November 23, 2009

EA-09-204 and EA-09-205

Holders of Power Reactor Licenses Undergoing Decommissioning Authorized to Possess Radioactive Material Quantities of Concern as listed in Attachment A to Enclosure 1

SUBJECT: ISSUANCE OF ORDERS IMPOSING INCREASED CONTROLS AND FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS ON POWER REACTOR LICENSEES UNDERGOING DECOMMISSIONING

The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing the enclosed Orders (Enclosures 1 and 3, with attachments) to power reactor licensees undergoing decommissioning. These Orders impose increased controls and fingerprinting and criminal history records check requirements on licensees possessing radioactive material quantities of concern. These Orders do not apply to radioactive material contained in spent nuclear fuel. The Orders apply to all Addressees listed in Attachment A of Enclosure 1. Table 1 of Attachment B in Enclosure 1, identifies radioactive material quantities of concern. Attachment C of Enclosure 1 contains additional requirements.

The Commission has determined that power reactor licensees undergoing decommissioning must implement certain additional controls to ensure adequate protection of, and minimize danger to, public health and safety. Therefore, the NRC is imposing the requirements set forth in EA-09-204 on decommissioning reactor licensees who possess, or who expect to acquire in the near future, radioactive material quantities of concern. These requirements, which supplement existing requirements in 10 CFR § 20.1801 and 10 CFR § 20.1802, will provide reasonable assurance that public health and safety continues to be adequately protected at decommissioning reactor sites.

The NRC is also imposing the fingerprinting and criminal history records check requirements set forth in EA-09-205 on decommissioning reactor licensees who possess, or who expect to acquire in the near future, radioactive material quantities of concern. This is consistent with the Energy Policy Act of 2005 and Section 149 of the Atomic Energy Act, which require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records checks for “any individual who is permitted unescorted access to radioactive materials or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks.” The NRC is issuing the requirements in Enclosure 3 to implement these requirements and to supplement the requirements in EA-09-204 and the NRC regulations. Attachment 1 of Enclosure 3 provides specific requirements pertaining to fingerprinting and criminal history records checks.

The enclosed Orders are effective immediately, and the requirements of the Orders will remain in effect until the Commission incorporates similar requirements into its regulations.

The enclosed Orders call for responses and actions within specified time frames. All recipients are required to respond in writing to the NRC within twenty-five (25) days of the date of these Orders. You must respond to the Orders even if you do not need to implement the requirements of the Orders at this time because you do not possess radioactive material quantities of concern. If you subsequently acquire radioactive material quantities of concern, you must implement the requirements of the Orders in accordance with condition A of Enclosures 1 and 3.

Also, enclosed is a copy of Implementing Guidance, Procedures, Guidance, and Questions and Answers for both Orders (Enclosures 2, 4, 5 and 6). Many of the Questions and Answers were compiled as a result of previously issued orders and may not be directly applicable to power reactor licensees undergoing decommissioning. Licensees are required to submit fingerprints in accordance with the requirements set forth in Enclosure 3. The current processing fee is $36.00 per submission and payment must be made electronically through http://www.pay.gov. Details regarding fingerprint submittals and payment of fees are found in Enclosure 4 to this letter.

Responses to EA-09-204 and EA-09-205 (excluding fingerprint cards) must be submitted to the Director, Division of Waste Management and Environmental Protection (DWMEP), Office of Federal and State Materials and Environmental Management Programs (FSME), and addressed to the attention of Willie Lee. You may submit your response electronically, by fax, or by mail. Electronic submissions must be signed and sent as an attachment in portable document format (pdf) to willie.lee@nrc.gov. Signed faxes must be sent to (301) 415-5955.

For normal postal delivery, mail to:

Director, DWMEP/FSME
U.S. NRC
Washington, D.C., 20555-0001
ATTN: Willie Lee, Mail Stop T8E24

For delivery services requiring a street address, mail to:

Director, DWMEP/FSME
U.S. NRC
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738
ATTN: Willie Lee, Mail Stop T8E24

Licensee fingerprint cards must be submitted to the Director, Division of Facilities and Security. The following mailing address must 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 TWB-05B32M

To facilitate resolution of any issues or questions related to compliance with the requirements in the enclosed Orders, please contact Willie Lee at (301) 415-8024 or willie.lee@nrc.gov.

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

Larry W. Camper, Director **/RA/**
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Enclosures
1. Order Imposing Increased Controls (EA-09-204)
2. Implementing Guidance and Questions and Answers
3. Order Imposing Fingerprinting and Criminal History Records Check Requirements for Unescorted Access To Certain Radioactive Material (EA-09-205)
4. Procedures for Processing Fingerprint Checks
5. Guidance for Evaluating FBI Identification And Criminal History Records Check For Allowing Unescorted Access to Certain Radioactive Material
6. Questions and Answers with Regards To Fingerprinting and Criminal History Records Checks

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NAME	WLee	EQuinones	AMauer	RPCorreia for RZimmerman
DATE	10/14/09	10/19/09	10/14/09	10/07/09
OFC	**OE:OD**	**OGC (NLO)**	**FSME: DWMEP**	
NAME	GBowman for CCarpenter	MClark	LCamper	
DATE	10/13/09	10/19/09	11/23/09	

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