

TOSHIBA AMERICA NUCLEAR ENERGY CORPORATION

3545 Whitehall Park Drive, Suite 500
Charlotte, NC 38273
PHONE: 704-548-7777 (Main)
FACSIMILE: 704-548-7701

**Security-Related Information
Withhold Under 10 CFR 2.390**

May 21, 2010

Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Mr. James T. Wiggins

Subject: **Toshiba America Nuclear Energy Corporation**
Revised Procedures for Safeguards Information Control Program

In Reference 1, Toshiba America Nuclear Energy Corporation ("TANE") requested that the Commission authorize TANE to establish and implement a Safeguards Information control program in accordance with the requirements of 10 C.F.R. 73.21. As part of Reference 1, TANE provided a copy of the proposed Safeguards Information Protocol for Facilities of Toshiba America Nuclear Energy Corporation ("Protocol"), which sets forth the requirements and responsibilities for the protection and control of Safeguards Information in the custody of TANE and its contractors, subcontractors, and consultants in the United States.

Pursuant to Reference 2, TANE has revised the Protocol to incorporate comments from the NRC Staff's review of TANE's SGI protection system. Accordingly, the revised Protocol is enclosed in Enclosure 2 for the NRC's final review and approval. TANE requests that the NRC replace the draft submitted as part of Reference 1 with the final version enclosed herein.

As with the documents submitted with Reference 1, due to the security-related nature of the information contained in Enclosure 2, TANE understands that the NRC will withhold this document from public disclosure pursuant to 10 C.F.R. 2.390. TANE also considers the Protocol to be proprietary to TANE, as described in the affidavit provided in Enclosure 1. Accordingly, TANE further requests that Enclosure 2 be withheld in its entirety from public disclosure pursuant to 10 C.F.R. 2.390 and 9.17.

Add: Michael R. Johnson
to ERIDS

SODI
NRO

Document Control Desk
Page 2

May 21, 2010

Should you require any further information about this submittal, please contact me at 704-548-7640 or rschrauder@tane.toshiba.com.

Sincerely,



Robert W. Schrauder
Vice President, Licensing
US ABWR Projects & Technologies
Toshiba America Nuclear Energy Corporation

References:

1. Letter from Fuyuki Saito (TANE) to Chairman Gregory B. Jaczko (NRC), *Toshiba America Nuclear Energy Corporation Safeguards Information Control Program and Reviewing Official Nomination*, dated November 17, 2009
2. Letter from Chairman Gregory B. Jaczko (NRC) to Fuyuki Saito (TANE), dated January 29, 2010

Enclosures:

1. 10 C.F.R. § 2.390 Supporting Affidavit
2. Safeguards Information Protocol for Facilities of TANE

cc: Michael R. Johnson, Director, Office of New Reactors
Daniel F. Stenger, Hogan Lovells US LLC
Ruth M. Porter, Hogan Lovells US LLC

Enclosure 2 contains security-related information exempt from public disclosure under 10 C.F.R. 2.390, as well as proprietary information exempt from public disclosure under 10 C.F.R. 2.390 and 9.17. Upon removal of Enclosure 2 the balance of this submittal may be released.

ENCLOSURE 1

**Affidavit of Robert Schrauder
Vice President, Licensing
US ABWR Projects & Technologies
TOSHIBA AMERICA NUCLEAR ENERGY CORPORATION**

**TOSHIBA AMERICA NUCLEAR ENERGY CORPORATION
10 CFR § 2.390 AFFIDAVIT OF ROBERT SCHRAUDER**

AFFIDAVIT

I, Robert W. Schrauder, hereby affirm and state as follows:

- (1) I am the Vice President of Licensing for US ABWR Projects & Technologies for Toshiba America Nuclear Energy Corporation ("TANE"), and I have been authorized to execute this affidavit on behalf of TANE.
- (2) By this letter, TANE is submitting for NRC review information about its Safeguards Information Protocol for Facilities of Toshiba America Nuclear Energy Corporation ("Protocol"), set forth in Enclosure 2. TANE understands that this document is security-related information that the NRC treats as exempt from public disclosure under 10 C.F.R. § 2.390. In addition, in accordance with my responsibilities, I have reviewed the contents of the Protocol and determined that the document contains information proprietary to TANE. Accordingly, in addition to being marked as "security-related," the document has been marked to indicate that it should be withheld from public disclosure in its entirety pursuant to 10 C.F.R. §§ 2.390 and 9.17.
- (3) In making this application for withholding of proprietary information of which it is the owner, TANE believes that the information contained in the Protocol qualifies for withholding under the exemption from disclosure set forth 10 C.F.R. § 2.390(a)(4) for trade secrets and commercial or financial information.
- (4) The information identified as proprietary has in the past been, and will continue to be, held in confidence by TANE and its disclosure outside the company is limited to regulatory bodies, customers and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and is always subject to suitable measures to protect it from unauthorized use or disclosure.
- (5) The basis for holding the Protocol confidential is that it describes the specific procedure established by TANE for the control and protection of Safeguards Information. This information was developed at a significant expenditure of time and resources by TANE. Disclosure of the Protocol would have a negative impact on TANE because of a loss of competitive advantage due to the costs associated with development of the Protocol. Providing public access to such information could permit competitors to duplicate the Protocol without incurring the associated costs.
- (6) The referenced information is being furnished to the NRC in confidence and solely for the purpose of information and review by the NRC Commissioners and staff.
- (7) The referenced information is not available in public sources and could not be gathered readily from other publicly available information.

Accordingly, in addition to being withheld as security-related, TANE requests that the subject documents be withheld from public disclosure pursuant to 10 C.F.R. § 2.390(a)(4) and 10 C.F.R. § 9.17.

Robert W. Schrauder
Robert W. Schrauder

Subscribed and sworn before me, a Notary Public, in and for the state of North Carolina, this 21st day of May 2010.

WITNESS my hand and Notarial Seal.

Gaurav Gautam
Notary Public -

My Commission Expires: 10-25-2014

May 21, 2010
Date

