

February 26, 2010

Mr. George A. Harper  
Vice President Engineering and EPC Project Manager  
AREVA Enrichment Services, LLC  
Solomon Pond Park  
400 Donald Lynch Boulevard  
Marlborough, MA 01752

SUBJECT: ISSUANCE OF AN ORDER IMPOSING REQUIREMENTS FOR A REVIEWING  
OFFICIAL FOR THE IMPLEMENTATION OF A SAFEGUARDS INFORMATION  
PROGRAM

Dear Mr. Harper:

This letter is in response to your letter dated October 22, 2009, in which you notified the U.S. Nuclear Regulatory Commission (NRC) of your implementation of a Safeguards Information (SGI) program in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 73.22, "Protection of Safeguards Information: Specific Requirements," to protect SGI related to the AREVA Enrichment Services, LLC (AES), Eagle Rock Enrichment Facility physical security program. In your letter, you also nominated a reviewing official for determining access to SGI. AES submitted the nominated individual's fingerprints under separate cover. The NRC has determined that the nominated individual meets the fingerprinting and FBI identification and criminal history records check requirements for a reviewing official. Subject to AES's required 10 CFR 73.22 background check for the nominated individual, you may authorize your nominated individual to act as the reviewing official. The NRC is issuing an order (Enclosure 1) that confirms the required nomination of a reviewing official and the notification to the NRC of any desired changes to the approved reviewing official.

In addition, the NRC is providing guidance to AES for its evaluation of access to SGI (Enclosure 2). In determining whether each individual who has a need-to-know may be given access to SGI, the approved reviewing official must consider the results of the FBI's criminal history records check in conjunction with the information that it obtains in response to the trustworthiness and reliability determination requirements of 10 CFR Part 73, "Physical Protection of Plants and Materials," and Enclosure 2, when determining whether each individual who has a need-to-know SGI may be given access to SGI.

Once AES approves the nominated individual as its reviewing official, such official and only such official can determine SGI access for other licensee or applicant employees who have been fingerprinted, have had a criminal history check, and have been deemed trustworthy and reliable based upon a background check. The reviewing official can determine SGI access for other individuals but cannot approve other individuals to act as reviewing officials. If a licensee wishes to nominate a new or additional reviewing official, the NRC must approve that individual for access to SGI before he or she may act as a reviewing official, subject to AES's required 10 CFR 73.22 background check. If the NRC determines that any future nominated individual may not be granted access to SGI, the enclosed order prohibits that individual from obtaining access

to any SGI. Enclosure 3 describes the NRC process that governs this determination and the rights of the individual nominated to act as the reviewing official.

In the event that the NRC does not approve access to SGI for any future individual nominated as the licensee's reviewing official, the individual may appeal this decision by following the procedures in Enclosure 3, and the licensee may nominate a different individual to act as the reviewing official. If the licensee decides to withdraw the nomination of a reviewing official after it has submitted the individual's fingerprints to FBI through the NRC, the NRC will still complete the review process for determining access to SGI. If the NRC denies this individual access to SGI, he or she may appeal the NRC's decision by following the procedures in Enclosure 3.

The Commission has concluded that the requirement for the nomination of a reviewing official and the notification to the NRC of any desired changes to the approved reviewing official should be embodied in an order, consistent with the established regulatory framework. The enclosed order is effective immediately. These requirements will remain in effect until the Commission determines otherwise.

The enclosed order requires AES to respond to the order within 20 days of the date of the order and to implement the requirements of the order before providing any individual access to SGI. Please contact Breeda Reilly at (301) 492-3110 to facilitate resolution of any issues or questions related to compliance with the requirements of the enclosed order.

AES must submit its response to the order to the Director, Office of Nuclear Material Safety and Safeguards, addressed to the attention of Breeda Reilly, Mail Stop EBB2-C40.

U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852-2738  
Attn: Breeda Reilly, Mail Stop EBB2-C40

Please include Docket No. 70-7015 (listed below) in all your correspondence with the NRC. In addition, licensee responses shall be marked as "Security-Related Information—Withhold under 10 CFR 2.390." The NRC has forwarded the enclosed order 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 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/**

Michael F. Weber, Director  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 70-7015

Enclosures:

1. Order Imposing Requirements for a Reviewing Official for the Implementation of a Safeguards Information Program
2. Guidance for Licensees' Evaluation of Access to Safeguards Information with the Inclusion of Criminal History Records (Fingerprint) Checks
3. Process To Challenge U.S. Nuclear Regulatory Commission 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 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/

Michael F. Weber, Director  
Office of Nuclear Material Safety  
and Safeguards

Docket No.: 70-7015

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<b>OFC</b>	AFCB	AFCB	TechEd	AFCB	ADM:OD
<b>NAME</b>	BReilly	THristopoulos	QTE	THiltz	KGreene
<b>DATE</b>	11/24/2009	12/08/2009	12/03/2009	1/21/10	12/17/09
<b>OFC</b>	OE:OD	NSIR:OD	OGC	FCSS	NMSS/OD
<b>NAME</b>	RZimmerman	JWiggins	JGoldberg	DDorman	MWeber
<b>DATE</b>	2/18/10	2/4/10	1/28/10	02/24/10	02/26/10

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