

Nicholas G. Trikouros, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

All correspondence, documents, and other materials shall be filed with the administrative judges in accordance with 10 CFR 2.202.

Issued at Rockville, Maryland, this 16th day of March 2006.

**G. Paul Bollwerk, III,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. E6-4276 Filed 3-23-06; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on the Medical Uses of Isotopes; Renewal Notice

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

**ACTION:** This notice is to announce the renewal of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) for a period of two years.

**SUPPLEMENTARY INFORMATION:** The U.S. Nuclear Regulatory Commission (NRC) has determined that the renewal of the charter for the Advisory Committee on the Medical Uses of Isotopes for the two year period commencing on March 17, 2006 is in the public interest, in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act, after consultation with the Committee Management Secretariat, General Services Administration.

The purpose of the ACMUI is to provide advice to NRC on policy and technical issues that arise in regulating the medical use of byproduct material for diagnosis and therapy. Responsibilities include providing guidance and comments on current and proposed NRC regulations and regulatory guidance concerning medical use; evaluating certain non-routine uses of byproduct material for medical use; and evaluating training and experience of proposed authorized users. The members are involved in preliminary discussions of major issues in determining the need for changes in NRC policy and regulation to ensure the continued safe use of byproduct material. Each member provides technical assistance in his/her specific area(s) of expertise, particularly with respect to emerging technologies. Members also provide guidance as to NRC's role in relation to the responsibilities of other Federal

agencies as well as of various professional organizations and boards.

Members of this Committee have demonstrated professional qualifications and expertise in both scientific and non-scientific disciplines including nuclear medicine; nuclear cardiology; radiation therapy; medical physics; nuclear pharmacy; State medical regulation; patient's rights and care; health care administration; and Food and Drug Administration regulation.

#### FOR FURTHER INFORMATION PLEASE

**CONTACT:** Mohammad S. Saba, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone (301) 415-7608; e-mail *mss@nrc.gov*.

Dated: March 17, 2006.

**Andrew L. Bates,**

*Federal Advisory Committee, Management Officer.*

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## NUCLEAR REGULATORY COMMISSION

[EA-05-006]

### In the Matter of Certain Licensees Authorized To Possess and Transfer Items Containing Radioactive Material Quantities of Concern; Order Imposing Additional Security Measures (Effective Immediately)

The Licensees identified in Attachment A<sup>1</sup> to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) or an Agreement State, in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR parts 30, 32, 50, 70 and 71, or equivalent Agreement State regulations. The licenses authorize them to possess and transfer items containing radioactive material quantities of concern. This Order is being issued to all such Licensees who may transport radioactive material quantities of concern under the NRC's authority to protect the common defense and security, which has not been relinquished to the Agreement States. The Orders require compliance with specific additional security measures to enhance the security for transport of certain radioactive material quantities of concern.

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC,

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

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 Licensees in order to strengthen Licensees' capabilities and readiness to respond to a potential attack on this 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 the current security measures. In addition, the Commission commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its initial consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain 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 B<sup>2</sup> of this Order, on all Licensees identified in Attachment A of this Order. These additional security measures, 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 additional security measures 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 B 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 radioactive material quantities of concern, 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 radioactive material quantities of concern.

Although the 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

<sup>2</sup> Attachment B contains Safeguards Information and will not be released to the public.

security, in light of the continuing threat environment, the Commission concludes that the security measures must be embodied in an Order, consistent with the established regulatory framework. The Commission has determined that the security measures contained in Attachment B of this Order contain Safeguards Information and will not be released to the public as per Order entitled, "Issuance of Order Imposing Requirements for Protecting Certain Safeguards Information," issued on November 5, 2004 and issued specifically to the Licensees identified in Attachment A to this Order on the date of this Order. To provide assurance that Licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all licensees identified in Attachment A to this Order shall implement the requirements identified in Attachment B to this Order. In addition, pursuant to 10 CFR 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 and safety require that this Order be immediately effective.

