

April 1, 2011

Mr. Charles H. Rose, Executive Director
American Association for Nuclear
Cardiology, Inc.
5660 Airport Boulevard, Suite 101
Boulder, CO 80301

Dear Mr. Rose:

This letter is in response to your correspondence to Chairman Jaczko of the U.S. Nuclear Regulatory Commission (NRC) dated February 28, 2011. In your correspondence, you request that NRC and the Agreement States change their licensing procedures to perform a security check of applicants for the positions of Authorized User or Radiation Safety Officer (RSO). As a basis for this request, you state that it is not reasonable for the government to permit the use and control of radionuclides by individuals who may be known to be:

- A national security risk;
- Not a legal resident;
- Known by law enforcement to have a violent criminal record;
- Known by the courts and/or law enforcement to be unstable to the extent that they may intend to harm others; or
- Have a record of having a medical license revoked or denied for a criminal medical act

The training and experience regulations at Title 10 of the *Code of Federal Regulations* (10 CFR) Part 35 establish the requirements for individuals seeking to be authorized on an NRC license for medical use of byproduct material. Furthermore, requirements in Part 35 and other parts of the regulations establish the qualifications, training, and experience for the position of RSO. These regulations do not require an individual seeking authorization for these positions be subject to a security check. Therefore, although your letter indicates that it is a request for a change to licensing procedures, the action that you are requesting would require that the NRC implement a rulemaking to amend its training and experience requirements at 10 CFR Part 35 and other parts of the regulations.

Similarly, the use of the Department of Homeland Security's Transportation Worker Identification Credential system for conduct of background investigations and for issuance of credentials, which you recommend, would require rulemaking.

A request that the NRC implement a rulemaking is considered to be a petition for rulemaking and as such must meet the criteria in 10 CFR 2.802. We have carefully reviewed your request and have determined that in order to meet these criteria, certain additional information must be provided. Therefore, we are deferring action on your request pending any response you may submit to the concerns stated below.

The information you provided does not include a description of your interest in the requested action as required by 10 CFR 2.802(c)(2).

The request does not meet the criteria at 10 CFR 2.802(c)(3) which states that each petition filed under this section must include a statement in support of the petition which must present the specific issues involved; the petitioner's views or arguments with respect to those issues; relevant technical, scientific, or other data involved which is reasonably available to the petitioner; and other pertinent information as the petitioner deems necessary to support the action sought. In support of your petition, you should note any specific cases of which you are aware where the current rule is unduly burdensome, deficient, or needs to be strengthened.

Accordingly, if you want the NRC to consider your request further, you must supplement your correspondence of February 28, 2011, to meet the minimum requirements for a petition for rulemaking. This information must be received by the NRC within 90 days of the date of this letter, or your request will be considered closed.

I have enclosed a copy of the regulations at 10 CFR 2.802 for your convenience. The regulations pertaining to the petition process may also be found online at <http://www.nrc.gov/reading-rm/doc-collections/cfr>.

If you have any questions, please contact Paul Goldberg of my staff at 301-415-7842, or via e-mail to Paul.Goldberg@nrc.gov.

Sincerely,

/RA/

Terrence Reis, Acting Director
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
10 CFR 2.802

The request does not meet the criteria at 10 CFR 2.802(c)(3) which states that each petition filed under this section must include a statement in support of the petition which must present the specific issues involved; the petitioner's views or arguments with respect to those issues; relevant technical, scientific, or other data involved which is reasonably available to the petitioner; and other pertinent information as the petitioner deems necessary to support the action sought. In support of your petition, you should note any specific cases of which you are aware where the current rule is unduly burdensome, deficient, or needs to be strengthened.

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Sincerely,

/RA/

Terrence Reis, Acting Director
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
10 CFR 2.802

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