

December 18, 2015

Mr. Thomas Marcille, Vice President
and Chief Nuclear Officer
SMR Inventec, LLC
One Holtec Drive
Marlton, NJ 08053

SUBJECT: SMR INVENTEC, LLC ESTABLISHMENT OF A SAFEGUARDS INFORMATION PROGRAM AND REQUEST FOR SAFEGUARDS INFORMATION USE AND STORAGE APPROVAL

Dear Mr. Marcille,

In a May 7, 2015, letter, SMR Inventec, LLC, developer of the SMR 160 Small Modular Reactor (SMR), notified the U.S. Nuclear Regulatory Commission (NRC) of its plan to perform an aircraft impact assessment of the plant design to meet the NRC requirements of Title 10 Code of Federal Regulations (10 CFR) 50.150, "Aircraft impact assessment," as described in the June 2009 rulemaking in the Federal Register (FR) (74 FR 28112). In addition, SMR Inventec, LLC, informed the NRC staff of its intention to establish and implement a Safeguards Information (SGI) Program to comply with the NRC requirements contained in 10 CFR 73.21, "Protection of Safeguards Information: Performance requirements." The letter also requested that the NRC staff provide guidance and direction regarding how to obtain NRC staff approval of the SMR Inventec, LLC, SGI Program and receive the required SGI in order to meet design objectives and maintain regulatory compliance.

On September 24, 2015, the NRC staff met with representatives from SMR Inventec, LLC, and discussed plans for how the NRC would review an application related to the SMR 160 Small Modular Reactor. At that time, SMR Inventec, LLC, communicated that it would not pursue NRC licensing under 10 CFR Part 52, "Licenses, certifications, and approvals for nuclear power plants," but instead pursue licensing under 10 CFR Part 50, "Domestic licensing of production and utilization facilities." In this meeting, SMR Inventec, LLC, also described challenges in securing an applicant to develop an application for submittal under 10 CFR Part 50. As a result, SMR Inventec, LLC, does not have definitive plans for development and submittal of an application under 10 CFR Part 50.

As stated in 10 CFR 73.22(b)(1), "Except as the Commission may otherwise authorize, no person may have access to Safeguards Information unless the person has an established 'need to know' for the information and has undergone a Federal Bureau of Investigation (FBI) criminal history records check using the procedures set forth in § 73.57." "Need to know" is defined in 10 CFR 73.2, "Definitions," which partially states, "a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, licensee, applicant, or certificate holder employment." The NRC staff has considered your requests and while we recognize the importance of the assessments described herein, we have determined based on your current informal interaction with the NRC, and the lack of commitment for near-term application submission, that we do not have a sufficient basis to determine that you have a

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“need to know” for the necessary SGI to perform these assessments at this time. Should the status of the interaction between the NRC and SMR Inventec, LLC, change, we will be willing to reassess this determination, if requested.

In response to your request for guidance and direction regarding how to obtain NRC staff approval of the SGI Program, the NRC requirements for protection of safeguards information is codified in 10 CFR 73.22, “Protection of Safeguards Information: Specific requirements.” The NRC staff’s guidance for establishing a safeguards program consistent with the requirements is published in Regulatory Guide 5.79, “Protection of Safeguards Information.” (Agencywide Documents Access and Management System (ADAMS) ML103270219.)

If you have any questions regarding this matter, please contact Joelle Starefos at (301) 415-6091, or email joelle.starefos@nrc.gov.

Sincerely,

/RA/

Frank Akstulewicz, Director
Division of New Reactor Licensing
Office of New Reactors

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“need to know” for the necessary SGI to perform these assessments at this time. Should the status of the interaction between the NRC and SMR Inventec, LLC, change, we will be willing to reassess this determination, if requested.

In response to your request for guidance and direction regarding how to obtain NRC staff approval of the SGI Program, the NRC requirements for protection of safeguards information is codified in 10 CFR 73.22, “Protection of Safeguards Information: Specific requirements.” The NRC staff’s guidance for establishing a safeguards program consistent with the requirements is published in Regulatory Guide 5.79, “Protection of Safeguards Information.” (Agencywide Documents Access and Management System (ADAMS) ML103270219.)

If you have any questions regarding this matter, please contact Joelle Starefos at (301) 415-6091, or email joelle.starefos@nrc.gov.

Sincerely,

/RA/

Frank Akstulewicz, Director
Division of New Reactor Licensing
Office of New Reactors

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