Accordingly, pursuant to Sections 53, 63, 81, 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 30, 32, 70 and 71, *It is hereby ordered, effective immediately, that all licensees identified in attachment a to this order shall comply with the following:*

A. All Licensees shall, notwithstanding the provisions of any Commission or Agreement State regulation or license to the contrary, comply with the requirements described in Attachment B to this Order. The Licensees shall immediately start implementation of the requirements in Attachment B to the Order and shall complete implementation by September 6, 2006, or before the first shipment of RAMQC, whichever is sooner. This Order supercedes the additional transportation security measures prescribed in Attachment 2, Section 7.d. of the Manufacturer's and Distributor's Order issued January 12, 2004.

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 B, (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 or Agreement State regulation or its license. The notification shall provide the Licensees' 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 B to this Order would adversely impact the safe transport of radioactive material quantities of concern 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 B 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 B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C. All Licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment B.

D. Notwithstanding any provisions of the Commission's or an Agreement State'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 B.1, B.2, and C above shall be submitted to the Document Control Desk, ATTN: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Licensee submittals that contain sensitive security related information shall be properly marked and handled in accordance with Licensees' Safeguards Information or Safeguards Information—Modified Handling program.

The Director, Office of Nuclear Material Safety and Safeguards may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

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 this Order. Where good cause is shown, consideration will be given to extending the time to 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 Material Safety and Safeguards or the Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer 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. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, to the Office of Enforcement at the same address, to the Regional Administrator for NRC Region I, II, III, or IV, at the respective addresses specified in Appendix A to 10 CFR part 73, appropriate for the specific facility, and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for a 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 to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). 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.

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 grounds 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 this 10th day of March 2006.

For the Nuclear Regulatory Commission.

**Jack R. Strosnider,**

*Director, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

[EA-04-191]

### **In the Matter of All Licensees Who Possess Radioactive Material in Quantities of Concern and All Other Persons Who Obtain Safeguards Information Described Herein; Order Issued Imposing Requirements for the Protection of Certain Safeguards Information (Effective Immediately)**

The Licensees, identified in Attachment A<sup>1</sup> to this Order, hold licenses issued in accordance with the Atomic Energy Act of 1954, by the U.S. Nuclear Regulatory Commission (NRC or Commission) or an Agreement State, authorizing them to possess and transfer items containing radioactive material quantities of concern. The NRC intends to issue security Orders to these licensees in the near future. Orders will be issued to both NRC and Agreement State materials licensees who may transport radioactive material quantities of concern. The Orders will require compliance with specific Additional Security Measures to enhance the security for transport of certain radioactive material quantities of concern. The NRC will issue Orders to both NRC and Agreement State licensees under its authority to protect the common defense and security, which has not been relinquished to the Agreement States. The Commission has determined that these documents

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 Attachment B of this Order, so that affected Licensees 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.

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of Safeguards Information. Section 147 of the Atomic Energy Act of 1954, as amended, 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 transfer 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 Attachment B. The Commission hereby provides notice that it intends to treat violations of the requirements contained in Attachment B 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, and are considered to be trustworthy and reliable. A need-to-know means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment. Licensees and all other persons who

<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 Department, except that the Department shall be considered a person with respect to those facilities of the Department 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.

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 Attachment B. All licensees 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, maintain and implement their own acceptable policies and procedures. The licensees remain responsible for the conduct of their contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachment B 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; and removal of the Safeguards Information category.

In order to provide assurance that the licensees are implementing prudent measures to achieve a consistent level of protection to prohibit the unauthorized disclosure of Safeguards Information, all licensees who hold licenses issued by the U.S. Nuclear Regulatory Commission or an Agreement State authorizing them to possess and who may transport items containing radioactive material quantities of concern shall implement the requirements identified in Attachment B to this Order. The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment B to this Order for handling of Safeguards Information in conjunction with current NRC license requirements or previous NRC Orders. Additional measures set forth in Attachment B should be handled and controlled in accordance with the licensee's current program for Safeguards Information. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the

<sup>1</sup> Attachment A contains Official Use Only—Security Related Information and will not be released to the public.