

August 12, 2013

Holders of Special Nuclear Material Licenses
as Listed in Enclosure 1

SUBJECT: RESCISSION OF CERTAIN SECURITY ORDERS CONCERNING SPENT
NUCLEAR FUEL IN TRANSIT

Following the terrorist attacks on September 11, 2001, the U.S. Nuclear Regulatory Commission (NRC) issued a series of security-related orders to specific licensees. In the area of security for spent nuclear fuel (SNF) in transit, the NRC issued orders to licensees who shipped or received, or were planning to ship or receive, spent nuclear fuel.

The NRC imposed additional security requirements on the shipment of SNF through EA-02-109, "Issuance of Order for Interim Safeguards and Security Compensatory Measures for the Transportation of Spent Nuclear Fuel Greater than 100 Grams" (67 FR 63167, October 10, 2002). Subsequently, the Commission issued similar security orders to licensees shipping SNF during the period of October 2003 through December 2010. These orders are collectively referred to as the "SNF Transportation Orders." The NRC issued these orders to certain special nuclear material licensees who shipped, received, or planned to ship or receive, spent nuclear fuel under the provisions of Part 71 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Packaging and Transportation of Radioactive Material."

The NRC issued all of the orders as immediately effective under the agency's authority to protect the common defense and security pursuant to the provisions of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, "Orders," as well as those in 10 CFR Parts 50, 70, 71, and 72. The requirements that the NRC established through the SNF Transportation Orders supplemented the existing regulatory requirements for the shipment of SNF at that time. The NRC intended for these additional security requirements to ensure that SNF was shipped in a manner that protects the common defense and security as well as the public health and safety.

On May 20, 2013 (78 FR 29520), the NRC issued a final rule for 10 CFR Part 73.37, "Physical Protection of Irradiated Reactor Fuel in Transit," which established security requirements for SNF in transit (RIN 3150-A164; NRC-2009-0163). When the rule becomes effective on August 19, 2013, it will establish the acceptable performance standards and objectives for the protection of SNF shipments from theft, diversion, or radiological sabotage. The final rule incorporates the security requirements in the existing orders for SNF in transit as well as lessons learned from the implementation of the SNF Transportation Orders.

Therefore, the NRC staff has determined that the generically applicable security requirements set forth in the SNF Transportation Orders are now adequately captured in the NRC's regulations. In addition, the associated guidance document, NUREG-0561, Rev. 2, "Physical Protection of Shipments of Irradiated Reactor Fuel" (ADAMS Accession No. ML13221A567), provides clarifying information regarding the implementation of the requirements in the rule.

In SRM-SECY-12-0009, "Final Rule: 10 CFR 73.37, Physical Protection of Irradiated Fuel in Transit," dated June 7, 2012 (ADAMS Accession No. ML12159A260), the Commission approved rescinding the SNF Transportation Orders on the effective date of the final rule for 10 CFR 73.37, consistent with the Rescission Plan for these Orders as provided in Enclosure 2 to SECY-12-0009, "Final Rule: 10 CFR 73.37, Physical Protection of Irradiated Fuel in Transit," dated January 19, 2012 (ADAMS Accession No. ML113640156). Accordingly, effective August 19, 2013, the NRC hereby rescinds EA-02-109, "Issuance of Order for Interim Safeguards and Security Compensatory Measures for the Transportation of Spent Nuclear Fuel Greater than 100 Grams," and subsequent similar security orders issued during the period of October 2003 through December 2010, to licensees shipping SNF. Although, the information in the orders remains Safeguards Information until decontrolled by the NRC they may be destroyed in accordance with the requirements in 10 CFR 73.22(i), "Destruction of Matter Containing Safeguards Information," when licensees no longer need them.

Licensees should assess how the rescission of the SNF Transportation Orders will affect their facility licenses and security plans so that they can ensure compliance with the final rule and other associated regulatory requirements. Note that not all licensees listed in the enclosure received the subject SNF Transportation Orders.

The NRC has filed the enclosed Notice of Rescission of SNF Transportation Orders with the Office of the Federal Register for publication.

Please contact your licensing project manager for help on any issue related to the requirements in this letter or for help on any other questions.

Sincerely,

/RA/

Catherine Haney, Director
Office of Nuclear Material Safety and
Safeguards

Docket Nos.: See enclosure

Enclosures: 1. List of Special Nuclear Material Licensees
2. Notice of Rescission of SNF Transportation Orders

cc w/encl: Distribution via Listserv

In SRM-SECY-12-0009, "Final Rule: 10 CFR 73.37, Physical Protection of Irradiated Fuel in Transit," dated June 7, 2012 (ADAMS Accession No. ML12159A260), the Commission approved rescinding the SNF Transportation Orders on the effective date of the final rule for 10 CFR 73.37, consistent with the Rescission Plan for these Orders as provided in Enclosure 2 to SECY-12-0009, "Final Rule: 10 CFR 73.37, Physical Protection of Irradiated Fuel in Transit," dated January 19, 2012 (ADAMS Accession No. ML113640156). Accordingly, effective August 19, 2013, the NRC hereby rescinds EA-02-109, "Issuance of Order for Interim Safeguards and Security Compensatory Measures for the Transportation of Spent Nuclear Fuel Greater than 100 Grams," and subsequent similar security orders issued during the period of October 2003 through December 2010, to licensees shipping SNF. Although, the information in the orders remains Safeguards Information until decontrolled by the NRC they may be destroyed in accordance with the requirements in 10 CFR 73.22(i), "Destruction of Matter Containing Safeguards Information," when licensees no longer need them.

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ADAMS Accession Nos.: Package ML13232A016/Ltr. No. ML13232A041

ML; Incoming/ML; Response/ML

* concurrence via email

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