

NUCLEAR REGULATORY COMMISSION

In the Matter of

ALL LICENSEES WHO POSSESS)	EA-04-190
RADIOACTIVE MATERIAL IN QUANTITIES OF)	EA-04-191
CONCERN AND ALL OTHER PERSONS)	
WHO OBTAIN SAFEGUARDS)	
INFORMATION DESCRIBED HEREIN)	

**ORDER ISSUED
IMPOSING REQUIREMENTS FOR THE
PROTECTION OF CERTAIN
SAFEGUARDS INFORMATION
(EFFECTIVE IMMEDIATELY)**

I

The licensees identified in Attachment 1¹ to this Order hold licenses issued in accordance with the Atomic Energy Act of 1954, by the U.S. Nuclear Regulatory Commission (NRC or Commission), or an Agreement State authorizing them to possess and transfer items containing radioactive material quantities of concern. The NRC intends to issue security Orders to these licensees in the near future. Orders will be issued to both NRC and Agreement State materials licensees who may transport radioactive material quantities of concern. The Orders will require compliance with specific Additional Security Measures to enhance the security for transport of certain radioactive material quantities of concern. The NRC will issue Orders to both NRC and Agreement State licensees under its authority to protect the common defense and security, which has not been relinquished to the Agreement States. Before issuing Orders for Additional Security Measures, the Commission seeks comments from affected licensees on

¹ Attachment 1 has been redacted to remove the list of material licensees that is considered OFFICIAL USE ONLY sensitive information and will not be released to the public.

the draft Additional Security Measures, and Regulatory Issue Summary Table, “Threat Conditions and Specific Actions for licensees who Transport Radioactive Material Quantities of Concern.” However, the Commission has determined that these draft documents contain Safeguards Information, will not be released to the public, and must be protected from unauthorized disclosure. Therefore, the Commission is imposing the requirements, as set forth in Attachment 2 of this Order, so that affected licensees can receive these draft documents for review and comment. This Order also imposes requirements for the protection of Safeguards Information in the hands of any person,² whether or not a licensee of the Commission, who produces, receives, or acquires Safeguards Information.

II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of Safeguards Information. Section 147 of the Atomic Energy Act of 1954, as amended, grants the Commission explicit authority to “issue such orders, as necessary to prohibit the unauthorized disclosure of Safeguards Information” This authority extends to information concerning transfer of special nuclear material, source material, and byproduct material. Licensees and all persons who produce, receive, or acquire Safeguards Information must ensure proper handling and protection of Safeguards Information to avoid unauthorized disclosure in accordance with the specific requirements for the protection of Safeguards Information contained in Attachment 2. The Commission hereby provides notice that it intends to treat all violations of the requirements contained in Attachment 2 applicable to the handling

² Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department, except that the Department shall be considered a person with respect to those facilities of the Department specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

and unauthorized disclosure of Safeguards Information as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States. Access to Safeguards Information is limited to those persons who have established the need to know the information, and are considered to be trustworthy and reliable. A need to know means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment. Licensees and all other persons who obtain Safeguards Information must ensure that they develop, maintain and implement strict policies and procedures for the proper handling of Safeguards Information to prevent unauthorized disclosure, in accordance with the requirements in Attachment 2. All licensees must ensure that all contractors whose employees may have access to Safeguards Information either adhere to the licensee's policies and procedures on Safeguards Information or develop, maintain and implement their own acceptable policies and procedures. The licensees remain responsible for the conduct of their contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachment 2 must address, at a minimum, the following: the general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; protection of Safeguards Information at fixed sites, in use and in storage, and while in transit; correspondence containing Safeguards Information; access to Safeguards Information; preparation, marking, reproduction and destruction of documents; external transmission of documents; use of automatic data processing systems; and removal of the Safeguards Information category.

