

July 23, 2010

ALL STATE LIAISON OFFICERS

OPPORTUNITY TO COMMENT ON ENVIRONMENTAL ASSESSMENT AND PROPOSED RULE: REQUIREMENTS FOR FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECKS FOR INDIVIDUALS SEEKING UNESCORTED ACCESS TO RESEARCH OR TEST REACTORS - RIN 3150-AI25 (FSME-10-063)

Purpose: To notify the State Liaison Officers about the opportunity to comment* on the enclosed proposed rule and environmental assessment. The enclosed proposed rule, which would amend the Commission's rules in Title 10 of the *Code of Federal Regulations*, Part 73, has been sent to the *Federal Register* for publication.

Background: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require research and test reactor (RTR) licensees (also called non-power reactor licensees) to obtain a fingerprint-based criminal history records check before granting any individual unescorted access to their facilities. This action is necessary to comply with the requirements of Section 652 of the Energy Policy Act of 2005 (EP Act) which amended Section 149 of the Atomic Energy Act of 1954, as amended (AEA), to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and a criminal history records check of any person who is permitted unescorted access to a utilization facility. The proposed amendments would establish, for RTR licensees, generically applicable fingerprinting requirements similar to those previously imposed by the Commission's orders pertaining to the granting of unescorted access. The proposed amendments would implement the requirement in Section 149(a)(1)(B)(i) of the AEA that the Commission require to be fingerprinted any individual who is permitted unescorted access to a utilization facility. Section 149 of the AEA grants the NRC the authority to impose FBI fingerprint-based identification and criminal history records checks for individuals seeking unescorted access at a broader range of NRC licensees and regulated facilities. Before the EP Act amended Section 149, the NRC required fingerprinting for unescorted access to facilities licensed under Sections 103 and 104b of the AEA. Because of the amendment to Section 149 of the AEA, utilization facilities licensed under Section 104c of the AEA, which were not previously subject to these requirements, are now subject to these fingerprint requirements, and it is this specific expansion that is the subject of this proposed rule (i.e., extension of these fingerprint-based FBI criminal history records check requirements to non-power reactors including RTR licensees).

* This information request has been approved by OMB 3150-0163, expiration 1/31/2013. The estimated burden per response to comply with this voluntary collection is approximately 8 hours. Send comments regarding the burden estimate to the Records and FOIA/Privacy Services Branch (T-5F52), U.S. Nuclear Regulatory Commission (NRC), Washington, DC 20555-0001, or by internet e-mail to infocollects@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0163), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Discussion: If you have any comments on the proposed rule, please submit the comments by October 4, 2010, in accordance with the instructions under the DATES heading in the enclosed proposed rule notice. If you have any comments on the information collection aspect of the proposed rule, please submit the comments by September 20, 2010, in accordance with the instructions under the DATES heading in the enclosed proposed rule notice. Comments received after the comment period deadline will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before the end of the comment period.

If you have any questions regarding this correspondence, please contact the individual named below.

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/RA/

Josephine M. Piccone, Director
Division of Intergovernmental Liaison
and Rulemaking
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and Environmental Management Programs

Enclosure:
Federal Register Notice

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ADAMS Accession No.:ML101790015

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