foreign government organizations. In addition, individuals who have a favorably-decided U.S. Government criminal history records check within the last five (5) years, or individuals who have active Federal security clearances (provided in either case that they make available the appropriate documentation), have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again. Therefore, in accordance with Section 149 of the AEA, as amended by the EPAct, the Commission is imposing additional requirements for access to SGI, as set forth by this Order, so that affected licensees can obtain and grant access to SGI.³ This Order also imposes requirements for access to SGI by any person,⁴ from any person, whether or not a Licensee, Applicant, or Certificate Holder of the Commission or Agreement States.

II

The Commission has broad statutory authority to protect and prohibit the 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. Furthermore, Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and an FBI identification and a criminal history records check of each individual who

³ The storage and handling requirements for certain SGI have been modified from the existing 10 CFR part 73 SGI requirements that require a higher level of protection; such SGI is designated as Safeguards Information—Modified Handling (SGI-M). However, the information subject to the SGI-M handling and protection requirements is SGI, and licensees and other persons who seek or obtain access to such SGI are subject to this Order.

⁴ Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department of Energy specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

seeks access to SGI. In addition, no person may have access to SGI unless the person satisfies all other applicable requirements (e.g., 10 CFR 73.21).

In order to provide assurance that the Licensees identified in Attachment 1 are implementing appropriate measures to comply with the fingerprinting and criminal history records check requirements for access to SGI, all Licensees identified in Attachment 1 shall implement the requirements of this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security 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, pursuant to Sections 104, 147, 149, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR parts 50 and 73, *it is hereby ordered*, effective immediately, that all licensees identified in attachment 1 to this order and all other persons who seek or obtain access to safeguards information, as described above, shall comply with the requirements set forth in this order.

A.1. No person may have access to SGI unless that person has a need-to-know the SGI, has been fingerprinted or who has a favorably-decided FBI identification and criminal history records check, and satisfies all other applicable requirements for access to SGI (e.g., 10 CFR 73.21). Fingerprinting and the FBI identification and criminal history records check are not required, however, for any person who is relieved from that requirement by 10 CFR 73.59 (71 FR 33,989 (June 13, 2006)), or who has a favorably-decided U.S. Government criminal history records check within the last five (5) years, or who has an active Federal security clearance, provided in each case that the appropriate documentation is made available to the Licensee's NRC-approved reviewing official.

2. No person may have access to any SGI if the NRC has determined, based on fingerprinting and an FBI identification and criminal history records check, that the person may not have access to SGI.

B. No person may provide SGI to any other person except in accordance with Condition III.A. above. Prior to providing SGI to any person, a copy of this Order shall be provided to that person.

C. All Licensees identified in Attachment 1 to this Order shall comply with the following requirements:

1. The Licensee shall, within twenty (20) days of the date of this Order, establish and maintain a fingerprinting program that meets the requirements of Attachment 2 to this Order.

2. The Licensee shall, within twenty (20) days of the date of this Order, submit the fingerprints of one (1) individual who currently has access to SGI in accordance with applicable requirements (e.g., 10 CFR 73.21), who continues to need access to SGI, and who the Licensee nominates as the "reviewing official" for determining access to SGI by other individuals. The NRC will determine whether this individual (or any subsequent reviewing official) may have access to SGI and, therefore, will be permitted to serve as the Licensee's reviewing official.⁵ The Licensee may at the same time or later submit the fingerprints of other individuals to whom the Licensee seeks to grant access to SGI. Fingerprints shall be submitted and reviewed in accordance with the procedures described in Attachment 2 of this Order.

3. The Licensee may allow any individual who currently has access to SGI in accordance with the applicable requirements (e.g., 10 CFR 73.21) to continue to have access to previously-designated SGI without being fingerprinted, pending a decision by the NRC-approved reviewing official (based on fingerprinting, an FBI criminal history records check and satisfying other applicable requirements) that the individual may continue to have access to SGI. The Licensee shall make determinations on continued access to SGI by December 1, 2006, in part on the results of the fingerprinting and criminal history records check, for those individuals that were previously granted access to SGI before the issuance of this Order.

4. The Licensee shall, in writing, within twenty (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 this Order, including Attachment 2, or (2) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

Licensee responses to C.1., C.2., C.3., and C.4. above shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In

⁵ 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.

addition, Licensee responses shall be marked as "Security-Related Information—Withhold Under 10 CFR 2.390."

The Director, Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the Licensee.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Assistant General Counsel for Materials Litigation and Enforcement at the same address. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and

place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(I), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified above in Section III shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions as specified above in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 29th day of September 2006.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

Attachment 2—Requirements for Fingerprinting and Criminal History Records Checks of Individuals When Licensee's Reviewing Official Is Determining Access to Safeguards Information

General Requirements

Licensees shall comply with the requirements of this attachment.

A. 1. Each Licensee subject to the provisions of this attachment shall fingerprint each individual who is seeking or permitted access to Safeguards Information (SGI). The Licensee shall review and use the information received from the Federal Bureau of Investigation (FBI) and ensure that the provisions contained in the subject Order and this attachment 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 attachment.

3. Fingerprints 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 73.59, has a favorably-decided U.S. Government criminal history records check within the last five (5) years, or has an active Federal security clearance. Written confirmation from the Agency/ employer which granted the Federal security clearance, or reviewed the criminal history records 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 access to SGI associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the applicable requirements (e.g., 10 CFR 73.21) in making a determination whether to grant access to SGI to individuals who have a need-to-know the SGI.

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 access to SGI.

7. The Licensee shall document the basis for its determination whether to grant access to SGI.

B. The Licensee shall notify the NRC of any desired change in reviewing officials. The NRC will determine whether the individual nominated as the new reviewing official may have access to SGI based on a previously-obtained or new criminal history records check and, therefore, will be permitted to serve as the Licensee's reviewing official.

Prohibitions

A Licensee shall not base a final determination to deny an individual access to SGI 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 records 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.

Procedures for Processing Fingerprint Checks

For the purpose of complying with this Order, Licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T-6E46, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking access to Safeguards Information, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. 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. Practicable alternative formats are set forth in 10 CFR 73.4. 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 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. 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. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at (301) 415-7739]. Combined payment for multiple applications is acceptable. The application fee (currently \$27) 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 submissions. The Commission will

directly notify Licensees who are subject to this regulation of any fee changes.

The Commission will forward to the submitting Licensee all data received from the FBI as a result of the Licensee's application(s) for criminal history records checks, including the FBI fingerprint record.

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 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 criminal history records check after the record is made available for his/her review. The Licensee may make a final SGI access 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 access to SGI, the Licensee shall provide the individual its documented basis for denial. Access to SGI 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 access to Safeguards Information. 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 check record 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 received 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 access to SGI (whether 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.

[FR Doc. E6-16558 Filed 10-5-06; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B,