

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 Based on JLS&A's failure to comply with 10 CFR part 71, QA Program Approval No. 0122 was withdrawn by the immediately effective NRC Order, dated July 3, 2001, (66 FR 36603, July 12, 2001).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