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June 5, 2013

EA-12-193 and EA-12-194

TO: Materials Licensees Identified in Attachment 1 to Orders EA-12-193 and EA-12-194, All Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein

SUBJECT: ISSUANCE OF ORDERS IMPOSING REQUIREMENTS FOR PROTECTING CERTAIN SAFEGUARDS INFORMATION, AND IMPOSING REQUIREMENTS FOR FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS FOR ACCESS TO SAFEGUARDS INFORMATION

The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing the enclosed Orders (Enclosures 1 and 3 with attachments) requiring you to implement specific requirements to ensure proper handling and protection and to prevent the unauthorized disclosure of Safeguards Information (SGI). Orders contain requirements that licensees or certificate holders must implement. In addition to the requirements provided in these orders, the licensee is reminded that they must also comply with the provisions for the protection of SGI, including access restrictions, which are located in NRC regulations at 10 CFR 73.21 and 73.23. In case of any inconsistency between the provisions of the orders and the regulations, the licensee will apply the more restrictive requirement. You must respond to these Orders by filing a written answer, under oath or affirmation, consenting to the Orders, or providing the reasons why you believe the Orders should not have been issued to you. The enclosed Orders are effective immediately. These requirements will remain in effect until the Commission determines otherwise.

The NRC has authority to issue Orders to both NRC and Agreement State Licensees or certificate holders under its authority to protect the common defense and security, which cannot be relinquished to the Agreement States. Under Section 147 of the Atomic Energy Act of 1954, as amended, the Commission has authority to "...issue such orders, as necessary, to prohibit the unauthorized disclosure of safeguards information...." Enclosure 1 to this letter directs you to protect this kind of information from unauthorized disclosure, in accordance with "Modified Handling Requirements for Protection of Certain Safeguards Information (SGI-M)" (Attachment 2 to Enclosure 1). Also provided is the "Designation Guide for Safeguards Information" (Enclosure 2), to help you determine what information needs to be protected as SGI. Licensees are reminded that the unauthorized disclosure of SGI may result in civil and criminal penalties.

Please note that Attachment 1 to Enclosures 1 and 3 and Enclosure 2 contain security related sensitive information. When separated from the attached documents, this cover letter is decontrolled.

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The NRC has determined that you will need to implement security-related compensatory measures (CMs) in the near future. The CMs contain SGI and must be protected in accordance with the enclosed Orders. Section 147 of the Atomic Energy Act of 1954, as amended, imposes requirements for access to SGI, which require individuals to go through a Federal Bureau of Investigation (FBI) identification and criminal records history check, based on fingerprints, before being given access to SGI. The procedures for implementing the fingerprinting requirements are set forth in Enclosure 3 and Enclosure 4 to this letter.

These procedures require that the Licensee must designate an individual who will review the results of the FBI criminal history records check and other relevant information and make a trustworthiness and reliability determination before granting an individual access to SGI.

This individual, referred to hereafter as the “reviewing official or RO,” must be someone who seeks access to SGI and also must be determined to be trustworthy and reliable. The NRC will determine whether the RO is trustworthy and reliable and should be granted access to SGI based on this individual’s fingerprint submission and the results of the FBI criminal history records check. If NRC determines that the individual may not be granted access to SGI, Order EA-12-194 (Enclosure 3) prohibits that individual from obtaining access to any SGI.

If the initial reviewing official is not approved by NRC to have access to SGI, the subject individual may appeal this decision by following the procedures set forth in Enclosure 5 to this letter. The rights of the individual nominated to be the reviewing official are also described in Enclosure 5. Additionally, the Licensee may nominate a different individual to be the reviewing official. Once a reviewing official is approved by NRC, that reviewing official and only that reviewing official can make SGI access determinations for other Licensee employees or individuals who have a need-to-know the information, have been fingerprinted and successfully completed a criminal history records check and been determined to be trustworthy and reliable. The reviewing official cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official; therefore, if a Licensee wishes to have a new or additional reviewing official, the NRC must approve that individual before he/she can act as a reviewing official.

Licensees are required to submit fingerprints on the enclosed Form FD-258 (fingerprint cards) in accordance with Order EA-12-194 (Enclosure 3). The current fee to process fingerprint cards is \$26.00 per submission and payment must accompany the request. Additional fingerprint cards may be obtained by calling (630) 829-9565 or by e-mailing a request to forms.resource@nrc.gov.

The enclosed Orders require that all Licensees respond within twenty-five (25) days of the date of the Orders and implement the requirements before providing access to SGI to any individual. Please contact Sarenee Hawkins, (301) 415-7562, Sarenee.Hawkins@nrc.gov, or Adelaide Giantelli, (301) 415-3521, Adelaide.Giantelli@nrc.gov, to facilitate resolution of any issues or questions related to compliance with the requirements in the enclosed Orders.

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Licensee responses to the Orders (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 Sarenee Hawkins, 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, D.C., 20555-0001
ATTN: Sarenee Hawkins, 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
11545 Rockville Pike
Rockville, MD 20852-2738
ATTN: Sarenee Hawkins, Mail Stop T-8E24

Fingerprint cards, along with payment (payable to NRC), 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 TWB-05B32M. A short cover letter should be included listing the nominated reviewing official(s) and the docket number(s). The following mailing addresses should be used:

For normal postal delivery, mail to:

Director
Division of Facilities and Security
U.S. NRC
Washington, D.C., 20555-0001
ATTN: Criminal History Program, Mail Stop TWB-05B32M

For delivery services requiring a street address, mail to:

Director
Division of Facilities and Security
U.S. NRC
11545 Rockville Pike
Rockville, MD 20852-2738
ATTN: Criminal History Program, Mail Stop TWB-05B32M

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

Sincerely,

/RA/

Mark A. Satorius, Director
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:

1. Order Imposing Requirements for the Protection of Certain Safeguards Information (EA-12-193)
2. Designation Guide for Safeguards Information
3. Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information (EA-12-194)
4. Guidance for Licensee's Evaluation of Access to Safeguards Information with the Inclusion of Criminal History Records (Fingerprint) Checks
5. Process to Challenge NRC Denials or Revocations of Access to Safeguards Information

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OFC	MSSA:SMPB	MSSA:SMPB:BC	OE:OD	OGC	NSIR:OD
NAME	SHawkins	AGiantelli	DFurst for NHilton (via e-mail)	NStAmour (via e-mail)	MLayton for JWiggins
DATE	08/22/2012	08/ 27/2012	09/06/2012	02/28/2013	09/20/2012

OFC	FSME:MSSA:DD	FSME:DMSSA:D	TechEd	FSME:OD
NAME	PHenderson	BMcDermott	CPoland	MSatorius
DATE	09/04 /2012	09/14/2012	05/22/2013	06/5/2013

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