

June 15, 2010

ALL AGREEMENT STATES, MICHIGAN

ISSUANCE OF ORDER (EA-09-293) IMPOSING TRUSTWORTHINESS AND RELIABILITY REQUIREMENTS FOR SERVICE PROVIDERS THAT ARE NOT MANUFACTURERS OR DISTRIBUTORS (FSME-10-045)

Purpose: To inform the Agreement States that the U.S. Nuclear Regulatory Commission (NRC) issued an Order imposing trustworthiness and reliability requirements for unescorted access to radioactive material quantities of concern. Order EA-09-293, "Order Imposing Trustworthiness and Reliability Requirements for Unescorted Access to Certain Radioactive Material", was issued on December 16, 2009 to NRC and Agreement State service provider licensees that are not manufacturers or distributors (non-M&D) that requested to receive the Order in response to NRC Regulatory Issue Summary 2007-15, "Unescorted Access to Materials for Non-Manufacturer and Distributor Service Providers", issued on June 5, 2007.

Background: The Commission, in SECY-07-0011, instructed staff to impose on non-M&D service provider licensees that prefer unescorted access at Increased Controls (IC) licensee sites, the same trustworthiness and reliability requirements (including fingerprinting requirements) that manufacturer and distributor service provider licensees (M&D) must currently meet for unescorted access. The staff issued a Regulatory Issue Summary (RIS 2007-15) informing non-M&D licensees to contact the NRC to request this Order if they preferred to be allowed unescorted access at their customer's facilities.

RIS 2007-15 stated that Agreement States will issue similar requirements through Orders or legally binding requirements to licensees who specifically request the requirements. However, NRC's General Counsel determined that these requirements must be issued under the Commission's common defense and security authority in order to implement the same trustworthiness and reliability requirements issued to M&Ds. The inspection will be done by the NRC or by an Agreement State under section 274i as deemed appropriate.

Contents: Those licensees that chose to implement the requirements of Order EA-09-293 are to be in full compliance by June 14, 2010. In order to obtain unescorted access to radioactive material quantities of concern at a customer's facility, the non-M&D service provider shall provide to the customer written certification for each service provider employee for whom unescorted access to this material is being requested. The written certification shall be dated and signed by the non-M&D service provider Reviewing Official. A new written certification is not required if an individual service provider returns to the customer's facility within three years, provided the customer has retained the prior certification.

It is the responsibility of the licensee granting unescorted access to retain any documentation confirming the trustworthiness and reliability of those individuals granted unescorted access.

The NRC has issued, and will continue to issue, the Order described above, under its authority to protect the common defense and security, which has not been relinquished to the Agreement States, to both NRC and Agreement State licensees that are non-M&D service provider licensees desiring unescorted access at their customer's facilities that possess radioactive materials quantities of concern. A copy of the Order has been enclosed for your convenience. Agreement States with licensees affected by the Orders have been and will continue to be notified in separate communications.

NRC Point of Contact: If you have any questions on this correspondence, please contact me at 301-415-3340 or the individual named below.

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Office of Federal and State Materials
and Environmental Management Programs

Enclosure: As Stated

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