



Organization of  
Test, Research, and  
Training Reactors

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U.S. Nuclear Regulatory Commission  
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Rockville, MD 20852-2738

Mr. Nieh,

The purpose of this letter is to respectfully submit to you input from TRTR on the issue of the fingerprinting requirement for unescorted access to research and test reactors.

As you know, all NRC-licensed research and test reactor facilities have developed more stringent access controls, including background investigations for unescorted access to the vital area as part of the Compensatory Measure process initiated after 9/11. Also, the TRTR community has incorporated fingerprinting requirements for access to safeguards information (SGI), which adds another level of protection as only those with access to SGI generally have knowledge and access to affect the safety and security of the reactors. The TRTR community feels these measures have been comprehensive and provide a basis for no further requirements. However, to underscore the importance of access control and its relationship with the fingerprinting requirement, we will encourage our members to incorporate their Compensatory Measures either directly in or as an appendix to their respective physical security plan or procedures. Therefore, TRTR recommends that individuals with unescorted access to NRC-licensed research and test reactor facilities be exempt from additional fingerprinting requirements, similar to the exemptions from fingerprinting requirements for access to SGI, which has been afforded other individuals in accordance with 10 CFR 73.59.

Alternatively, TRTR suggests that this requirement be limited to unescorted access to the vital area, as defined in 10 CFR 73.2. While we recognize that a fingerprinting requirement is another layer of protection, expanding this requirement beyond what has already been done or beyond the vital area would significantly negatively affect the mission of these facilities.

The Energy Policy Act of 2005, among other things, amended the Atomic Energy Act (AEA) Section 149, "Fingerprinting for Criminal History Record Checks." The August 8, 2005, amendment to section 149.a.(1)(B) requires

that “[t]he Commission shall require to be fingerprinted any individual who-(i) is permitted unescorted access to-(I) a utilization facility;...”

The important consideration here is how utilization facility is defined. Our position is consistent with the Atomic Energy Act, as amended, which defines a utilization facility as:

- 1. any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or**
- 2. any important component part especially designed for such equipment or device as determined by the Commission**

The Commission has identified these areas as “vital areas” as previously discussed. By identifying the vital area as the applicable area to which to apply the fingerprinting requirement for unescorted access, we are specifically applying this to the reactor itself (i.e., “any equipment or device...” in the Atomic Energy Act definition described above, “which could directly or indirectly endanger the public health and safety by exposure to radiation” as defined in 10 CFR 73.2). This is extraordinarily important to the TRTR community because, in many instances, the research reactor is adjacent or within academic buildings that are unrelated to the reactor or at the very least unrelated to reactor safety.

Expanding this requirement to anything greater than the vital area would also be detrimental, fatal in some cases, to the research and education mission of these facilities. It is significant because the number of researchers who utilize these adjacent laboratories number from as few as a handful to hundreds, if not thousands annually. The potential negative affects on research and test reactors of imposing additional requirements beyond those suggested above cannot be overstated. It would only serve to impose unnecessary regulatory burdens to research or academic areas not considered safety-related and would not be consistent with the provisions to provide the minimum regulation necessary to ensure public health and safety or common defense and security of the Atomic Energy Act.

If you have any questions or concerns in this matter or in any other matter that TRTR may be concerned, please do not hesitate to contact me.

Sincerely,



Steve Reese  
2006 TRTR Chair

cc:

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