

## NUCLEAR REGULATORY COMMISSION

[Docket No. 71-0122, Approval No. 0122, EA-01-164]

### In the Matter of J.L. Shepherd & Associates, San Fernando, CA; Confirmatory Order Relaxing Order (Effective Immediately)

#### I

J.L. Shepherd & Associates (JLS&A) was the holder of Quality Assurance (QA) Program Approval for Radioactive Material Packages No. 0122 (Approval No. 0122), issued by the U. S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 71, Subpart H. QA activities authorized by Approval No. 0122 include: design, procurement, fabrication, assembly, testing, modification, maintenance, repair, and use of transportation packages subject to the provisions of 10 CFR part 71. Approval No. 0122 was originally issued January 17, 1980. Based on JLS&A's failure to comply with 10 CFR part 71, QA Program Approval No. 0122 was withdrawn, by the immediately effective NRC Order, dated July 3, 2001, (66 FR 36603, July 12, 2001).

#### II

The NRC issued the July 3, 2001, Order (July 2001 Order) because the NRC lacked confidence that JLS&A would implement the QA Program approved by the NRC in accordance with 10 CFR part 71, Subpart H, in a manner that would assure the required preparation and use of transportation packages in full conformance with the terms and conditions of an NRC Certificate of Compliance (CoC) and with 10 CFR part 71.

Subsequent to the July 2001 Order, JLS&A requested interim relief from the July 2001 Order based on JLS&A's proposed Near-Term Corrective Action Plan, to allow shipments, in U.S. Department of Transportation specification packaging designated as 20WC. Based on a showing of good cause the NRC issued Confirmatory Orders dated September 19, 2001, (66 FR 49708, September 28, 2001), December 13, 2001, (66 FR 67556, December 31, 2001), and March 29, 2002, (67 FR 16457, April 5, 2002), which relaxed the July 2001 Order by granting interim relief to allow specific shipments to identified customers in 20WC packages in accordance with JLS&A's Near-Term Corrective Action Plan, provided JLS&A satisfactorily completed certain commitments.

#### III

On April 16, 2002, JLS&A requested that the July 2001 Order be further relaxed based on a showing of good cause. Specifically, JLS&A requested permission to proceed with urgently needed shipments to and from the University of North Carolina, the City of Hope National Medical Center, and Duke and Baylor Universities in the Department of Transportation specification packaging designated as 20WC in accordance with JLS&A's Near-Term Corrective Action Plan. If JLS&A cannot perform its contractual obligations it advises that it stands to lose its anticipated revenue, and additionally that the two research institutions will lose grants and Duke and Baylor Universities will lose federal funds to remove obsolete calibrators. These shipments were previously identified in a request for permission to ship to an expanded listing of customers identified in JLS&A's February 26, 2002, letter, as supplemented, which is pending before the NRC. JLS&A proposes to use its Near-Term Corrective Action Plan specified in the March 29, 2002, Confirmatory Order for the shipments to and from the two research institutions, and Duke and Baylor Universities. JLS&A committed to: (1) Inspect the 20WC package (both shield and overpack); (2) document the inspection in a separate report; (3) perform the shipping and inspection function only by trained personnel; and (4) have the Independent Auditor verify compliance of each shipment with the foregoing commitments and certify such compliance in the monthly reports to the NRC.

In addition, on February 26, 2002, JLS&A consented to issuance of this Confirmatory Order granting interim relief from the July 2001 Order subject to the foregoing commitments, as set forth in Section IV below, agreed that this Confirmatory Order is to be effective upon issuance, and agreed to waive its right to a hearing on this action. Implementation of these commitments will provide assurance that sufficient resources will be applied to the QA program, and that the program will be conducted safely and in accordance with NRC requirements.

I find that good cause exists to relax the July 2001 Order to allow the limited number of shipments requested and that JLS&A's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. The NRC staff reviewed JLS&A's relief request to determine whether to grant the

requested relief with assurances that public health and safety are maintained. In view of the foregoing, I have determined that the public health and safety require that JLS&A's commitments be confirmed by this Confirmatory Order. Based on the above and JLS&A's consent, this Confirmatory Order is effective immediately upon issuance.

