



Illinois Emergency Management Agency

Division of Nuclear Safety

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July 31, 2007

Janet R. Schlueter, Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs
Washington, D.C. 20555-0001

RE: RCPD-07-004, Agreement State Authority to Fingerprint

Dear Director Schlueter:

On June 21, 2007, you requested all Agreement States to provide citations to any state statutes, regulations, or other laws that might affect a state's ability to require fingerprinting or the use of information obtained as a result of the required FBI identification and criminal history records check. At this time, the State of Illinois is not aware of any laws enacted within the State prohibiting the collection of fingerprints. However, for those State agencies currently collecting fingerprints pursuant to a state or federal mandate, there are laws limiting the use of the information for purposes not originally intended. The Agency has not included a list of the citations limiting use as they do not apply to the Illinois Emergency Management Agency, Division of Nuclear Safety, but will do so if necessary.

With this in mind, the Agency would like NRC to confirm that Section 274 of the Atomic Energy Act does, in fact, authorize NRC to delegate this authority to the States. During our last teleconference, NRC legal counsel indicated that this was still under review. The Agency will need this confirmation, in writing, to protect the Agency from any entities that may dispute this authority. This will greatly assist the Agency in issuing legally binding obligations to its licensees to require enhanced trustworthy and reliability procedures.

The implementation of this process in Illinois is also heavily dependent on the proposals still pending for the methods of collection/submittal of fingerprints and any associated fees. The Agency strongly suggests that NRC develop a plan for fee collection and submission of acceptable fingerprints immediately. Issues related to the quality of the submissions to FBI and the dissemination of the results to Illinois' licensees have also yet to be resolved. Illinois does not want to become the point of resolution for these issues nor do we want to be involved in the processing of fingerprints and fees on NRC's behalf. **Both fingerprints and any associated fees therein should be submitted directly to NRC.**

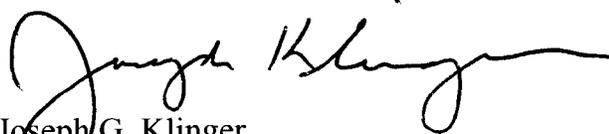


In addition, the agency is not aware of any details or temporary instruction regarding inspection of this additional measure. It is our intent to inspect these during the next round of routine inspections rather than perform special inspections just for fingerprinting unless sufficient justification or issuance of a mandate from the NRC is made to perform special inspections for this particular element of the increased controls. This would be a laborious and time consuming effort that would take valuable time away from our health and safety inspections and our emergency response efforts. We look forward to the development of a draft temporary instruction and the opportunity to comment on that draft.

Once these items are resolved, the Agency does not anticipate any problems with implementing a fingerprinting requirement from the licensing perspective. The Agency anticipates implementing the fingerprinting requirements using legally binding license conditions pursuant to our statutes and regulations. The Agency took a similar approach with the initial increase control measures and achieved 100% compliance from the affected licensees. For any licensees not agreeing to commit to this additional measure, the Agency has the capability to issue orders provided there are practices, procedures and nationally accepted standards that can be referenced, thus providing a statutory basis for issuance of the order. **NRC should be aware that the Agency will need at least 90 days to implement this new element making a September deadline unlikely.**

The Agency appreciates the opportunity to comment on RCPD-07-004. Should you have any questions regarding these comments, please contact Mr. Gibb Vinson of my staff at (217) 785-9928.

Sincerely,



Joseph G. Klinger
Acting Assistant Director

cc: Jim Lynch
U.S. NRC, Region III