In order to provide assurance that the licensees are implementing prudent measures to achieve a consistent level of protection, to prohibit the unauthorized disclosure of Safeguards Information, all licensees who hold licenses issued by the U.S. Nuclear Regulatory Commission

or an Agreement State, authorizing them to possess and reasonably expected to transport radioactive material in quantities of concern, shall implement the requirements identified in Attachment 2 to this Order. The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order for handling of Safeguards Information in conjunction with current NRC license requirements or previous NRC Order. Additional measures set forth in Attachment 2 should be handled and controlled in accordance with the licensee's current program for Safeguards Information. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Part 30, 10 CFR Part 32, 10 CFR Part 35, 10 CFR Part 50, and 10 CFR Part 70, IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT ALL LICENSEES IDENTIFIED IN ATTACHMENT 1 TO THIS ORDER, AND ALL OTHER PERSONS WHO PRODUCE, RECEIVE, OR ACQUIRE THE ADDITIONAL SECURITY MEASURES IDENTIFIED ABOVE (WHETHER DRAFT OR FINAL), OR ANY RELATED SAFEGUARDS INFORMATION, SHALL COMPLY WITH THE REQUIREMENTS OF ATTACHMENT 2.

IV.

The Director, Office of Nuclear Materials Safety and Safeguards, and the Director, Office of Nuclear Reactor Regulation, may in writing, relax or rescind any of the above conditions upon demonstration by the licensee. In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this

Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation or Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, as applicable, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation or Office of Nuclear Material Safety and Safeguards, as applicable, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific plant, and to the licensee if the answer or hearing request is by a person other than the licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above, shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

/RA/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

Dated this 5th day of November 2004

Attachments: 1. Service List of Licensees
2. Handling Requirements for the Protection of SGI-M

Power Plants - Senior Executive Contacts

Mr. A. Christopher Bakken, III
President and Chief Nuclear Officer
PSEG Nuclear LLC-X04
Salem Nuclear Generating Station, Units 1 and 2
Hope Creek Generating Station, Unit 1
Docket Nos. 50-272, 50-278, & 50-354
License Nos. DPR-70, DPR-75, & NPF-57
End of Buttonwood Road
Hancocks Bridge, NJ 08038

Mr. Michael Kansler
President
Entergy Nuclear Operations, Inc.
Pilgrim Nuclear Power Station, Unit 1
Vermont Yankee Nuclear Power Station
James A FitzPatrick Nuclear Power Plant
Indian Point Nuclear Generating Station, Units 2 and 3
Docket Nos. 50-293, 50-271, 50-333, 50-247, & 50-286
License Nos. DPR-35, DPR-28, DPR-59, DPR-26, & DPR-64
440 Hamilton Avenue
White Plains, NY 10601

Mr. Mark E. Warner
Site Vice President
FPL Energy
Seabrook Station, Unit 1
Docket No. 50-443
License No. NPF-86
Central Receiving, Lafayette Road
Seabrook, NH 03874

Mr. L. William Pearce
Vice President
FirstEnergy Nuclear Operating Company
Beaver Valley Power Station, Units 1 and 2
Docket Nos. 50-334 & 50-412
License Nos. DPR-66 & NPF-73
Route 168
Shippingport, PA 15077

Mr. George Vanderheyden
Vice President
Calvert Cliffs Nuclear Power Plant, Inc.
Calvert Cliffs Nuclear Power Plant, Units 1 and 2
Docket Nos. 50-317 & 50-318
License Nos. DPR-53 & DPR-69
1650 Calvert Cliffs Parkway
Lusby, MD 20657-4702

Mrs. Mary G. Korsnick
Vice President, Nuclear Operations
R. E. Ginna Nuclear Power Plant
Docket No. 50-244
License No. DPR-18
1503 Lake Road
Ontario, NY 14519

Mr. James A. Spina
Vice President Nine Mile Point
Nine Mile Point Nuclear Station, LLC
Nine Mile Point Nuclear Station, Units 1 and 2
Docket Nos. 50-22- & 50-410
License Nos. DPR-63 & NPF-69
348 Lake Road
Oswego, NY 13126

Mr. Britt T. McKinney
Vice President, Nuclear Site Operations
PPL Susquehanna, LLC
Susquehanna Steam Electric Station, Units 1 and 2
Docket Nos. 50-387 & 50-388
License Nos. NPF-14 & NPF-22
769 Salem Boulevard, NUCSB3
Berwick, PA 18603-0467

