

certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

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Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

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adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

VII

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provision specified in Section V shall be final when the extension expires if a hearing request has not been received.

A Request for Hearing Shall Not Stay the Immediate Effectiveness of this Order.

Dated this 23rd day of November 2009.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Deputy Regional Administrator for Operations.

[FR Doc. E9-29205 Filed 12-7-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-3098; NRC-2009-0540; Construction Authorization No. CAMOX-001; EA-09-117]

Shaw AREVA MOX Services, Aiken, SC; Confirmatory Order Modifying Construction Authorization (Effective Immediately)

I

Shaw AREVA MOX Services (MOX Services or Licensee) is the holder of Construction Authorization No. CAMOX-001, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 70 on March 30, 2005. The license authorizes the construction of a mixed-oxide fuel fabrication facility in accordance with the conditions specified therein. The facility is located on the Department of Energy's Savannah River Site in Aiken, South Carolina.

This Confirmatory Order is the result of an agreement reached during alternative dispute resolution (ADR) sessions conducted on October 8, 2009.

II

On July 29, 2008, the NRC's Office of Investigations (OI) initiated an investigation to determine whether a former contractor employed as a Senior Structural Engineer (SSE) at the MOX

facility deliberately directed or allowed a junior civil structural engineer (CSE) to sign his signature to vendor data review forms without identifying the CSE as the signer. The NRC's letter of July 29, 2009, documented an apparent violation of NRC requirements involving the former Senior Structural Engineer (SSE), who caused MOX Services to be in violation of 10 CFR 70.9, "Completeness and accuracy of information." Specifically, the SSE directed or allowed a junior engineer to sign his signature on travelers, contrary to an Engineering Directive. Travelers are used as part of MOX Services' process to signify that field drawings match design drawings. Thirty-seven travelers were identified in which the signature may not have been provided in accordance with requirements.

III

On October 8, 2009, the NRC and MOX Services met in an ADR session mediated by a professional mediator, which was arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

(1) As of the ADR meeting, the NRC continues to believe that a violation of 10 CFR 70.9 occurred.

(2) MOX Services initially presumed the traveler signatures may have been inaccurate and implemented corrective actions and enhancements, as discussed below, to prevent similar incidents. Based on its internal investigation, MOX Services determined that it had an insufficient basis to conclude that inappropriate signatures were affixed to documents and that a violation occurred.

(3) To prevent similar incidents, preclude future violations, and to address NRC concerns, MOX Services completed the following corrective actions and enhancements:

a. Prompt initiation of a Condition Report, classified at Significance Level B;

b. Prompt review of all affected drawings and travelers to verify changes were properly incorporated into the vendor drawings;

c. Initiation of an investigation into the circumstances of the incident and identification of causal factors;

d. Performance of an extent of condition review to confirm that the

issue was limited to the 37 travelers in question;

e. Review of the document type thought to be most susceptible to a similar cause (no additional examples were identified);

f. Issuance of a formal memorandum to all Engineering personnel to remind them of the requirements of Engineering Directive (ED) 17 regarding delegation of signature authority;

g. Revision to ED-17 to include examples of how to sign a delegated signature and to clearly state that delegation documents should be submitted to Document Control;

h. Issuance of a new Management Policy MD-013 on Delegation of Signatures, which is applicable to all personnel who are assigned to and perform work on the MOX Services Project;

i. The completion of Quality Assurance surveillance QA-09-0173, which reviewed vendor submittals, including drawing submittals, from contractors to assure each was properly identified, submitted, reviewed and approved, and to assure each was consistent with project commitments and the design basis;

j. Performance of training for all MOX Services project personnel, including onsite contractors, on the definition and consequences associated with Material False Statements, and obligations as a signer of pertinent project records;

k. The performance of a Safety Conscious Work Environment Survey in February 2008;

l. Computer Based Training (CBT) on Safety Conscious Work Environment and other related Nuclear Safety Culture initiatives and attributes;

m. Reiteration, via numerous means including an all-hands meeting with the MOX Services President, of avenues for raising safety concerns to all MOX Services Project employees.

(4) MOX Services also agreed to additional corrective actions and enhancements by the end of calendar year 2010, and periodically thereafter at a frequency deemed appropriate by MOX Services, as fully delineated below:

a. MOX Services agrees to perform periodic Quality Assurance (QA) assessments/surveillances of vendor submittals (including drawings) to ensure design requirements are properly implemented in the field through the life of the construction phase;

b. MOX Services agrees to provide periodic CBT training to all MOX Services project personnel, including onsite contractors, on the definition and consequences associated with Material

False Statements, and obligations as a signer of pertinent project records; and

c. MOX Services agrees to perform periodic Safety Conscious Work Environment surveys through the life of the construction phase.

(5) The NRC and MOX Services agree that the above elements will be incorporated into a Confirmatory Order. The resulting Confirmatory Order will be considered by the NRC for any future assessment of MOX Services, as appropriate.

(6) MOX Services agrees to complete the items listed in Paragraph III.4 above by the end of calendar year 2010.

(7) Within three months of completion of the terms of the Confirmatory Order (calendar year 2010), MOX Services will provide the NRC with a letter discussing its basis for concluding that the Confirmatory Order has been satisfied.

(8) In consideration of the commitments delineated in Paragraphs III.3 and 4 above, the NRC agrees to refrain from proposing a civil penalty or issuing a Notice of Violation for all matters discussed in the NRC's letter to MOX Services of July 29, 2009 (EA-09-117).

(9) This agreement is binding upon successors and assigns of MOX Services.

On October 20, 2009, MOX Services consented to issuance of this Order with the commitments, as described in Section V below. The Licensee further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since MOX Services has completed the actions as delineated in Section III.3, and agreed to take the actions as set forth in Section V, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that MOX Services' commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that MOX Services' commitments be confirmed by this Order. Based on the above and MOX Services' consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 51, 53, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 70, *It is hereby ordered*, effective immediately,

that construction authorization no. CAMOX-001 is modified as follows:

(1) MOX Services agrees to perform periodic Quality Assurance (QA) assessments/surveillances of vendor submittals (including drawings) to ensure design requirements are properly implemented in the field through the life of the construction phase.

(2) MOX Services agrees to provide periodic CBT training to all MOX Services project personnel, including onsite contractors, on the definition and consequences associated with Material False Statements, and obligations as a signer of pertinent project records.

(3) MOX Services agrees to perform periodic Safety Conscious Work Environment surveys through the life of the construction phase.

(4) MOX Services agrees to complete the actions identified in Section V above by the end of calendar year 2010.

(5) Within three months of completion of the terms of the Confirmatory Order (calendar year 2010), MOX Services will provide the NRC with a letter discussing its basis for concluding that the Confirmatory Order has been satisfied.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by MOX Services of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than MOX Services, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

If a person other than MOX Services requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309 (d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other

document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, (72 FR 49139, Aug. 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's on-line, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the

installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

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Dated this 24th day of November 2009.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Regional Administrator.

[FR Doc. E9-29196 Filed 12-7-09; 8:45 am]

BILLING CODE 7590-01-P