

June 15, 2009

DOCKETED
USNRC

Ms. Annette Vietti-Cook
Secretary
Attention: Rulemaking and Adjudication Staff
US Nuclear Regulatory Commission
MS O-16-C1
Washington, D.C. 20555-0001

June 15, 2009 (7:50am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

**Subject: Requirements for Fingerprinting for Criminal History Record Checks of
Individuals Granted Unescorted Access to Research and Test Reactors**

Project Number: 689

Dear Ms. Vietti-Cook:

On behalf of the National Organization of Test, Research and Training Reactor (TRTR) we offer the following comments to the subject Federal Register notice dated April 14, 2009. We appreciate the opportunity to comment on the Advanced Notice of Proposed Rulemaking (ANPR) and trust that you will find these comments useful as you proceed to develop a proposed rule for public comment. We also appreciate NRC efforts to conduct the public meeting held on June 4, 2009 to discuss the contents of the ANPR.

The TRTR supports NRC efforts to ensure that appropriate regulations are in place to ensure the safe and secure operation of research and test reactors nationwide. The members of the TRTR community can assure you that we take our responsibility in this regard very seriously each day. We also fully support the codification of such requirements that are currently imposed through security orders issued without the benefit of licensee or stakeholder comment and trust that will ensure that proposed rule also reflects NRC's and industry's experience to date with implementing the orders.

As we discussed during the June 4, 2009 meeting the TRTR desires that the NRC codify the security orders in the new Rule by incorporating the exact language in the security orders as the language in the new Rule. We firmly believe the security orders effective in meeting their intent and object and that the TRTR members have implemented the requirements set forth in the security orders. We strongly believe any change in the language will cause undue burden on the effected licensees.

We have enclosed comments in response to the eleven specific questions posed in the Federal Register Notice. Please contact me at 573-882-4211 or butlerra@missouri.edu with any questions or comments on the enclosed information.

Sincerely,

Ralph A. Butler
Chair

Enclosure as stated

Template = SECY-067

DS10

SPECIFIC COMMENTS ON THE ADVANCE NOTICE OF PROPOSED RULEMAKING FOR FINGERPRINTING FOR CRIMINAL HISTORY CHECKS OF INDIVIDUALS GRANTED UNESCORTED ACCESS TO RESEARCH AND TEST REACTORS

The April 14, 2009 *Federal Register* notice for the ANPR solicited stakeholder input on 11 specific questions. These questions are repeated here for completeness along with industry's input for NRC's consideration.

- 1. Which of these definitions of "areas of significance" should be adopted by the NRC? Are there preferable ways to define "areas of significance"? If so, what should they be and what are their advantages?**

TRTR prefers the new Rule contain the exact language as contained in the security orders.

As discussed in the FRN, "the specific security measures that are required at each facility vary depending on several factors, which include the quantity and type of special nuclear material possessed by the licensee, as well as the power level at which the licensee is authorized to operate." As such, TRTR believes the security orders accounted for the unique of the individual facilities which in turn allowed the facilities to implement the requirements set forth in the security orders.

- 2. What would be the approximate number of additional personnel that must be fingerprinted for unescorted access based on the "areas of significance" as described in Question 1? Are there any specific categories of persons whom the NRC should consider exempting from fingerprinting?**

TRTR prefers the new Rule contain the exact language as contained in the security orders.

- 3. What is the estimated cost or impact of performing security plan or procedure revisions, and of providing the necessary administrative controls and training to implement fingerprint requirements for individuals permitted unescorted access to "areas of significance" such as those described in Question 1?**

TRTR prefers the new Rule contain the exact language as contained in the security orders.

Any change to the language will place an undue burden on the licensee in revision to security plans, etc.

- 4. Is the proposed definition of individuals with unescorted access reasonable and sufficient? If not, why? For example, should persons granted unescorted access to "areas of significance" be permitted access to the facility at times when no supervision or oversight is present (e.g., evenings or weekends)? Should the NRC require access controls such as maintaining records of time and duration of persons accessing in an "area of significance" without escorts?**

TRTR prefers the new Rule contain the exact language as contained in the security orders.

5. What has worked well, what has not, and why?

TRTR prefers the new Rule contain the exact language as contained in the security orders.

The security orders have been implement for several years and appear to be working effectively.

6. What requirements were found to be the most burdensome? Are there less burdensome alternatives that would accomplish the same level of protection?

Industry has found that the continual use of appropriate paper and ink required and maintain such "paper copies" of fingerprints is burdensome. Licensees would prefer industry-wide and federal use of "LiveScan" fingerprinting which would be less resource burdensome and enhance the industry's and NRC's ability to share information.

7. Are there requirements in the orders that appear to contribute little to the security of the facility? Could the same resources be used more effectively in other ways?

TRTR prefers the new Rule contain the exact language as contained in the security orders.

8. Are there other enhancements that could be made?

TRTR prefers the new Rule contain the exact language as contained in the security orders.

9. Has the implementation of the orders identified any new issues that should be addressed through rulemaking?

TRTR prefers the new Rule contain the exact language as contained in the security orders.

10. Regarding alternatives to fingerprinting foreign nationals and/or minors regarding a trustworthiness and reliability determination: (a) Do foreign nationals and/or minors require unescorted access to "areas of significance"? (b) are there alternative methods to obtain information upon which a licensee could base a trustworthiness and reliability determination for these individuals?

(a) Yes, to foreign nationals in some cases and No to minors under 18 years of age.

(b) Yes, but evaluating the validity of information from some sources could be problematic.

11. Is there any additional information that NRC should consider in preparing the proposed rule?

TRTR prefers the new Rule contain the exact language as contained in the security orders.

Comments, Rulemaking

From: Butler, Ralph [ButlerRa@missouri.edu]
Sent: Friday, June 12, 2009 3:05 PM
To: Rulemaking Comments
Subject: Comment on Advance Rule Making
Attachments: TRTR 06-XX-09_NRC Advance Notice of Proposed Rulemaking_Part 73_RTRs.doc

USNRC

Attached you will find comments from the National Organization of Test, Research and Training Reactors (TRTR) on the advanced notice of rulemaking on the Requirements for Fingerprinting for Criminal History Record Checks of Individuals Granted Unescorted Access to Research and Test Reactors published in the Federal Register on April 14, 2009.

Ralph A. Butler

Chair, TRTR

<<TRTR 06-XX-09_NRC Advance Notice of Proposed Rulemaking_Part 73_RTRs.doc>>

Received: from mail1.nrc.gov (148.184.176.41) by TWMS01.nrc.gov
(148.184.200.145) with Microsoft SMTP Server id 8.1.358.0; Fri, 12 Jun 2009
15:05:16 -0400

X-Ironport-ID: mail1

X-SBRS: 1.3

X-MID: 3024395

X-IronPort-Anti-Spam-Filtered: true

X-IronPort-Anti-Spam-Result:

AiMHAEIDMkrRauU1cWdsb2JhbACCJS2VcQEMCA0HE6kdhi6IUYQLBQ

X-IronPort-AV: E=Sophos;i="4.42,211,1243828800";
d="doc'32?scan'32,208,217,32";a="3024395"

Received: from mxnip01-missouri-out.um.umsystem.edu ([209.106.229.53]) by
mail1.nrc.gov with ESMTP; 12 Jun 2009 15:05:14 -0400

X-IronPort-Anti-Spam-Filtered: true

X-IronPort-Anti-Spam-Result: AswEAEIDMkrRauUp/2dsb2JhbACCJS2/SoYuiFGECwU

Received: from unknown (HELO um-nsmtout1.um.umsystem.edu) ([209.106.229.41])
by mxnip01-missouri-out.um.umsystem.edu with ESMTP; 12 Jun 2009 14:05:13
-0500

Received: from UM-XMAIL01.um.umsystem.edu ([209.106.228.1]) by
um-nsmtout1.um.umsystem.edu with Microsoft SMTPSVC(6.0.3790.3959); Fri, 12
Jun 2009 14:05:13 -0500

x-mimeole: Produced By Microsoft Exchange V6.5

Content-Class: urn:content-classes:message

MIME-Version: 1.0

Content-Type: multipart/mixed;

boundary="----=_NextPart_001_01C9EB90.B51FA326"

Subject: Comment on Advance Rule Making

Date: Fri, 12 Jun 2009 14:05:10 -0500

Message-ID:

<AC6B750EAC13F549938ACB1877A4456806384ABE@UM-XMAIL01.um.umsystem.edu>

X-MS-Has-Attach: yes

X-MS-TNEF-Correlator:

Thread-Topic: Comment on Advance Rule Making

Thread-Index: AcnrkLV09LQ/igftRZ6t7irNQubTMw==

From: "Butler, Ralph" <ButlerRa@missouri.edu>

To: <rulemaking.comments@nrc.gov>

Return-Path: ButlerRa@missouri.edu

X-OriginalArrivalTime: 12 Jun 2009 19:05:13.0473 (UTC) FILETIME=[B6FEA710:01C9EB90]