Mr. David A. Christian
Sr. Vice President and Chief Nuclear Officer
Dominion Nuclear Connecticut, Inc.
Virginia Electric and Power Company
Millstone Power Station, Units 2 and 3
North Anna Power Station, Units 1 and 2
Surry Power Station, Units 1 and 2
Docket Nos. 50-336, 50-423, 50-338, 50-339, & 50-280, & 50-281
License Nos. DPR-65, NPF-49, NPF-4, NPF-7, DPR-32, & DPR-37
Innsbrook Technical Center
5000 Dominion Boulevard
Glen Allen, VA 23060

D. M. Jamil
Vice President
Duke Energy Corporation
Catawba Nuclear Station, Units 1 and 2
Docket Nos. 50-413 & 50-414
License Nos. NPF-35 & NPF-52
4800 Concord Road
York, South Carolina 29745

Mr. L. M. Stinson
Vice President - Farley Project
Southern Nuclear Operating Company, Inc.
Joseph M. Farley Nuclear Plant, Units 1 and 2
Docket Nos. 50-348 & 50-364
License Nos. NPF-2 & NPF-8
40 Inverness Center Parkway
Birmingham, Alabama 35242

Mr. H. L. Sumner, Jr.
Vice President - Nuclear, Hatch Project
Southern Nuclear Operating Company, Inc.
Edwin I. Hatch Nuclear Plant, Units 1 and 2
Docket Nos. 50-321 & 50-366
License Nos. DPR-57 & NPF-5
40 Inverness Center Parkway
Birmingham, Alabama 35242

Mr. G. R. Peterson
Vice President
Duke Energy Corporation
William B. McGuire Nuclear Station, Units 1 and 2
Docket Nos. 50-369 & 50-370
License Nos. NPF-9 & NPF-17
12700 Hagers Ferry Road
Huntersville, NC 28078

Mr. Ronald A. Jones
Vice President, Oconee Site
Duke Energy Corporation
Oconee Nuclear Station, Units 1, 2 and 3
Docket Nos. 50-269, 50-270, & 50-287
License Nos. DPR-38, DPR-47, & DPR-55
7800 Rochester Highway
Seneca, SC 29672

Mr. Don E. Grissette
Vice President
Southern Nuclear Operating Company, Inc.
Vogtle Electric Generating Plant, Units 1 and 2
Docket Nos. 50-424 & 50-425
License Nos. NPF-68 & NPF-81
40 Inverness Center Parkway
Birmingham, Alabama 35242

Mr. C. J. Gannon
Vice President
Carolina Power & Light Company
Progress Energy, Inc.
Brunswick Steam Electric Plant, Units 1 and 2
Docket Nos. 50-325 & 50-324
License Nos. DPR-71 & DPR-62
Hwy 87, 2.5 Miles North
Southport, North Carolina 28461

Mr. James Scarola
Vice President
Carolina Power & Light Company
Shearon Harris Nuclear Power Plant, Unit 1
Docket No. 50-400
License No. NPF-63
5413 Shearon Harris Road
New Hill, North Carolina 27562-0165

Mr. Dale E. Young
Vice President
ATTN: Supervisor, Licensing and Regulatory Programs
Florida Power Corporation
Crystal River Nuclear Generating Plant, Unit 3
Docket No. 050-302
License No. DPR-72
15760 W. Power Line Street
Crystal River, Florida 34428-6708

Mr. J. W. Moyer
Vice President Carolina Power & Light Company
Progress Energy
H. B. Robinson Steam Electric Plant, Unit 2
Docket No. 50-261
License No. DPR-23
3581 West Entrance Road
Hartsville, South Carolina 29550

Karl W. Singer
Chief Nuclear Officer and Executive Vice President
Tennessee Valley Authority
Browns Ferry Nuclear Plant, Units 1, 2 and 3
Watts Bar Nuclear Plant, Unit 1
Sequoyah Nuclear Plant, Units 1 and 2 (Ops5n)
Docket Nos. 50-259, 50-260, 50-296, 50-390, 50-327, & 50-328
License Nos. DPR-33, DPR-52, DPR-68, NPF-90, DPR-77, & DPR-79
6A Lookout Place
1101 Market Street
Chattanooga, Tennessee 37402-2801

