

June 15, 2007

Mr. Robert E. Brown
General Manager, Regulatory Affairs
General Electric Company
3901 Castle Hayne Rd, MC A-45
Wilmington, NC 28401

SUBJECT: ISSUANCE OF ORDER IMPOSING SAFEGUARDS INFORMATION
PROTECTION REQUIREMENTS AND FINGERPRINTING AND CRIMINAL
HISTORY RECORDS CHECK REQUIREMENTS FOR ACCESS TO
SAFEGUARDS INFORMATION

Dear Mr. Brown:

The Commission has decided to require, through rulemaking, that nuclear power plant designers perform a rigorous assessment of design features that could provide additional inherent protection to avoid or mitigate the effects of an aircraft impact, while reducing or eliminating the need for operator actions, where practicable. In anticipation of this requirement, and to assist designers in completing this assessment, the Commission has decided to provide the beyond design basis, large commercial aircraft characteristics specified by the Commission to plant designers who have the need-to-know and who meet the NRC's requirements for the disclosure of such information. The specified aircraft characteristics that are the subject of the enclosed Order (Enclosure 1) are designated by the Order as Safeguards Information (SGI),¹ in accordance with Section 147 of the Atomic Energy Act of 1954, as amended (AEA).

In a letter dated June 26, 2004, General Electric Company (GE) requested authorization to possess certain information designated by the NRC as SGI and described GE's program for protecting that SGI against unauthorized disclosure in accordance with 10 CFR 73.21. In its May 10, 2005, response to that letter, the NRC agreed to provide GE with the requested SGI, and noted that, based on a review of GE's implementing procedures and observation of GE's facilities, it had determined that GE provided assurance that it will protect the SGI in accordance with the requirements of 10 CFR 73.21. Though the NRC recognizes that GE has continued to maintain that SGI protection program, and that implementation of that program is consistent with the requirements of 10 CFR 73.21, GE is not legally-bound by the May 10, 2005 letter to comply with those provisions. Therefore, in order to provide a legally enforceable requirement for GE's continued protection of SGI, as well as to impose the additional fingerprinting requirements that have become effective pursuant to the Energy Policy Act of 2005 (EPAAct) since GE implemented its SGI protection program in 2005, the NRC is issuing the enclosed Order to GE to impose requirements for the protection of SGI, as well as for the fingerprinting of all persons who have or seek access to this SGI.

¹ Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under Section 147 of the AEA.

Before GE grants an individual access to SGI, GE must submit the fingerprints of the individual to the NRC for an FBI criminal history records check. The results of the FBI criminal history records check will be provided to GE and that information must be considered by GE when making a determination of whether an individual, who has a need-to-know SGI, may be given access to SGI (see Attachment to the Order and Enclosure 2 to this letter).

Certain categories of individuals are excepted by rule from the fingerprinting requirement [10 CFR 73.59], including Federal, State, and local law enforcement personnel; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of Congress; certain employees of members of Congress or Congressional Committees who have undergone fingerprinting for a prior U.S. government criminal history check; and representatives of the International Atomic Energy Agency or certain foreign government organizations. In addition, the NRC has determined that individuals who have active federal security clearances, or who have had a favorably-decided U.S. Government criminal history check within the last five (5) years, have already been subjected to fingerprinting and criminal history checks and, thus, have satisfied the EAct fingerprinting requirement.

In order to implement the enclosed Order, GE must nominate an individual who will review the results of the FBI criminal history records check to make SGI access determinations. This individual, referred to as the "reviewing official," must be someone who seeks access to SGI. Based on the results of the FBI criminal history records check, the NRC staff will determine whether this individual may have access to SGI. If the NRC determines that the individual may not be granted access to SGI, the enclosed Order prohibits that individual from obtaining access to any SGI. The NRC process that will govern this determination, and the rights of the individual nominated to be the reviewing official, are described in Enclosure 3. Once the NRC approves a reviewing official, that reviewing official, and only that reviewing official, can make SGI access determinations for other individuals who have been identified by GE as having a need to know SGI, and who have been fingerprinted and have had a criminal history records check. The reviewing official can only make SGI access determinations for other individuals, but cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official; therefore, if GE wishes to have a new or additional reviewing official, the NRC must approve that individual before they can act in that capacity.

In the event that the individual nominated as the GE's initial reviewing official is not approved by the NRC to have access to SGI, the individual may appeal this decision by following the procedures in Enclosure 3. GE may then nominate a different individual to be the reviewing official. If GE decides to withdraw the nomination of an individual as a reviewing official after submitting fingerprints to the FBI through the NRC, the NRC will still complete the review process for determining access to SGI.

GE is required to submit fingerprints in accordance with the enclosed Order. The current processing fee is \$27.00 per submission and payment must accompany the request. Details regarding fingerprint submittals and payment of fees are found in the Attachment to the Order. If the person GE nominates as reviewing official already has a national security clearance, please submit that person's name along with documentation that supports the claim. NRC staff will verify that the nominated individual has the necessary clearance to be able to be approved as reviewing official.

The enclosed Order is effective immediately. These requirements will remain in effect until the Commission determines otherwise.

The enclosed Order requires that GE respond to the Order within twenty (20) days of the date of the Order, and implement the requirements of the Order before providing access to SGI to any individual. Please contact Anissa Coates at (301) 415-1897, or via email to ARC3@nrc.gov, to facilitate resolution of any issues or questions related to compliance with the requirements of the enclosed Order.

GE's responses to the Order (not fingerprint cards) must be submitted to the Director, Office of New Reactors, and should be addressed to the attention of Anissa Coates, Mail Stop O-17F3. The following mailing addresses should be used:

For normal postal delivery, mail to:

Director, Office of New Reactors
U.S. Nuclear Regulatory Commission
Washington, D.C., 20555-0001
Attn: Anissa Coates, Mail Stop O-17F3

For delivery services requiring a street address, mail to:

Director, Office of New Reactors
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738
Attn: Anissa Coates, Mail Stop O-17F3

Please include the docket number listed below in all your correspondence to the NRC. In addition, GE responses shall be marked as "Security-Related Information - Withhold Under 10 CFR 2.390." The enclosed Order has been forwarded to the Office of the Federal Register for publication.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

Gary M. Holahan, Acting Director
Office of New Reactors

Docket No. 52-010

Enclosures:

1. Order Imposing Safeguards Information
Protection Requirements and Fingerprinting
And Criminal History Records Check Requirements
For Access to Safeguards Information
2. Guidance for Licensee's Evaluation of Access to
Safeguards Information With the Inclusion of
Criminal History (Fingerprint) Checks
3. Process to Challenge NRC Denials or
Revocations of Access to Safeguards
Information

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

Gary M. Holahan, Acting Director
Office of New Reactors

Docket No. 52-010

Enclosures:

1. Order Imposing Safeguards Information Protection Requirements and Fingerprinting And Criminal History Records Check Requirements For Access to Safeguards Information
2. Guidance for Licensee's Evaluation of Access to Safeguards Information With the Inclusion of Criminal History (Fingerprint) Checks
3. Process to Challenge NRC Denials or Revocations of Access to Safeguards Information

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DATE	06/14/2007	06/15/2007	06/15/2007	06/14/2007	06/14/2007	06/14/2007	06/15/2007	06/15/2007

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