

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50–83; License No. R–56; EA–06–190]

### In the Matter of University of Florida, and All Other Persons Who Seek or Obtain Access to New Safeguards Information Described Herein; Order Imposing Fingerprinting and Criminal History Check Requirements for Access to New Safeguards Information (Effective Immediately)

#### I

The University of Florida (the Licensee) holds a license issued in accordance with the Atomic Energy Act (AEA) of 1954, as amended, by the U.S. Nuclear Regulatory Commission (NRC or Commission), authorizing it to engage in an activity subject to regulation by the Commission. On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigations (FBI) identification and criminal history records check of any person who is to be permitted to have access to Safeguards Information (SGI).<sup>1</sup> The NRC's implementation of this requirement cannot await the completion of the SGI rulemaking, which is underway, because the EPAct fingerprinting and criminal history check requirements for access to SGI were immediately effective upon enactment of the EPAct. Although the EPAct permits the Commission by rule to except certain categories of individuals from the fingerprinting requirement, which the Commission has done (see 10 CFR 73.59, 71 FR 33989 (June 13, 2006)), it is unlikely that many Licensee employees are excepted from the fingerprinting requirement by the "fingerprinting relief" rule. Individuals relieved from fingerprinting and criminal history checks under the relief rule include Federal, State, and local officials and law enforcement personnel; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees, and representatives of the International Atomic Energy Agency (IAEA) or certain foreign government organizations. In addition, individuals who have active federal security clearances have satisfied the EPAct fingerprinting

requirement and need not be fingerprinted again. Therefore, in accordance with section 149 of the AEA, as amended by the EPAct, the Commission is imposing additional requirements for access to new SGI,<sup>2</sup> as set forth by this Order, so that the Licensee can obtain new SGI. This Order also imposes requirements for access to new SGI by any person<sup>3</sup> from any person, whether or not a Licensee, Applicant or Certificate Holder of the Commission or Agreement States.

#### II

The Commission has broad statutory authority to protect SGI and prohibit its unauthorized disclosure. Section 147 of the AEA grants the Commission explicit authority to issue such orders as necessary to prohibit the unauthorized disclosure of safeguards information. Furthermore, section 652 of the EPAct amended section 149 of the AEA to require fingerprinting and an FBI identification and a criminal history records check of each individual who seeks access to SGI.

In order to provide assurance that the Licensee is implementing appropriate measures to comply with the fingerprinting and criminal history check requirements for access to new SGI, the Licensee shall implement the requirements of 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, safety and interest require that this Order be effective immediately.

#### III

Accordingly, pursuant to sections 104, 147, 149, 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 parts 50 and 73, *It is hereby ordered*, effective immediately, that the licensee and all other persons who seek or obtain access to new safeguards information, as

<sup>2</sup> "New SGI" means SGI generated subsequent to August 8, 2005, the date of enactment of the EPAct. "New SGI" also means any SGI, regardless of when it was generated, that is being accessed by an individual who has never been previously granted access to SGI.

<sup>3</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 of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department of Energy 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.

described above, shall comply with the requirements set forth in this order.

A. No person may have access to new Safeguards Information unless that person has a need to know the new SGI, has been fingerprinted and undergone an FBI identification and criminal history records check, which has been favorably decided, and satisfies all other applicable requirements for access to SGI. Fingerprinting and the FBI identification and criminal history records check are not required, however, for any person who is relieved from that requirement by 10 CFR 73.59 (71 FR 33989 (June 13, 2006)) or who has an active Federal security clearance.

B. No person may provide new SGI to any other person except in accordance with condition III.A. above. Prior to sharing new SGI with any other person, a copy of this Order shall be provided to that person.

The Director, Office of Nuclear Reactor Regulation, 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, 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 Reactor Regulation, 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 Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Licensee if the answer or hearing request is by a person other than

<sup>1</sup> Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under section 147 of the AEA.

the Licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers and requests for 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 transmission 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/her 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 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 as specified above in Section III 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 as specified above 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 11th day of August 2006.

For the Nuclear Regulatory Commission.

**Bruce A. Boger,**

*Acting Director, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

### Draft Regulatory Guide: Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued for public comment a draft of a new guide in the

agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC'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 draft regulatory guide, entitled "Guidelines for Evaluating Fatigue Analyses Incorporating the Life Reduction of Metal Components Due to the Effects of the Light-Water Reactor Environment for New Reactors," is temporarily identified by its task number, DG-1144, which should be mentioned in all related correspondence. This proposed regulatory guide describes a method that the NRC staff considers acceptable for use in complying with the agency's regulations in Title 10, part 50, of the *Code of Federal Regulations* (10 CFR Part 50), "Domestic Licensing of Production and Utilization Facilities." Specifically, in Appendix A to 10 CFR part 50, General Design Criterion (GDC) 1, "Quality Standards and Records," requires, in part, that structures, systems, and components that are important to safety must be designed, fabricated, erected, and tested to quality standards commensurate with the importance of the safety function performed. In addition, GDC 30, "Quality of Reactor Coolant Pressure Boundary," requires, in part, that components that are part of the reactor coolant pressure boundary must be designed, fabricated, erected, and tested to the highest practical quality standards.

Augmenting those design criteria, 10 CFR 50.55a, "Codes and Standards," endorses the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code for design of safety-related systems and components. In particular, Section 50.55a(c), "Reactor Coolant Pressure Boundary," requires, in part, that components of the reactor coolant pressure boundary must meet the requirements for Class 1 components in Section III, "Rules for Construction of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code. Specifically, those Class 1 requirements contain provisions, including fatigue design curves, for determining a component's suitability for cyclic service. These fatigue design curves are based on strain-controlled tests performed on small polished specimens, at room temperature, in air environments. Thus, these curves do not address the impact

of the reactor coolant system environment.

This draft regulatory guide provides guidance for use in determining the acceptable fatigue life of ASME pressure boundary components, with consideration of the light-water reactor (LWR) environment. In so doing, this guide describes a methodology that the NRC staff considers acceptable to support reviews of applications that the agency expects to receive for new nuclear reactor construction permits or operating licenses under 10 CFR part 50, design certifications under 10 CFR part 52, and combined licenses under 10 CFR part 52 that do not reference a standard design. Because of significant conservatism in quantifying other plant-related variables (such as cyclic behavior, including stress and loading rates) involved in cumulative fatigue life calculations, the design of the current fleet of reactors is satisfactory, and the plants are safe to operate.

The ASME Section III design curves, developed in the late 1960s and early 1970s, are based on tests conducted in laboratory air environments at ambient temperatures. The original code developers applied margins of 2 on strain and 20 on cyclic life to account for variations in materials, surface finish, data scatter, and environmental effects (including temperature differences between specimen test conditions and reactor operating experience). However, the developers lacked sufficient data to explicitly evaluate and account for the degradation attributable to exposure to aqueous coolants. More recent fatigue test data from the United States, Japan, and elsewhere show that the LWR environment can have a significant impact on the fatigue life of carbon and low-alloy steels, as well as austenitic stainless steel.

Two distinct methods can be used to incorporate LWR environmental effects into the fatigue analysis of ASME Class 1 components. The first method involves developing new fatigue curves that are applicable to LWR environments. Given that the fatigue life of ASME Class 1 components in LWR environments is a function of several parameters, this method would necessitate developing several fatigue curves to address potential parameter variations. An alternative would be to develop a single bounding fatigue curve, which may be overly conservative for most applications. The second method involves using an environmental correction factor ( $F_{en}$ ) to account for LWR environments by correcting the fatigue usage calculated with the ASME "air" curves. This method affords the