Mr. J. A. Stall
Senior Vice President, Nuclear
and Chief Nuclear Officer
Florida Power and Light Company
St. Lucie, Units 1 and 2
Turkey' Point Nuclear Generating Station, Units 3 and 4
Docket Nos. 50-335, 50-389, 50-250, & 50-251
License Nos. DPR-67, NPF-16, DPR-31, & DPR-41
700 Universe Boulevard
Juno Beach, Florida 33408-0420

Mr. Mano K. Nazar
Senior Vice President and Chief Nuclear Officer
Indiana Michigan Power Company
Donald C. Cook Nuclear Plant, Units 1 and 2
Docket Nos. 50-315 & 50-316
License Nos. DPR-58 & DPR-74
Nuclear Generation Group
500 Circle Drive
Buchanan, MI 49107

Mr. Mark A. Peifer
Site Vice President
Nuclear Management Company, LLC
Duane Arnold Energy Center
Docket No. 50-331
License No. DPR-49
3277 DAEC Road
Palo, IA 52324-9785

Mr. William T. O'Connor, Jr.
Vice President - Nuclear Generation
Detroit Edison Company
Fermi, Unit 2
Docket No. 50-341
License No. NPF-43
6400 North Dixie Highway
Newport, MI 48166

Mr. Thomas Coutu
Site Vice President
Nuclear Management Company, LLC
Kewaunee Nuclear Power Plant
Docket No. 50-305
License No. DPR-43
N490 Highway 42
Kewaunee, WI 54216-9511

Mr. Thomas J. Palmisano
Site Vice President
Nuclear Management Company, LLC
Monticello Nuclear Generating Plant
Docket No. 50-263
License No. DPR-22
2807 West County Road 75
Monticello, MN 55362-9637

Mr. Daniel J. Malone
Site Vice President
Nuclear Management Company, LLC
Palisades Nuclear Plant
Docket No. 50-255
License No. DPR-20
27780 Blue Star Memorial Highway
Covert, MI 49043-9530

Mr. Dennis L. Kochl
Site Vice President
Nuclear Management Company, LLC
Point Beach Nuclear Plant, Units 1 and 2
Docket Nos. 50-266 & 50-301
License Nos. DPR-24 & DPR-27
6590 Nuclear Road
Two Rivers, WI 54241-9516

Mr. Joseph M. Solymossy
Site Vice President
Nuclear Management Company, LLC
Prairie Island Nuclear Generating Plant, Units 1 and 2
Docket Nos. 50-282 & 50-306
License Nos. DPR-42 & DPR-60
1717 Wakonade Drive East
Welch, MN 55089

Mr. Christopher M. Crane
President and Chief Nuclear Officer
Exelon Generation Company, LLC
AmerGen Energy Company, LLC
Braidwood Station, Units 1 and 2
Byron Station, Units 1 and 2
Dresden Nuclear Power Station, Units 2 and 3
LaSalle County Station, Units 1 and 2
Quad Cities Nuclear Power Station, Units 1 and 2
Limerick Generating Station, Units 1 and 2
Peach Bottom Atomic Power Station, Units 2 and 3
Oyster Creek Nuclear Generating Station
Clinton Power Station
Three Mile Island Nuclear Station, Unit 1
Docket Nos. 50-456, 50-457, 50-454, 50-455, 50-237, 50-249, 50-373, 50-374, 50-254, 50-265,
50-352, 50-353, 50-277, 50-278, 50-219, 50-461, & 50-289
License Nos. NPF-72, NPF-77, NPF-37, NPF-66, DPR-19, DPR-25, NPF-11, NPF-18, DPR-29,
DPR-30, NPF-39, NPF-85, DPR-44, DPR-56, DPR-16, NPF-62, & PR-50
4300 Winfield Road
Warrenville, IL 60555

Mr. Mark Bezilla
Vice President, Davis-Besse
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
Docket No. 50-346
License No. NPF-3
5501 North State Route 2
Oak Harbor, OH 43449-9760

Mr. Lew W. Myers
Chief Operating Officer
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant, Unit 1
Docket No. 50-440
License No. NPF-58
10 North Center Street
Perry, OH 44081

Mr. Jeffrey S. Forbes
Site Vice President
Entergy Operations, Inc.
Arkansas Nuclear One, Units 1 and 2
Docket Nos. 50-313 & 50-368
License Nos. DPR-51 & NPF-6
1448 S. R. 333
Russellville, AR 72802

M. R. Blevins
Senior Vice President and Principal Nuclear Officer
TXU Generation Company, LP
Comanche Peak Steam Electric Station, Units 1 and 2
Docket Nos. 50-445 & 50-446
License Nos. NPF-87 & NPF-89
5 Miles North of Glen Rose
Glen Rose, TX 76043

Mr. Randall K. Edington
Vice President-Nuclear and CNO
Nebraska Public Power District
Cooper Nuclear Station
Docket No. 50-298
License No. Dpr-46
1200 Prospect Road
Brownville, NE 68321

Mr. George A. Williams
Site Vice President
Entergy Operations, Inc.
Grand Gulf Nuclear Station, Unit 1
Docket No. 50-416
License No. NPF-29
Waterloo Road
Port Gibson, MS 39150

Mr. Paul D. Hinnenkamp
Vice President - Operations
Entergy Operations, Inc.
River Bend Station, Unit 1
Docket No. 50-458
License No. NPF-47
5485 US Highway 61N
St. Francisville, LA 70775

Mr. James J. Sheppard
President and Chief Executive Officer
South Texas Project Nuclear Operating Company
Docket Nos. 50-498 & 50-499
License Nos. NPF-76 & NPF-80
South Texas Project Electric Generating Company, Units 1 and 2
8 Miles West of Wadsworth, on FM 521
Wadsworth, TX 77483

Joseph E. Venable
Vice President Operations
Entergy Operations, Inc.
Waterford Steam Electric Generating Station, Unit 3
Docket No. 50-382
License No. NPF-38
17265 River Road
Killona, LA 70057-2065

Mr. Garry L. Randolph
Vice President and Chief Nuclear Officer
Union Electric Company
Callaway Plant, Unit 1
Docket No. 50-483
License No. NPF-30
Junction Hwy CC & Hwy O: 5 Miles North
of Hwy 94
Portland, MO 65067

Mr. Gregory M. Rueger
Senior Vice President, Generation
and Chief Nuclear Officer
Pacific Gas and Electric Company
Diablo Canyon Nuclear Power Plant, Units 1 and 2
Docket Nos. 50-275 & 50-323
License Nos. DPR-80 & DPR-82
9 Miles Northwest of Avila Beach
Avila Beach, CA 93424

Mr. R. T. Ridenoure
Vice President - Chief Nuclear Officer
Omaha Public Power District
Fort Calhoun Station, Unit 1
Docket No. 50-285
License No. DPR-40
Fort Calhoun Station FC-2-4 Adm.
444 South 16th Street Mall
Omaha, NE 68102-2247

Mr. Gregg R. Overbeck
Senior Vice President, Nuclear
Arizona Public Service Company
Palo Verde Nuclear Generating Station, Units 1, 2 and 3
Docket Nos. 50-528, 50-529, & 50-530
License Nos. NPF-41, NPF-51, & NPF-74
5801 S. Wintersburg Road
Tonopah, AZ 85354-7529

Harold B. Ray
Executive Vice President
Southern California Edison Company
San Onofre Nuclear Station, Units 2 and 3
Docket Nos. 50-361 & 50-362
License Nos. NPF-10 & NPF-15
5000 Pacific Coast Highway
San Clemente, CA 92674

Mr. J. V. Parrish
Chief Executive Officer
Energy Northwest
Columbia Generating Station
Docket No. 50-397
License No. NPF-21
Snake River Warehouse,
North Power Plant Loop
Richland, WA 99352

Mr. Rick A. Muench
President and Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
Wolf Creek Generating Station, Unit 1
Docket No. 50-482
License No. NPF-42
1550 Oxen Lane, NE
Burlington, KS 66839

