

appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop TWB-05B32M, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRC000Z), or where practicable, other fingerprint records for each individual seeking access to Safeguards Information, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Program. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555, by calling 630-829-9565, or by email to [forms.resource@nrc.gov](mailto:forms.resource@nrc.gov). Practicable alternative formats are set forth in 10 CFR 73.4. The Licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards.

The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record containing omissions or evident errors will be returned to the Licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

Fees for processing fingerprint checks are due upon application. Licensees shall submit payment with the application for processing fingerprints by corporate check, certified check, cashier's check, or money order, made payable to "U.S. NRC." [For guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at 301-492-3531]. Combined payment for multiple applications is acceptable. The application fee (currently \$26) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a Licensee, and an NRC processing fee, which covers administrative costs associated with the NRC handling of Licensee fingerprint submissions. The Commission will directly notify Licensees who are subject to this regulation of any fee changes.

The Commission will forward to the submitting Licensee all data received from the FBI as a result of the Licensee's

application(s) for criminal history records checks, including the FBI fingerprint record.

#### **Right To Correct and Complete Information**

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification.

If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537-9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available for his/her review. The Licensee may make a final SGI access determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI, the Licensee shall provide the individual its documented basis for denial. Access to SGI shall not be granted to an individual during the review process.

#### **Protection of Information**

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and

the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining access to Safeguards Information. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for three (3) years after termination of employment or determination of access to SGI (whether access was approved or denied). After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

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## **NUCLEAR REGULATORY COMMISSION**

[EA-13-040; NRC-2013-0144]

### **Order Imposing Requirements for the Protection of Certain Safeguards Information (Effective Immediately); In the Matter of Licensee Identified in Attachment 1 and All Other Persons Who Obtain Safeguards Information Described Herein**

#### **I**

The Licensee, identified in Attachment 1<sup>1</sup> to this Order, holds a

<sup>1</sup> Attachment 1 contains sensitive information and will not be released to the public.

license issued in accordance with the Atomic Energy Act of 1954, as amended, (AEA) by the U.S. Nuclear Regulatory Commission (NRC) or an Agreement State, authorizing it to possess, use, and transfer items containing radioactive material quantities of concern. The NRC intends to issue security Orders to this licensee in the near future. The Order will require compliance with specific Additional Security Measures to enhance the security for certain radioactive material quantities of concern. The Commission has determined that these documents will contain Safeguards Information, will not be released to the public, and must be protected from unauthorized disclosure. Therefore, the Commission is imposing the requirements, as set forth in Attachments 2 and 3 to this Order and in Order EA-13-041 (NRC-2013-0145), so that the Licensee can receive these documents. This Order also imposes requirements for the protection of Safeguards Information in the hands of any person,<sup>2</sup> whether or not a licensee of the Commission, who produces, receives, or acquires Safeguards Information.

## II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of Safeguards Information. Section 147 of the AEA grants the Commission explicit authority to “. . . issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information . . . .” This authority extends to information concerning the security measures for the physical protection of special nuclear material, source material, and byproduct material. Licensees and all persons who produce, receive, or acquire Safeguards Information must ensure proper handling and protection of Safeguards Information to avoid unauthorized disclosure in accordance with the specific requirements for the protection of Safeguards Information contained in Attachments 2 and 3 to this Order. The Commission hereby provides notice that it intends to treat violations of the

<sup>2</sup> Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the U.S. Department of Energy (DOE), except that the DOE shall be considered a person with respect to those facilities of the DOE specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

requirements contained in Attachments 2 and 3 to this Order applicable to the handling and unauthorized disclosure of Safeguards Information as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States.

Access to Safeguards Information is limited to those persons who have established the need-to-know the information, are considered to be trustworthy and reliable, and meet the requirements of Order EA-13-041. A need-to-know means a determination by a person having responsibility for protecting Safeguard Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment.

The Licensee and all other persons who obtain Safeguards Information must ensure that they develop, maintain and implement strict policies and procedures for the proper handling of Safeguards Information to prevent unauthorized disclosure, in accordance with the requirements in Attachments 2 and 3 to this Order. The Licensee must ensure that all contractors whose employees may have access to Safeguards Information either adhere to the licensee's policies and procedures on Safeguards Information or develop, or maintain and implement their own acceptable policies and procedures. The Licensee remains responsible for the conduct of their contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachments 2 and 3 to this Order must address, at a minimum, the following: the general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; protection of Safeguards Information at fixed sites, in use and in storage, and while in transit; correspondence containing Safeguards Information; access to Safeguards Information; preparation, marking, reproduction and destruction of documents; external transmission of documents; use of automatic data processing systems; removal of the Safeguards Information category; the need-to-know the information; and background checks to determine access to the information.

