

June 18, 2008

EA-08-161 and EA-08-162

TO: Materials Licensees Identified in Attachment 1 to Orders EA-08-161 and EA-08-162, All Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein

SUBJECT: ISSUANCE OF ORDERS IMPOSING REQUIREMENTS FOR PROTECTING CERTAIN SAFEGUARDS INFORMATION, AND IMPOSING REQUIREMENTS FOR FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS FOR ACCESS TO SAFEGUARDS INFORMATION

The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing the enclosed Orders (Enclosures 1 and 3 with attachments) requiring you to implement specific requirements to ensure proper handling and protection of Safeguards Information (SGI), to avoid unauthorized disclosure. Orders contain requirements that licensees or certificate holders must implement. You must respond to these Orders by filing a written answer, under oath or affirmation, consenting to the Orders, or providing the reasons why you believe the Orders should not have been issued. The enclosed Orders are effective immediately. These requirements will remain in effect until the Commission determines otherwise.

NRC has authority to issue Orders to both NRC and Agreement State Licensees or certificate holders under its authority to protect the common defense and security, which cannot be relinquished to the Agreement States. Under Section 147 of the Atomic Energy Act of 1954, as amended, the Commission has authority to "...issue such orders, as necessary, to prohibit the unauthorized disclosure of safeguards information...." Unauthorized disclosure of SGI may result in civil and criminal penalties. Enclosure 1 to this letter directs you to protect this kind of information from unauthorized disclosure, in accordance with "Modified Handling Requirements for Protection of Certain Safeguards Information (SGI-M)" (Attachment 2 to Enclosure 1). Also provided is the "Designation Guide for Safeguards Information" (Enclosure 2), document to help you determine what information needs to be protected as SGI.

NRC has determined that you will need to implement security-related compensatory measures (CMs) in the near future. The CMs contain SGI and must be protected in accordance with the enclosed Orders. Section 147 of the Atomic Energy Act of 1954, as amended, imposes requirements for access to SGI, which require individuals to go through a Federal Bureau of Investigation (FBI) identification and criminal records history check, based on fingerprints, before anyone is given access, by anyone, to SGI. To implement the fingerprinting requirements (Enclosure 3 with attachments, and Enclosure 4), the Licensee must designate an individual who will review the results of the FBI criminal history records check, in conjunction with a trustworthiness and reliability determination (Attachment 3 to Enclosure 1), before making

Please note that Attachment 1 to Enclosures 1 and 3 and Enclosure 2 contain security related sensitive information. When separated from the attached documents, this cover letter is decontrolled.

SGI access determinations for others. This individual, referred to hereafter as the “reviewing official,” must be someone who seeks access to SGI. Based on this individual’s fingerprints and FBI criminal history records check, the NRC staff will determine whether this individual may have access to SGI. If NRC determines that the individual may not be granted access to SGI, Order EA-08-162 (Enclosure 3) prohibits that individual from obtaining access to any SGI. If the initial reviewing official is not approved by NRC to have access to SGI, the subject individual may appeal this decision by following the procedures in Enclosure 5 to this letter, or the Licensee may nominate a different individual to be the reviewing official. The rights of the individual nominated to be the reviewing official are also described in Enclosure 5 to this letter. Once a reviewing official is approved by NRC, that reviewing official and only that reviewing official can make SGI access determinations for other Licensee employees or individuals who have a need-to-know the information, have been determined to be trustworthy and reliable, and have been fingerprinted and criminal history checked. The reviewing official cannot approve other individuals to act as reviewing officials. Only NRC can approve a reviewing official; therefore, if a Licensee wishes to have a new or additional reviewing official, NRC must approve that individual before he/she can act as a reviewing official.

Licensees are required to submit fingerprints on the enclosed Form FD-248 (fingerprint cards) in accordance with Order EA-08-162 (Enclosure 3). Additional fingerprint cards may be obtained by calling (301) 415-7232 or by emailing a request to forms.resource@nrc.gov. The current processing fee is \$36.00 per submission and payment must accompany the request.

The enclosed Orders require that all Licensees respond within twenty (20) days of the date of the Orders and implement the requirements before providing access to SGI to any individual. Please contact Tomas Herrera, (301) 415-7138, Tomas.Herrera@nrc.gov, or Andrew Mauer, (301) 415-3882, Andrew.Mauer@nrc.gov to facilitate resolution of any issues or questions related to compliance with the requirements in the enclosed Orders.

Licensee responses to the Orders (not fingerprint cards) are required to be submitted to the Director, Office of Federal and State Materials and Environmental Management Programs, and should be addressed to the attention of Tomas Herrera, Mail Stop T-8E24. The following mailing addresses should be used:

For normal postal delivery, mail to:

Director
Office of Federal and State Materials
and Environmental Management Programs
U.S. NRC
Washington, D.C., 20555-0001
ATTN: Tomas Herrera, Mail Stop T-8E24

For delivery services requiring a street address, mail to:

Director
Office of Federal and State Materials
and Environmental Management Programs
U.S. NRC
11545 Rockville Pike
Rockville, MD 20852-2738
ATTN: Tomas Herrera, Mail Stop T-8E24

Fingerprint cards, along with payment (payable to NRC), are required to be submitted to the Director, Division of Facilities and Security, and should be addressed to the attention of the Criminal History Program, Mail Stop T-6E46. A short cover letter should be included listing the nominated reviewing official(s) and the docket number(s). The following mailing addresses should be used:

For delivery services requiring a street address, mail to:

Director, Division of Facilities and Security
U.S. NRC
11545 Rockville Pike
Rockville, MD 20852-2738
ATTN: Criminal History Program, Mail Stop T-6E46

The enclosed Orders have been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

George Pangburn, Acting Director
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

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

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OFC	FSME/DMSSA	FSME/DMSSA	OE:OD	OGC	NSIR:OD
NAME	THerrera	AMauer	NHilton for CCarpenter	NBafundo for JGoldberg	PHolahan for RZimmerman
DATE	5/13/08	5/14/08	5/16/08	5/21/08	6/5/08

OFC	FSME/DMSSA	TechEd	FSME		
NAME	JLuehman RLewis	CPoland	CMiller (G.Pangburn for)		
DATE	6/10/08	6/17/08	6/18/08		