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NUCLEAR ENERGY INSTITUTE

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DOCKETED  
USNRC

June 15, 2009

June 16, 2009 (8:00am)

Ms. Annette Vietti-Cook  
Secretary  
US Nuclear Regulatory Commission  
Washington, DC 20555-0001

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**ATTN:** 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 Nuclear Energy Institute (NEI),<sup>1</sup> we offer the following comments from operating research and test reactors in response to the subject *Federal Register* notice (FRN) 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 U.S. Nuclear Regulatory Commission (NRC) efforts to conduct the public meeting held on June 4, 2009 to discuss the contents of the ANPR.

The research and test reactor industry supports the NRC's efforts to ensure that appropriate regulations are in place for the safe and secure operation of reactors nationwide and we can assure you that we take our responsibility for these matters very seriously. We also fully support the codification of security requirements that were imposed by previously issued orders and have been fully implemented by affected licensees. In that regard, as industry representatives stated during the June 4, 2009 public meeting, we suggest that the NRC limit the proposed rule to those requirements

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<sup>1</sup> NEI is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

Template = SECY-067

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Ms. Annette Vietti-Cook

June 15, 2009

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previously imposed and fully implemented and refrain from proposing revised or new security requirements at research and test reactors at this time.

Consistent with this position, we have enclosed brief comments in response to the eleven specific questions posed in the FRN. Please contact me or Janet Schlueter (202-739-8098; jrs@nei.org) with any questions or comments on the enclosed information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Felix M. Killar, Jr.", written in dark ink.

Felix M. Killar, Jr.

Enclosure

## Rulemaking Comments

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**From:** REED, Joseph [jsr@nei.org] on behalf of KILLAR, Felix [fmk@nei.org]  
**Sent:** Monday, June 15, 2009 5:06 PM  
**Subject:** Requirements for Fingerprinting for Criminal History Record Checks of Individuals Granted Unescorted Access to Research and Test Reactors  
**Attachments:** 06-15-09\_NRC\_Requirements for Fingerprinting for Criminal History Record Checks of Individuals Granted Unescorted Access to Research and Test Reactors.pdf; 06-15-09\_NRC\_Requirements for Fingerprinting for Criminal History Record Checks of Individuals Granted Unescorted Access to Research and Test Reactors\_Enclosure.pdf

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Sincerely,

Felix M. Killar, Jr.  
Senior Director, Fuel Supply/Material Licensees  
Nuclear Generation Division

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**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?**

The test and research reactor licensees prefer that the new rule contain the exact language as contained in the existing 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, the licensees believe 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?**

The licensees prefer that 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?**

The licensees prefer that 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?**

The licensees prefer that the new rule contain the exact language as contained in the security orders.

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

The licensees prefer that the new rule contain the exact language as contained in the security orders. The security orders have been implemented 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?**

The licensees prefer that the new rule contain the exact language as contained in the security orders.

**8. Are there other enhancements that could be made?**

The licensees prefer that 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?**

The licensees prefer that 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?**

The licensees prefer that the new rule contain the exact language as contained in the security orders.

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X-MID: 3069439

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Received: by emcmailer; Mon, 15 Jun 2009 14:05:57 -0700

Received: from [208.116.169.253] (helo=NEIEXC01.nei.org) by bean.electric.net

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X-MimeOLE: Produced By Microsoft Exchange V6.5

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

Date: Mon, 15 Jun 2009 17:06:02 -0400

Message-ID: <47623505B19EE34A96E8E7F9D2D80BE00245F78A@neiexc01.nei.org>

X-MS-Has-Attach: yes

X-MS-TNEF-Correlator:

Thread-Topic: Requirements for Fingerprinting for Criminal History Record  
Checks of Individuals Granted Unescorted Access to Research and Test  
Reactors

Thread-Index: Acnt/RLLmro3cXrJTWGS1i/8D/Rt8Q==

From: "KILLAR, Felix" <fmk@nei.org>

Sender: "REED, Joseph" <jsr@nei.org>

X-Outbound-IP: 208.116.169.253

X-Env-From: jsr@nei.org

X-PolicySMART: 609541, 425095

MIME-Version: 1.0

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Return-Path: jsr@nei.org