



# **AAR CARGO SYSTEMS**

a division of AAR Manufacturing Group, Inc.

April 15, 2004

Mr. William C. Huffman  
U.S. Nuclear Regulatory Commission  
Document Control Desk  
Two White Flint North  
Mail Stop T-7 F27  
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Rockville, MD 20852-2738

Application for Withholding Proprietary Information From Public Disclosure

Dear Mr. Huffman:

Pursuant to 10CFR 2.790 and Section 4.5 of the Nuclear Reactor Regulation Office Instruction No. LIC-204, Revision 2, "Handling Requests to Withhold Proprietary Information from Public Disclosure," dated April 2, 2004, AAR Corporation requests that the April 21, 2004, presentation to the Nuclear Regulatory Commission pertaining to blistering of Boral material in spent fuel pools be withheld from public disclosure.

The Enclosure contains an affidavit signed by Dallas D. Mayfield, the owner of the proprietary presentation. The affidavit sets forth the basis on which the AAR Corporation presentation may be withheld from public disclosure by the NRC, and it addresses with specificity the considerations listed in the Freedom of Information Action ("FOIA"), 5 USC Sec. 552(b)(4) and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CRF 9.17 (a)(4), 2.390(a)(4), and 2.390(b)(1).

If you have any questions regarding this matter, please contact Mr. Dallas D. Mayfield.

Sincerely,

Dallas D. Mayfield  
General Manager

Enclosure

dm041504

*...systems, components & more*

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AFFIDAVIT

COMMONWEALTH OF MICHIGAN

Subscribed and sworn before me, this 16  
day of April, 2004, a Notary Public  
in and for Oakland County,  
Michigan.

as *Cheryl L. Shewach*

(Signature)

NOTARY PUBLIC

My Commission expires 7-19, 2005

COUNTY OF OAKLAND

Before me, the undersigned authority, personally appeared Dallas D. Mayfield, who being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of AAR Manufacturing Group, Inc. an Illinois corporation and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief.

*Dallas D. Mayfield*

Dallas D. Mayfield

General Manager

**CHERYL L. SHEWACH**  
Notary Public, Oakland County, MI  
My Commission Expires July 19, 2005

- (1) I am General Manager, AAR Manufacturing, a division of AAR Manufacturing Group, Inc. an Illinois corporation and as such, I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with nuclear power plant licensing and rulemaking proceedings, and am authorized to apply for its withholding on behalf of AAR.
- (2) I am making this Affidavit in conformance with the provisions of 10CFR Section 2.790 of the Commission's regulations and in conjunction with the AAR application for withholding accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by the AAR in designating information as a trade secret, privileged or as confidential commercial or financial information.
- (4) Pursuant to the provisions of paragraph (b)(4) of Section 2.790 of the commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.
  - (i) The information sought to be withheld from public disclosure is owned and has been held in confidence by AAR.
  - (ii) The information is of a type customarily held in confidence by AAR and not customarily disclosed to the public. AAR has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitutes AAR policy and provides the rational basis required.

Under that system information is held in confidence if it falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

- (a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any of AAR competitors without license from AAR constitutes a competitive economic advantage over other companies.
- (b) It consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc), the application of which data secures a competitive economic advantage, e.g., by optimization or improved marketability.
- (c) Its use by a competitor would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
- (d) It reveals cost or prices information, production capabilities, budget levels, or commercial strategies of AAR, its customers or suppliers.
- (e) It reveals aspects of past, present, or future AAR or customer funded development plans and programs of potential commercial value to AAR.
- (f) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the AAR system which include the following:

- (a) The use of such information by AAR gives AAR a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the AAR competitive position.
  - (b) It is information which is marketable in many ways. The extent to which such information is available to competitors diminishes AAR ability to sell products and services involving the use of the information.
  - (c) Use by our competitor would put AAR at a competitive disadvantage by reducing his expenditure of resources at our expense.
  - (d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving AAR of a competitive advantage.
  - (e) Unrestricted disclosure would jeopardize the position of prominence of AAR in the world market, and thereby give a market advantage to the competition of those countries.
  - (f) The AAR capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.
- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.790, it is to be received in confidence by the Commission.

- (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
  
- (v) The proprietary information sought to be withheld in this presentation pertains to the proprietary design, manufacturing process, and performance of Boral.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of AAR because it would enhance the ability of the competitors to provide similar technical evaluation justifications and licensing defense services for commercial neutron absorbers without commensurate expenses.