Mr. Jeffrey B. Archie
Senior Vice President, Nuclear Operations
South Carolina Electric and Gas Company
Virgil C. Summer Nuclear Station
Docket No. 50-395
License No. NPF-12
Hwy 215N at O.S. Bradham Boulevard
Jenkinsville, South Carolina 29065

Research and Test Reactor Licensees

Mr. Ray Tsukimura, President
Aerotest Operations Inc.
3455 Fostoria Way
San Ramon, CA 94583

Mr. Stephen I. Miller, Reactor Facility Director
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8901 Wisconsin Ave.
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Howard C. Aderhold
Director, Ward Center for Nuclear Sciences
Cornell University
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Mr. Ward L. Rigot, Facility Director
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P.O. Box 8060
Pocatello, ID 83209

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KSU Nuclear Reactor Facility
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Dr. John Bernard, Director
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Massachusetts Institute of Technology
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Fred Sears
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Edward Merritt
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West Lafayette, IN 47907-2017

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The service list of Materials Licensees receiving this Order has been redacted.

Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI-M)

General Requirement

Information and material that the U.S. Nuclear Regulatory Commission (NRC) determines are Safeguards Information must be protected from unauthorized disclosure. In order to distinguish information needing modified protection requirements from the Safeguards Information for reactors and fuel cycle facilities that require a higher level of protection, the term “Safeguards Information Modified Handling” (SGI-M) is being used as the distinguishing marking for certain materials licensees. Each person who produces, receives, or acquires SGI-M shall ensure that it is protected against unauthorized disclosure. To meet this requirement, licensees and persons shall establish and maintain an information protection system that includes the measures specified below. Information protection procedures employed by state and local police forces are deemed to meet these requirements.

Persons Subject to These Requirements

Any person, whether or not a licensee of the NRC, who produces, receives, or acquires SGI-M is subject to the requirements (and sanctions) of this document. Firms and their employees that supply services or equipment to materials licensees would fall under this requirement, if they possess facility SGI-M. A licensee must inform contractors and suppliers of the existence of these requirements and the need for proper protection (See more under Conditions for Access).

State or local police units who have access to SGI-M are also subject to these requirements. However, these organizations are deemed to have adequate information protection systems. The conditions for transfer of information to a third party, (i.e., need-to-know) would still apply to the police organization, as would sanctions for unlawful disclosure.

Again, it would be prudent for licensees who have arrangements with local police to advise them of the existence of these requirements.

Criminal and Civil Sanctions

The Atomic Energy Act of 1954, as amended, explicitly provides that any person, “whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act.” Furthermore, willful violation of any regulation or order governing Safeguards Information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. See sections 147b. and 223 of the Act.

Conditions for Access

Access to SGI-M beyond the initial recipients of the order will be governed by the background check requirements imposed by the order. Access to SGI-M by licensee employees, agents, or contractors must include both an appropriate need-to-know determination by the licensee, as well as a determination concerning the trustworthiness of individuals having access to the information. Employees of an organization affiliated with the licensee’s company, e.g., a parent company, may be considered as employees of the licensee for access purposes.

Need-to-Know

Need-to-know is defined as a determination by a person having responsibility for protecting SGI-M that a proposed recipient’s access to SGI-M is necessary in the performance of official, contractual, or licensee duties of employment. The recipient should be made aware that the information is SGI-M and those having access to it are subject to these requirements as well as criminal and civil sanctions for mishandling the information.

Occupational Groups

Dissemination of SGI-M is limited to individuals who have an established need-to-know and who are members of certain occupational groups. These occupational groups are:

- I. An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government;
- II. A member of a duly authorized committee of the Congress;
- III. The Governor of a State or his designated representative;
- IV. A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC;
- V. A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies;
- VI. A person to whom disclosure is ordered pursuant to Section 2.744(e) of Part 2 of part 10 of the Code of Federal Regulations; or
- VII. State Radiation Control Program Directors (and State Homeland Security Directors) or their designees.

In a generic sense, the individuals described above in (II) through (VII) are considered to be trustworthy by virtue of their employment status. For non-governmental individuals in group (I) above, a determination of reliability and trustworthiness is required. Discretion must be exercised in granting access to these individuals. If there is any indication that the recipient would be unwilling or unable to provide proper protection for the SGI-M, they are not authorized to receive SGI-M.