In order to provide assurance that the Licensee is implementing prudent measures to achieve a consistent level of protection to prohibit the unauthorized disclosure of Safeguards Information, the Licensee shall implement the

requirements identified in Attachments 2 and 3 to this Order. In addition, pursuant to 10 CFR Part 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

## III

Accordingly, pursuant to Sections 81, 147, 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, 10 CFR Part 30, 10 CFR Part 32, 10 CFR Part 35, 10 CFR Part 70, and 10 CFR Part 73, *it is hereby ordered*, effective immediately, that all licensees identified in attachment 1 to this order and all other persons who produce, receive, or acquire the additional security measures identified above (whether draft or final) or any related safeguards information shall comply with the requirements of attachments 2 and 3 to this order.

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the licensee.

## 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 within twenty (20) days of the date of this Order. In addition, the Licensee and any other person adversely affected by this Order may request a hearing of this Order within twenty (20) days of the date of the Order. 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 Federal and State Materials and Environmental Management Programs, 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 includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee 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 interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

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, 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 email at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at (301) 415-1677, to request (1) a digital identification (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 Electronic Information Exchange, 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 a 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 email notice confirming receipt of the document. The E-Filing system also distributes an email 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 document 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 email 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 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://ehd1.nrc.gov/ehd/>, 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 requesting 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 27th day of June, 2013.

For the Nuclear Regulatory Commission.

**Brian J. McDermott,**

*Director, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs.*

#### **Attachment 1: List of Applicable Materials Licensees**

Redacted

#### **Attachment 2: Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI-M) General Requirement**

Redacted

#### **Attachment 3: Trustworthiness and Reliability Requirements for Individuals Handling Safeguards Information**

In order to ensure the safe handling, use, and control of information designated as Safeguards Information, each licensee shall control and limit access to the information to only those individuals who have established the need-to-know the information, and are considered to be trustworthy and reliable. Licensees shall document the basis for concluding that there is reasonable assurance that individuals granted access to Safeguards Information are trustworthy and reliable, and do not constitute an unreasonable risk for malevolent use of the information.

The Licensee shall comply with the requirements of this attachment:

1. The trustworthiness and reliability of an individual shall be determined based on a background investigation:

(a) The background investigation shall address at least the past three years and, at a minimum, include verification of employment, education, and personal references. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the employee (i.e., seeking references not supplied by the individual).

(b) If an individual's employment has been less than the required three-year

period, educational references may be used in lieu of employment history.

The licensee's background investigation requirements may be satisfied for an individual that has an active Federal security clearance.

2. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years after the individual's employment ends.

In order for an individual to be granted access to Safeguards Information, the individual must be determined to be trustworthy and reliable, as described in requirement 1 above, and meet the requirements of NRC Order EA-13-041.

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### **NUCLEAR REGULATORY COMMISSION**

[NRC-2013-0141]

#### **Issuance of Regulatory Guide 1.124 and Regulatory Guide 1.130**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Regulatory Guide; Issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 3 of Regulatory Guide (RG) 1.124, "Service Limits and Loading Combinations for Class 1 Linear-Type Supports," and Revision 3 of RG 1.130, "Service Limits and Loading Combinations for Class 1 Plate-and-Shell-Type Supports." There are no substantive changes to these regulatory guides. The revisions include an update of the Edition and Addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (B&PVC). Regulatory Guides 1.124 and 1.130 delineate levels of service limits and appropriate combinations of loadings associated with normal operation, postulated accidents, and specified seismic events for the design of Class 1 linear-type component and piping supports, and Class 1 plate-and-shell-type component and piping supports, respectively.

**ADDRESSES:** Please refer to Docket ID NRC-2013-0141 when contacting the NRC about the availability of information regarding these documents. You may access information related to these documents, which the NRC possesses and are publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0141. Address questions about NRC dockets to Carol

Gallagher; telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). Revision 3 of RG 1.124 and Revision 3 of RG 1.130 are available in ADAMS under Accession Nos. ML13141A666 and ML13141A667, respectively.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's Public Document Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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

**FOR FURTHER INFORMATION CONTACT:** Hector Rodriguez-Luccioni, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-251-7685, email: [Hector.Rodriguez-Luccioni@nrc.gov](mailto:Hector.Rodriguez-Luccioni@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Introduction**

The NRC is issuing a revision to existing guides in the NRC's "Regulatory Guide" series. Regulatory guides were developed to describe and make available to the public information methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The NRC is issuing Revision 3 of RG 1.124 (ADAMS Accession No. ML13141A666) and Revision 3 of RG 1.130 (ADAMS Accession No. ML13141A667) as final regulatory guides without an opportunity for public comment, because the changes between Revision 2 and Revision 3 are non-substantive. The most significant change in Revision 3 of both regulatory guides is the approval for use of the 2007 Edition through the 2008 Addenda of the Boiler and Pressure Vessel Code (ASME B&PVC Code), Section III, Division 1 (limited to