

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