

## NUCLEAR REGULATORY COMMISSION

[Docket Nos (Redacted), License Nos (Redacted), EA (Redacted); NRC-2010-0351]

### In the Matter of All Power Reactor Licensees and Research Reactor Licensees Who Transport Spent Nuclear Fuel; Order Modifying License (Effective Immediately)

#### I.

The licensees identified in Attachment 1 to this Order have been issued a specific license by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing the possession of spent nuclear fuel and a general license authorizing the transportation of spent nuclear fuel [in a transportation package approved by the Commission] in accordance with the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations (CFR) parts 50 and 71. This Order is being issued to all such licensees who transport spent nuclear fuel. Commission regulations on the shipment of spent nuclear fuel at 10 CFR 73.37(a) require these licensees to maintain a physical protection system that meets the requirements contained in 10 CFR 73.37(b), (c), (d), and (e).

#### II.

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility or regulated activity. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures are required to be implemented by licensees as prudent, interim measures, to address the current

threat environment in a consistent manner. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 of this Order, on all licensees identified in Attachment 1 of this Order.<sup>1</sup> These additional security requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order in response to previously issued Safeguards and Threat Advisories or on their own. It is also recognized that some measures may not be possible or necessary for all shipments of spent nuclear fuel, or may need to be tailored to accommodate the licensees' specific circumstances to achieve the intended objectives and avoid any unforeseen effect on the safe transport of spent nuclear fuel.

Although the additional security measures implemented by licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of common defense and security, in light of the current threat environment, the Commission concludes that the security measures must be embodied in an Order consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all licenses identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order. In addition, pursuant to 10 CFR 2.202, and in light of the common defense and security matters identified above which warrant the issuance of this Order, the Commission finds that the public health, safety, and interest require that this Order be immediately effective.

#### III.

Accordingly, pursuant to Sections 53, 103, 104, 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 parts 50 and 71, *it is hereby ordered, effective immediately, that all licenses*

<sup>1</sup> Attachments 1 and 2 contain SAFEGUARDS INFORMATION and will not be released to the public.

*identified in Attachment 1 to this order are modified as follows:*

A. All licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the licensee's security plan. The licensees shall immediately start implementation of the requirements in Attachment 2 to the Order and shall complete implementation by November 4, 2010, unless otherwise specified in Attachment 2, or before the first shipment after December 4, 2010, whichever is earlier.

B. 1. All licensees shall, within twenty (20) days of the date of this Order, notify the Commission, (1) If they are unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from or variation of any specific requirement.

2. Any licensee that considers that implementation of any of the requirements described in Attachment 2 to this Order would adversely impact the safe transport of spent fuel must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question, or a schedule for modifying the activity to address the adverse safety condition. If neither approach is appropriate, the licensee must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

C. 1. All licensees shall, within twenty (20) days of the date of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 2.

2. All licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.

D. Notwithstanding any provisions of the Commission's regulations to the contrary, all measures implemented or

actions taken in response to this Order shall be maintained until the Commission determines otherwise.

Licensee responses to Conditions B1, B2, C1, and C2 above, shall be submitted to the NRC to the attention of the Director, Office of Nuclear Reactor Regulation under 10 CFR 50.4. In addition, licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

#### IV.

In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of publication of this Order in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer, on the other hand, includes a request for hearing, it shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

Any answer or request for hearing, must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 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](mailto: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 Meta System 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 online, 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.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

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.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission. If a hearing is requested by the licensee or 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.

Pursuant to 10 CFR 2.202(c)(2)(i), the licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

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 III above shall be final twenty (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 III shall be final when the extension expires if a hearing request has not been received.

*An answer or a request for hearing shall not stay the immediate effectiveness of this order.*

Dated at Rockville, Maryland, this 4th day of November, 2010.

For the Nuclear Regulatory Commission.

**Eric J. Leeds,**

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 2010-28846 Filed 11-15-10; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[NRC-2010-0354]

### Withdrawal of Regulatory Guide 1.39

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Withdrawal of a Regulatory Guide: Regulatory Guide 1.39, "Housekeeping Requirements for Water-Cooled Nuclear Power Plants," dated September 1977.

#### FOR FURTHER INFORMATION CONTACT:

Hector L. Rodriguez-Luccioni, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, *telephone:* 301-251-7685 or e-mail *Hector.Rodriguez-Luccioni@nrc.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide 1.39, "Housekeeping Requirements for Water-Cooled Nuclear Power Plants," dated September 1977.

Regulatory Guide 1.39 endorsed the ANSI Standard N45.2.3-1973, "Housekeeping During the Construction Phase of Nuclear Power Plants." and provided a method acceptable to the NRC staff for complying with the pertinent quality assurance requirements of 10 CFR part 50, appendix B.

The current revisions of RG 1.28 and RG 1.33 adequately address the related Quality Assurance Program with the latest ANSI/ASME standard NQA-1, which conforms to the requirements of 10 CFR part 50, Appendix B, "Quality Assurance Program Criteria for Nuclear Power Plants and Fuel Reprocessing Plants."

##### II. Further Information

The withdrawal of Regulatory Guide 1.39 does not alter any prior or existing licensing commitments based on its use. The guidance provided in this regulatory guide is no longer necessary. Regulatory guides may be withdrawn when their guidance no longer provides useful information, or is superseded by technological, congressional actions, or other events.

Guides are revised for a variety of reasons and the withdrawal of a regulatory guide should be thought of as the final revision of the guide. Although a regulatory guide is withdrawn, current licensees may continue to use it, and withdrawal does not affect any existing

licenses or agreements. Withdrawal means that the guide should not be used for future NRC licensing activities. Changes to existing licenses would be accomplished using other regulatory products.

Regulatory guides are available for inspection or downloading through the NRC's public Web site under "Regulatory Guides" in the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/docollections-c>. Regulatory guides are also available for inspection at the NRC's Public Document Room (PDR), Room O-1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852-2738. The PDR's mailing address is US NRC PDR, Washington, DC 20555-0001. You can reach the staff by telephone at 301-415-4737 or 800-397-4209, by fax at 301-415-3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, November 5, 2010.

For the Nuclear Regulatory Commission.

**John N. Ridgely,**

*Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

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## PEACE CORPS

### Proposed Information Collection Renewal

**ACTION:** 30-day notice of submission of information collection for approval from the Office of Management and Budget; Comment request.

**SUMMARY:** The Peace Corps has submitted an information collection request to the Office of Management and Budget (OMB) for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests an extension, without change, of a currently approved information collection. This notice invites the public to comment on the renewal of the Peace Corps' Confidential Reference Form (OMB Control No. 0420-0006). Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize