

EDO Principal Correspondence Control

FROM: DUE: / /

EDO CONTROL: G20070768
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FINAL REPLY:

Anthony P. DeCrappeo
Council on Governmental Relations

John Vaughn
Association of American Universities

TO:

Chairman Klein

FOR SIGNATURE OF :

** GRN **

CRC NO: 07-0726

DESC:

NRC RIS (Regulatory Issue Summary) 2007-14:
Fingerprinting Requirements for Licensees
Implementing Increased Control Order
(EDATS: SECY-2007-0479)

ROUTING:

Reyes
Virgilio
Kane
Ash
Ordaz
Cyr/Burns
Hagan, ADM

DATE: 10/31/07

ASSIGNED TO:

CONTACT:

FSME

Miller

SPECIAL INSTRUCTIONS OR REMARKS:

For Appropriate Action.

EDATS

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OEDO Due Date: NONE

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Response/Package: NONE

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OCM Concurrence: NO

OCA Concurrence: NO

Special Instructions: For Appropriate Action.

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Originating Organization: Council on Governmental Relations, Association of American Universities

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EDO

/ Commission

AUTHOR:

Anthony DeCappeo

AFFILIATION:

DC

ADDRESSEE:

Dale Klein

SUBJECT:

NRC RIS 2007-14: Fingerprinting requirements for licensees implementing increased control order

ACTION:

Appropriate

DISTRIBUTION:

RF

LETTER DATE:

10/29/2007

ACKNOWLEDGED

No

SPECIAL HANDLING:

Made publicly available in ADAMS via EDO/DPC

NOTES:

EDO/Commission for appropriate action...

FILE LOCATION:

ADAMS

DATE DUE:

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EDO --G20070768

*AAU Association of American Universities
COGR Council on Governmental Relations*

Dale Klein, Chairman
Nuclear Regulatory Commission
11545 Rockville Pike
Rockville MD 20852

Subject: NRC RIS 2007-14: Fingerprinting Requirements for Licensees Implementing Increased Control Order

Dear Commissioner Klein:

On behalf of the Association of American Universities (AAU) and the Council on Governmental Relations (COGR), we are writing to express our concerns about the recent publication of the NRC Regulatory Issue Summary (RIS) 2007-14.

AAU represents 60 U.S. public and private research universities devoted to maintaining a strong system of academic research and education. COGR is an association of more than 170 research universities and their affiliated academic medical centers and research institutes that concerns itself with the influence of federal regulations, policies, and practices on the performance of research and other sponsored activities conducted at its member institutions. As Nuclear Regulatory Commission licensees, AAU and COGR member institutions have implemented the December 2005 Increased Controls Order (EA-05-090) concerning unauthorized access to radioactive material and devices as required by the Commission. However, RIS 2007-14 places additional requirements on NRC licensees and we are concerned that licensees such as the university, medical, and scientific communities have not had an opportunity to comment officially on this new Order before its implementation.

Due to the significant level of concern about RIS 2007-14, we request that the Commission reconsider its decision to issue the Order and instead to engage in a formal rulemaking process. We support the original recommendation of the Commission's staff to proceed through a rulemaking process rather than impose the requirements by order. We believe that a formal rulemaking is the necessary and appropriate deliberative process that provides affected institutions and organizations the opportunity to comment on the burden the proposed rule would impose on licensees and suggest alternatives to the agency proposal.

In our view, the time afforded by a rulemaking would allow the Commission to evaluate the impact of implementation of the identical fingerprint requirement that has been in effect since April 2007 for research and test reactor licensees under Order EA-07-074. The Commission could determine, for example, whether the FBI criminal background checks produced information unavailable to the licensees through local checks and whether the information provided significantly altered the determinations made by the licensee to grant or continue to allow unescorted access.

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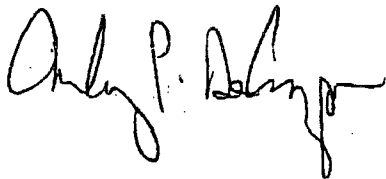
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As an example of the kind of issue that can and should be addressed during the course of a formal rulemaking process, many states will require the fingerprints collected for this purpose to be processed through a state agency before submission to the Commission and FBI. The multiple layers of review and checks may create a burden that is inappropriate in some circumstances. A rulemaking evaluation might identify opportunities to establish relationships within Agreement States for background checks that meet the Attorney General's expectations and thereby streamline the process.

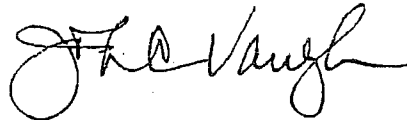
Again, we urge you to reconsider the decision to issue an Order to implement the fingerprinting requirements for licensees implementing increased control. We believe rulemaking is a necessary step to ensure that licensees can achieve the Commission's goal of reducing the risk of unauthorized access to radioactive materials for malicious purposes in a manner that is both effective and not unduly burdensome.

Thank you for your consideration of our views.

Sincerely,



Anthony P. DeCrappeo
President
Council on Governmental Relations



John Vaughn
Executive Vice President
Association of American Universities

Cc: Commissioner Gregory B. Jaczko
Commissioner Peter B. Lyons
Annette L. Vietti-Cook, Secretary of the Commission
Susan E. Dudley, Administrator, OIRA, OMB