Information Considered for Safeguards Information Designation

Information deemed SGI-M is information the disclosure of which could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction.

SGI-M identifies Safeguards Information which is subject to these requirements. These requirements are necessary in order to protect quantities of nuclear material significant to the health and safety of the public or common defense and security.

The overall measure for consideration of SGI-M is the usefulness of the information (security or otherwise) to an adversary in planning or attempting a malevolent act. The specificity of the information increases the likelihood that it will be useful to an adversary.

Protection While in Use

While in use, SGI-M shall be under the control of an authorized individual. This requirement is satisfied if the SGI-M is attended by an authorized individual even though the information is in fact not constantly being used. SGI-M, therefore, within alarm stations, continuously manned guard posts or ready rooms need not be locked in file drawers or storage containers.

Under certain conditions the general control exercised over security zones or areas would be considered to meet this requirement. The primary consideration is limiting access to those who have a need-to-know. Some examples would be:

- Alarm stations, guard posts and guard ready rooms;

- Engineering or drafting areas if visitors are escorted and information is not clearly visible;

Plant maintenance areas if access is restricted and information is not clearly visible;

Administrative offices (e.g., central records or purchasing) if visitors are escorted and information is not clearly visible;

Protection While in Storage

While unattended, SGI-M shall be stored in a locked file drawer or container.

Knowledge of lock combinations or access to keys protecting SGI-M shall be limited to a minimum number of personnel for operating purposes who have a "need-to-know" and are otherwise authorized access to SGI-M in accordance with these requirements. Access to lock combinations or keys shall be strictly controlled so as to prevent disclosure to an unauthorized individual.

Transportation of Documents and Other Matter

Documents containing SGI-M when transmitted outside an authorized place of use or storage shall be enclosed in two sealed envelopes or wrappers. The inner envelope or wrapper shall contain the name and address of the intended recipient, and be marked both sides, top and bottom with the words "**Safeguards Information - Modified Handling.**" The outer envelope or wrapper must be addressed to the intended recipient, must contain the address of the sender, and must not bear any markings or indication that the document contains SGI-M.

SGI-M may be transported by any commercial delivery company that provides nationwide overnight service with computer tracking features, US first class, registered, express, or certified mail, or by any individual authorized access pursuant to these requirements.

Within a facility, SGI-M may be transmitted using a single opaque envelope. It may also be transmitted within a facility without single or double wrapping, provided adequate measures are taken to protect the material against unauthorized disclosure. Individuals transporting SGI-M

should retain the documents in their personal possession at all times or ensure that the information is appropriately wrapped and also secured to preclude compromise by an unauthorized individual.

Preparation and Marking of Documents

While the NRC is the sole authority for determining what specific information may be designated as "SGI-M," originators of documents are responsible for determining whether those documents contain such information. Each document or other matter that contains SGI-M shall be marked "**Safeguards Information-Modified Handling**" in a conspicuous manner on the top and bottom of the first page to indicate the presence of protected information. The first page of the document must also contain (i) the name, title, and organization of the individual authorized to make a SGI-M determination, and who has determined that the document contains SGI-M, (ii) the date the document was originated or the determination made, (iii) an indication that the document contains SGI-M, and (iv) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. Each additional page shall be marked in a conspicuous fashion at the top and bottom with letters denoting "**Safeguards Information- Modified Handling.**"

In addition to the "**Safeguards Information - Modified Handling**" markings at the top and bottom of page, transmittal letters or memoranda which do not in themselves contain SGI-M shall be marked to indicate that attachments or enclosures contain SGI-M but that the transmittal does not (e.g., "When separated from SGI-M enclosure(s), this document is decontrolled").

In addition to the information required on the face of the document, each item of correspondence that contains SGI-M shall, by marking or other means, clearly indicate which portions (e.g., paragraphs, pages, or appendices) contain SGI-M and which do not. Portion marking is not required for physical security and safeguards contingency plans.

