

~~**SAFEGUARDS INFORMATION - MODIFIED HANDLING**~~

August 21, 2008

EA-08-225

To: Holder of Materials Licenses Authorized to Possess and Transfer Items
Containing Radioactive Material Quantities of Concern as Listed in Attachment A
to Enclosure 1

SUBJECT: ISSUANCE OF ORDER FOR ADDITIONAL SECURITY MEASURES
ON THE TRANSPORTATION OF RADIOACTIVE MATERIAL
QUANTITIES OF CONCERN

Dear Licensee:

The U.S. Nuclear Regulatory Commission (NRC or Commission) has issued the enclosed Order (Enclosure 1 with attachments), imposing requirements with respect to the transportation of radioactive material quantities of concern (RAMQC), requiring compliance with the specified additional safeguards and security measures. This Order applies to all NRC and Agreement State licensees listed in Attachment A to the enclosed Order. The additional security measures (ASMs) are listed as Attachment B to the enclosed Order, and contain Safeguards Information. Requirements in this Order supplement, but do not replace existing regulations concerning transportation of radioactive material. Please note that this Order includes notification requirements for certain shipments, which are in addition to the notification requirements of 10 CFR 71.97.

One of the ASMs (Attachment C to Enclosure 1) requires fingerprinting of all individuals who seek unescorted access to radioactive materials determined by the Commission to be of significance to the public health and safety or common defense and security, in accordance with Section 149 of the Atomic Energy Act (AEA) of 1954, as amended. "Access" to these radioactive materials means that an individual could exercise some physical control over the material or device.

In light of the current threat environment, the Commission has concluded that these additional security measures should be embodied in an Order, consistent with the established regulatory framework, and requires the enclosed Order to be effective immediately.

WARNING: Violation of Section 147 of the Atomic Energy Act, as amended "Safeguards Information" is subject to Civil and Criminal Penalties.

When separated from Attachments A, B, and C of Enclosure 1, Attachment B of Enclosure 2, Enclosure 3, Enclosure 4, and Enclosure 5 this document is DECONTROLLED.

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The enclosed Order requires that all licensees respond to the Order within 20 days of the date of the Order, as noted in Section III of the Order, and implement the ASMs within a specified time frame. If a licensee plans to implement the ASMs, but not within 180 days after issuance of the Order, the licensee should provide the NRC with an implementation schedule as part of its 20 day notification or before 180 days has elapsed. If a licensee elects not to implement the ASMs because they do not apply to that licensee's current activities and notifies the NRC accordingly, but future conditions change such that the licensee will ship RAMQC, the licensee should inform the NRC 90 days in advance of its first RAMQC shipment.

The NRC is also providing the Regulatory Issue Summary 2005-12, "Transportation of Radioactive Material Quantities of Concern NRC Threat Advisory and Protective Measures System" (Enclosure 2 with attachments) to specific NRC and Agreement State licensees who are authorized to possess RAMQC and general licensees as described in 10 CFR Part 71 who are authorized to transport radioactive materials in these quantities. In addition, enclosed are the comments and responses from the stakeholder meetings the NRC conducted on the RAMQC Orders. (Enclosure 3)

The NRC is providing implementation guidance designed to facilitate licensee implementation of the ASMs. The NRC worked with the Nuclear Energy Institute (NEI) Transportation Security Task Force (TSTF) in its development of an implementation guidance document to facilitate licensee implementation of the ASMs. During development, the NRC held numerous meetings with the NEI TSTF to specifically discuss and provide comments on the draft implementing guidance. The NRC determined that NEI's document provides an acceptable method for licensee implementation of the ASMs. Enclosure 4 is a copy of the NEI developed implementation guidance document for use by all NRC and Agreement State licensees listed in Attachment A to Enclosure 1.

The NRC is also providing "Guidance for Licensee's Evaluation of Access to Safeguards Information or Unescorted Access to Radioactive Materials With the Inclusion of Criminal History (Fingerprint) Checks" (Enclosure 5). Please note that individuals who have been fingerprinted and granted access to Safeguards Information by the reviewing official under NRC "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information" do not need to be fingerprinted again for purposes of satisfying this Order.

Please be aware that the information provided in Enclosure 1, Attachment C, and Enclosure 5 are publicly available. Attachment A to Enclosure 1 contains sensitive unclassified information, marked, "Official Use Only - Security Related Information" and will be withheld from the public. The "Official Use Only - Security Related Information," information should, as a minimum, be stored in a space or building that is protected by electronic access controls, security guards, or alternatively, in a locking cabinet or other equivalent storage container. Attachment B to Enclosure 1, Enclosure 2, Enclosure 3, and Enclosure 4 contain Safeguards Information, all of which must be protected against unauthorized disclosure.

Licensees are required to submit fingerprints in accordance with this Order. The current processing fee is \$36.00 per submission and payment payable to "U.S. NRC" must accompany the request. Details regarding fingerprint submittals and payment of fees are found in Attachment C to Enclosure 1. The enclosed Order requires that all Licensees respond to this Order within twenty (20) days of the date of its issuance, and implement the requirements before allowing unescorted access to radioactive materials to any individual.

Licensee responses to the enclosed Order (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, DC 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
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
ATTN: Tomas Herrera, Mail Stop T-8E24

Licensee fingerprint cards 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. The following mailing addresses should be used:

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

Please include the docket number listed in Attachment 1 to the enclosed Order in all your correspondence with NRC. In addition, Licensee responses shall be marked as "Security-Related Information - Withhold Under 10 CFR 2.390."

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 Order.

The Order without the Safeguards Information or “Official Use Only - Security Related Information” content, has been forwarded to the Office of the Federal Register.

Sincerely,

/RA/

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

Enclosures:

1. Order Imposing Additional Security Measures
2. Regulatory Issue Summary (RIS) 2005-12 with Enclosures
3. Radioactive Materials Quantities of Concern Additional Security Measures Stakeholder Comments and Responses
4. Nuclear Energy Institute, Implementing Guidance for Additional Security Measures for Transportation of Radioactive Materials Quantities of Concern
5. Guidance for Licensee’s Evaluation of Access to Safeguards Information of Unescorted Access to Radioactive Materials With the Inclusion of Criminal History (Fingerprint) Checks

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George Pangburn, Acting Director
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OFFICE	D:DMSSA	TechEd	D:FSME		
NAME	TReis for RLewis	CPoland	CMiller (G. Pangburn for)		
DATE	8/19/08	8/21/08	8/21/08		

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