

Volume V

None.

Volume VI

None.

Volume VII

None.

### General Wage Determination Publication

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Signed at Washington, DC this 28th day of May 2003.

**Carl Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

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### NUCLEAR REGULATORY COMMISSION

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

#### J.L. Shepherd & Associates, San Fernando, California; 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 Based on JLS&A's failure to comply with 10 CFR part 71, QA Program Approval No. 0122 was withdrawn by the immediately effective NRC Order, dated July 3, 2001, (66 FR 36603, July 12, 2001).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 (71-0122, Revision No. 5) 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 on several occasions, from the July 2001 Order, based on JLS&A's proposed Near-Term Corrective Action Plan (NTCAP), to allow shipments in U. S. Department of Transportation (DOT) 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), March 29, 2002 (67 FR 16457, April 5, 2002), April 26, 2002 (67 FR 22462, May 3, 2002), and June 6, 2002 (67 FR 41531, June 18, 2002), which relaxed the July 2001 Order. Each of the foregoing Confirmatory Orders allowed shipments to JLS&A customers in 20WC packages in accordance with JLS&A's NTCAP,

provided JLS&A satisfactorily completed certain commitments, including the use of an Independent Auditor. The commitments ensured that JLS&A staff was properly trained and that the packaging used was in conformance with the regulations. The June 6, 2002, Confirmatory Order allowed JLS&A to make shipments through May 31, 2003.

##### III

By letter dated February 7, 2003, JLS&A requested rescission of the July 2001 Order for the following reasons:

- JLS&A has developed implementing procedures for its conditional QA Program Approval No. 0122, Revision No. 7.

- JLS&A completed comprehensive training of all its staff (and all but one of its contractors) on the new implementing procedures between November and December 2002. JLS&A committed that prior to permitting the remaining contractor to engage in any activity for which an NRC-approved QA program is required, all prescribed training will be conducted.

- J.L. Shepherd and the Independent Auditor provided certification under oath and affirmation that the procedures and training had been completed as stated above.

- JLS&A has successfully implemented the interim procedures contained in the Near-Term Corrective Action Program over one year of shipping operations using DOT specification packaging, as attested to in the series of monthly and quarterly reports of the Independent Auditor.

- JLS&A has reorganized and streamlined its operations and staffing, aligning its business functions with the requirements of 10 CFR part 71, Subpart H, to include designation of positions directly related to QA activities and record keeping. The reorganization included requirements for the qualifications of the QA manager and for his/her separation from operational responsibility.

- JLS&A has a compelling business need for rescission of the Order and for restoration of its ability to design, manufacture and ship devices larger than those that can be shipped in DOT specification packaging. JLS&A work involving these larger devices had accounted for about 20 percent of its annual revenues.

- The Order has imposed a continuing and increasing economic penalty on JLS&A.

- JLS&A states it is the only economical shipper for devices of its own design, and for various other manufacturers' devices, all of which

contain large quantities of Type B radioactive materials and require shipment in NRC-approved packages. JLS&A restrictions from making these shipments has meant that these devices have not been able to be relocated, decommissioned, or re-sourced.

- JLS&A committed to NRC that JLS&A will not make further international Type B shipments requiring NRC-approved packages until it is able to ensure that its Type B package designs are in compliance with all NRC requirements, including changes made in response to the International Atomic Energy Agency's International Transportation Standard TS-R-1.

- JLS&A committed to meeting obligations imposed by the part 71 rulemaking which, if approved, will require JLS&A to re-evaluate existing designs and to submit applications containing revised bases for their approval.

- JLS&A has at all times attempted to cooperate fully with the NRC staff in the enforcement action and investigation associated with the July 2001 Order. JLS&A has taken to heart the Commission's criticism of its QA program and has, in many ways, fundamentally redesigned its QA program to respond to the criticisms of the NRC staff and the Independent Auditor.

The NRC staff reviewed JLS&A's request and JLS&A's safety performance under the above-mentioned relaxation Orders during an April 22-24, 2003, inspection to determine whether to grant the request with assurances that public health and safety are maintained. As a result of the April 2003 inspection, the NRC identified one violation for a failure to follow procedures, concerns with the use of non-approved forms to document quality inspection activities, a weakness in maintaining proper configuration control of QA program documentation, and that specific training on the QA program had not been performed. While these findings were not as extensive as the events leading to the July 2001 Order, they are cause for concern. However, based on JLS&A's development of the new QA program and the progress shown, JLS&A has demonstrated good cause to relax certain provisions of the July 2001 Order.

On May 29, 2003, JLS&A consented to issuance of this Order granting interim relief from the July 2001 Order subject to the commitments as set forth in Section IV below, and agreed that this 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 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. In view of the foregoing, I have determined that the public health and safety require that JLS&A's commitments be confirmed by this Order. Based on the above and JLS&A's consent, this 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 Section 2.202 and 10 CFR parts 71 and 110, it is hereby ordered, effective immediately, that the July 2001 Order is relaxed to grant JLS&A interim relief, to effect shipments in accordance with 10 CFR 71.7, 71.12, 71.13, 71.14 or 71.16 and revision 7 TO QA program approval No. 0122, through June 1, 2005, provided:

1. JLS&A fully implements and complies with Revision No. 7 of the conditionally approved QA Program Approval No. 0122;

2. JLS&A fully train JLS&A's staff, contractors, and sub-contractors, in Revision No. 7 of the conditionally approved QA program plan and implementing procedures, prior to any shipments or design, procurement, fabrication, assembly, testing, modification, maintenance, repair or use of packaging covered by Revision No. 7;

3. JLS&A uses an Independent Auditor, approved by the Commission, to ensure that Revision No. 7 of conditionally approved QA program plan is fully and completely implemented. Additionally, the Independent Auditor shall conduct monthly QA program audits and provide NRC with a report by the 20th of each month. These monthly audits shall continue for a period of seven (7) months from the date of this Order. After the seven (7) month period, audits shall be performed on a quarterly basis, with a report provided to the NRC by the 20th of the month following each quarter. The Independent Auditor shall verify the compliance of the conduct of shipping operations with Revision No. 7 of the conditionally approved QA program plan and implementing procedures;

4. JLS&A shall stop all shipping operations if the audit conducted by the Independent Auditor identifies safety

concerns associated with the JLS&A conduct of shipping operations. In such an event, JLS&A shall inform the NRC of the audit findings and JLS&A proposed corrective actions within 3 business days of the identification of the audit findings to JLS&A by the Independent Auditor. JLS&A shall suspend all shipping operations until the safety concerns are corrected and the Independent Auditor has found the corrective action acceptable. The Independent Auditor shall inform NRC of the audit findings, JLS&A corrective actions, and the results of the Independent Auditor's review of the corrective actions in its audits; and

5. During the two-year interim relief period, the NRC will conduct an inspection of JLS&A operations and implementation of the JLS&A QA program, Revision No. 7. Implementation of QA Program Approval No. 0122, Revision No. 7, without restrictions, may be permitted after NRC has verified JLS&A performance through an NRC inspection program in which no violations or only minor non-conformances are identified.

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

#### V

In accordance with 10 CFR 2.202, any person, other than JLS&A, adversely affected by this 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. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be

transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). 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 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 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 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 order.

Dated this 30th day of May, 2003.

For the Nuclear Regulatory Commission.

**James G. Luehman,**

*Deputy Director, Office of Enforcement.*

[FR Doc. 03-14280 Filed 6-5-03; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Workshop on Issues Related to the Construction Inspection Program for Reactors

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of workshop.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is holding a workshop on issues related to the construction inspection program for reactors built under the provisions of Part 52. The public workshop is scheduled to discuss the scope and the types of inspections which are planned during the new reactor construction project.

**FOR FURTHER INFORMATION, CONTACT:** Mr. James A. Isom, Inspection Program Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555-

0001. Mr. Isom may be reached at (301) 415-109 or by e-mail at [jai@nrc.gov](mailto:jai@nrc.gov).

**DATES:** The workshop will be held on August 27, 2003, from 8:30 a.m. to 4:30 p.m. Submit comments on the draft construction inspection program framework document by September 15, 2003. Comments received after the due date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** The workshop will be held at the U.S. Nuclear Regulatory Commission in the Two White Flint North Auditorium, 11545 Rockville Pike, Rockville, Maryland.

The draft construction inspection program framework document is available for public inspection in the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike, Public File Area O1 F21, Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's Agencywide Document Access and Management System (ADAMS), (ADAMS # ML031400849). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). For more information, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 202-634-3273 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Written comments on the draft guidance should be sent to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T6-D59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Comments may be submitted electronically by the Internet to the NRC at [nrcprep@nrc.gov](mailto:nrcprep@nrc.gov). All comments received by the Commission, including those made by Federal, State, and local agencies, Indian tribes, or other interested persons, will be made available electronically at the Commission's Public Document Room in Rockville, Maryland or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS).

**SUPPLEMENTARY INFORMATION:** The NRC has developed a draft construction inspection program framework document. The document describes the proposed inspections which will be conducted for reactors built under the 10 CFR part 52 process. The framework document details the proposed audits and inspections conducted by the NRC

during the Early Site Permit (ESP) and Combined License (COL) phases. The document also discusses how the NRC staff will verify satisfactory completion of the inspections, tests, analyses, and acceptance criteria (ITAAC) and review operational programs.

In the "Draft 10 CFR Construction Inspection Program Framework Document," the NRC staff set forth the basis for the construction inspection program for reactors built under 10 CFR part 52. The document was issued on May 30, 2003 and the public workshop is scheduled for August 27, 2003 to discuss the scope and the types of inspections which are planned during the new reactor construction project. Additionally, comments received from various stakeholders will be discussed. The following topics will be discussed:

- The scope and types of NRC inspections and when they will occur for the different phases of construction of a nuclear plant constructed under 10 CFR part 52.
- How the NRC staff plans to inspect and verify licensee's completion of inspections, tests, analyses and acceptance criteria (ITAAC).
- How the NRC staff plans to inspect the operational programs which do not have ITAAC associated with them.
- How the NRC staff plans to conduct engineering design verifications and first-of-a-kind engineering inspections.

Dated at Rockville, Maryland, this 30th day of May 2003.

For the Nuclear Regulatory Commission.

**Stuart A. Richards,**

*Chief, Inspection Program Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 03-14278 Filed 6-5-03; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission (NRC) has issued for public comment a proposed revision of a guide in its Regulatory Guide Series. Regulatory Guides are developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide is temporarily identified by its task number, DG-1121,