All documents or other matter containing SGI-M in use or storage shall be marked in accordance with these requirements. A specific exception is provided for documents in the possession of contractors and agents of licensees that were produced more than one year prior to the effective date of the order. Such documents need not be marked unless they are removed from file drawers or containers. The same exception applies to old documents stored away from the facility in central files or corporation headquarters.

Since information protection procedures employed by state and local police forces are deemed to meet NRC requirements, documents in the possession of these agencies need not be marked as set forth in this document.

Removal from SGI-M Category

Documents containing SGI-M shall be removed from the SGI-M category (decontrolled) only after the NRC determines that the information no longer meets the criteria of SGI-M. Licensees have the authority to make determinations that specific documents which they created no longer contain SGI-M information and may be decontrolled. Consideration must be exercised to ensure that any document decontrolled shall not disclose SGI-M in some other form or be combined with other unprotected information to disclose SGI-M.

The authority to determine that a document may be decontrolled may be exercised only by, or with the permission of, the individual (or office) who made the original determination. The document shall indicate the name and organization of the individual removing the document from the SGI-M category and the date of the removal. Other persons who have the document in their possession should be notified of the decontrolling of the document.

Reproduction of Matter Containing SGI-M

SGI-M may be reproduced to the minimum extent necessary consistent with need without permission of the originator. Newer digital copiers which scan and retain images of

documents represent a potential security concern. If the copier is retaining SGI-M information in memory, the copier cannot be connected to a network. It should also be placed in a location that is cleared and controlled for the authorized processing of SGI-M information. Different copiers have different capabilities, including some which come with features that allow the memory to be erased. Each copier would have to be examined from a physical security perspective.

Use of Automatic Data Processing (ADP) Systems

SGI-M may be processed or produced on an ADP system provided that the system is assigned to the licensee's or contractor's facility and requires the use of an entry code/password for access to stored information. Licensees are encouraged to process this information in a computing environment that has adequate computer security controls in place to prevent unauthorized access to the information. An ADP system is defined here as a data processing system having the capability of long term storage of SGI-M. Word processors such as typewriters are not subject to the requirements as long as they do not transmit information off-site. (Note: if SGI-M is produced on a typewriter, the ribbon must be removed and stored in the same manner as other SGI-M information or media.) The basic objective of these restrictions is to prevent access and retrieval of stored SGI-M by unauthorized individuals, particularly from remote terminals. Specific files containing SGI-M will be password protected to preclude access by an unauthorized individual. The National Institute of Standards and Technology (NIST) maintains a listing of all validated encryption systems at <http://csrc.nist.gov/cryptval/140-1/1401val.htm>. SGI-M files may be transmitted over a network if the file is encrypted. In such cases, the licensee will select a commercially available encryption system that NIST has validated as conforming to Federal Information Processing

Standards (FIPS). SGI-M files shall be properly labeled as “**Safeguards Information-Modified Handling**” and saved to removable media and stored in a locked file drawer or cabinet.

Telecommunications

SGI-M may not be transmitted by unprotected telecommunications circuits except under emergency or extraordinary conditions. For the purpose of this requirement, emergency or extraordinary conditions are defined as any circumstances that require immediate communications in order to report, summon assistance for, or respond to a security event (or an event that has potential security significance).

This restriction applies to telephone, telegraph, teletype, facsimile circuits, and to radio. Routine telephone or radio transmission between site security personnel, or between the site and local police, should be limited to message formats or codes that do not disclose facility security features or response procedures. Similarly, call-ins during transport should not disclose information useful to a potential adversary. Infrequent or non-repetitive telephone conversations regarding a physical security plan or program are permitted provided that the discussion is general in nature.

Individuals should use care when discussing SGI-M at meetings or in the presence of others to insure that the conversation is not overheard by persons not authorized access. Transcripts, tapes or minutes of meetings or hearings that contain SGI-M shall be marked and protected in accordance with these requirements.

Destruction

Documents containing SGI-M should be destroyed when no longer needed. They may be destroyed by tearing into small pieces, burning, shredding or any other method that precludes reconstruction by means available to the public at large. Piece sizes one half inch or smaller composed of several pages or documents and thoroughly mixed would be considered completely destroyed.

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