#### IV

Accordingly, pursuant to Sections 62, 81, 161b, 161i, 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 parts 71 and 110, *It Is Hereby Ordered*, effective immediately, that the July 3, 2001, Order is relaxed to grant interim relief, to complete shipments to and from the University of North Carolina and the City of Hope National Medical Center, and Duke and Baylor Universities, in accordance with JLS&A'S Near-Term Corrective Action Plan, provided:

1. JLS&A uses the implementing procedures for the 1995 QA program plan, as revised, and the Near-Term Corrective Action Plan to complete an inspection of the 20WC packages involved in the shipments. The inspection will confirm that the packages and associated procedures are in conformance with 49 CFR 178.362, "Specification 20WC wooden protective jacket." Each inspection will include, at a minimum, actual physical measurements, and visual inspections for damage, corrosion, or other potentially unacceptable conditions;

2. JLS&A documents the results of each inspection in separate reports approved by the QA Administrator and prepared in accordance with the revised 1995 QA program plan and implementing procedures. The report will include the list of attributes verified, the acceptance criteria, and the results for each attribute;

3. JLS&A uses JLS&A's staff, contractors, and sub-contractors, trained in the Near-Term Corrective Action Plan and the revised 1995 QA program plan and implementing procedures for conducting the inspections listed in the above condition; and,

4. JLS&A uses an Independent Auditor, approved by the Commission, to ensure that the three conditions listed above have been completed. Additionally, the Independent Auditor shall conduct monthly QA program audits and will provide NRC with a report by the 20th of each month. The Independent Auditor shall verify the compliance of each shipment with the three Conditions listed above and certify

to the Commission in its monthly reports.

The Director, Office of Enforcement, or the Director, Office of Nuclear Material Safety and Safeguards, may in writing, relax or rescind this Confirmatory Order upon demonstration of good cause by the JLS&A.

V

In accordance with 10 CFR 2.202, any person, other than JLS&A, adversely affected by this Confirmatory Order may request a hearing within 20 days of its issuance. 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 made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request also should be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Director, Office of Nuclear Material Safety and Safeguards at the same address, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011, and to JLS&A. If such person requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.714(d).

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. 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 IV above shall be final 20 days from the date of this Confirmatory Order without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV 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 confirmatory order.

Dated this 26th day of April, 2002.

For the Nuclear Regulatory Commission.

**Frank J. Congel,**

*Director, Office of Enforcement.*

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## **NUCLEAR REGULATORY COMMISSION**

### **Solicitation of Public Comments on Agency Guidelines for Ensuring Information Quality**

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Request for public comment.

**SUMMARY:** The NRC is requesting comments from members of the public, licensees, and interest groups on its draft Information Quality (IQ) Guidelines. Focus questions have been provided to increase public feedback. The IQ Guidelines contain the Commission's policy and procedures for ensuring the quality of information before it is disseminated to the public. It also contains the procedures by which an affected person may obtain correction of information that does not comply with the IQ Guidelines. The Commission will consider comments received in response to this notice in developing its final IQ Guidelines.

**DATES:** Comments are due by May 30, 2002. Comments received after this date will be considered if it is practical to do so, but the NRC is able to only ensure consideration only for comments received on or before this date.

**ADDRESSES:** Comments may be mailed to Information Quality, c/o Vicki Yanez, Web, Publishing, and Distribution Services Division, Office of the Chief Information Officer, Mail Stop: T6-E7, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, e-mailed to [infoquality@nrc.gov](mailto:infoquality@nrc.gov), or faxed to 301-415-5272. Comments may also be submitted at the NRC Web site information quality comment form that is accessible from NRC's "Contact Us" Web page (<http://www.nrc.gov/contact-us>). Comments may be delivered to Vicki Yanez, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

**FOR FURTHER INFORMATION CONTACT:** Vicki Yanez, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-6844 or by Internet electronic mail at [infoquality@nrc.gov](mailto:infoquality@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

## **OMB and Agency Responsibilities**

Section 515(a) of the Treasury and General Government Appropriations Act, FY 2001 (Pub. L. 106-554), directed the Director, Office of Management and Budget (OMB), to issue guidelines that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies in fulfillment of the purposes and provisions of the Paperwork Reduction Act. OMB issued its final guidelines on September 28, 2001. Subsequent guidance was issued by OMB on February 22, 2002 (67 FR 8452). These guidelines require agencies subject to the Paperwork Reduction Act, including the NRC, to:

1. Issue their own information quality guidelines ensuring and maximizing the quality, utility, integrity, and objectivity of information disseminated by the agency;

2. Establish an administrative mechanism allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with these guidelines; and

3. Report annually to the Director of OMB the number and nature of complaints received by the agency regarding compliance with these guidelines concerning the quality, utility, integrity, and objectivity of information and how such complaints were resolved.

The OMB guidelines further establish the following schedule:

May 1, 2002.

- Submit a draft report to OMB providing NRC's information quality guidelines and explaining how these guidelines will ensure and maximize the quality, utility, integrity, and objectivity of information disseminated by the NRC.

- Publish the draft report in the **Federal Register**; post the draft report on the NRC public Web site; ask for public comments on the report.

July 1, 2002.

- Submit to OMB for review the agency's revised quality guidelines that reflect public comments.

October 1, 2002.

- Publish in the **Federal Register** a notice of availability of the final NRC guidelines and post the guidelines on the NRC public Web Site.

- Ensure that information covered by these guidelines and disseminated for the first time by NRC on or after this date has undergone reviews for quality. January 1, 2004 and each January 1 thereafter.