

SAFEGUARDS INFORMATION-MODIFIED HANDLING

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
OFFICE OF NUCLEAR MATERIALS SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555-0001

July 11, 2005

**NRC REGULATORY ISSUE SUMMARY 2005-12
TRANSPORTATION OF RADIOACTIVE MATERIAL
QUANTITIES OF CONCERN
NRC THREAT ADVISORY AND PROTECTIVE MEASURES SYSTEM**

ADDRESSEES

U.S. Nuclear Regulatory Commission (NRC or Commission) licensees authorized to possess radioactive material that equals or exceeds the threshold values in the Additional Security Measures (ASM) for transportation of Radioactive Material Quantities of Concern (RAMQC) under their 10 CFR Part 30, 32, 50, 70, and 71 licenses and Agreement State licensees similarly authorized to possess such material in such quantities under their Agreement State licenses.

INTENT

The NRC is issuing this Regulatory Issue Summary (RIS) to inform addressees of changes to the threat advisory conditions and protective measures system for their use in preplanning graded protective measures to respond to changes in the threat environment. A RIS is generally used to communicate with the nuclear industry on various matters for which no response or action is required. This RIS communicates actions that the NRC considers appropriate at each threat level. The Commission has determined that issuance of this RIS is the most efficient mechanism to align the Department of Homeland Security (DHS), the NRC, and licensee expectations about licensees' response to threat advisories.

When separated from Attachment B this document is
DECONTROLLED.

WARNING: Violations of Section 147 of
the Atomic Energy Act, "Safeguards
Information" is subject to Civil and
Criminal Penalties

ML051860314

SAFEGUARDS INFORMATION-MODIFIED HANDLING

BACKGROUND INFORMATION

DHS has developed a Homeland Security Advisory System (HSAS) to provide a comprehensive and effective system for disseminating information concerning the risk of terrorist attacks to Federal, State, and local authorities and the public. The HSAS implements Homeland Security Presidential Directive 3, as amended (HSPD-3), dated March 11, 2002 (Attachment A). Additional information on HSPD-3 can also be found on the White House Web site at <http://www.whitehouse.gov/news/releases/2002/03/20020312-1.html>. The NRC previously issued RIS 2003-16 to identify a change in the HSPD-3, as amended (HSPD-3), dated March 11, 2002 to addressees who received RISs 2002-12A, -12B, -12C, -12D, -12E, -12F, -12G, -12H, -12I, -12I Revision 1, and -12L. The change was required by Homeland Security Presidential Directive (HSPD-5), "Management of Domestic Incidents," dated February 28, 2003. HSAS has included five color-coded threat conditions with a description of corresponding actions at each level:

- Green (low condition) Low risk of terrorist attack
- Blue (guarded condition) General risk of terrorist attack
- Yellow (elevated condition) Significant risk of terrorist attack
- Orange (high condition) High risk of terrorist attack
- Red (severe condition) Severe risk of terrorist attack

SUMMARY OF ISSUE

The HSAS provides a consistent national framework for government officials and citizens to communicate the nature and extent of terrorist threats. The advisory system characterizes appropriate levels of vigilance, preparedness, and readiness for each threat condition, and describes associated actions that should be taken to counter and respond to terrorist activities.

In declaring threat conditions, the Secretary of Homeland Security in consultation with the Attorney General, members of the Homeland Security Council, and any other appropriate federal agency heads, will consider, but is not limited to, the following factors:

- To what degree is the threat information credible?
- To what degree is the threat information corroborated?
- To what degree is the threat specific and/or imminent?
- How grave are the potential consequences of the threat?
- To what degree is the target vulnerable to the threat?

HSAS advisories regarding threat conditions may be declared for the entire Nation, a specific geographical area or an industrial sector. The advisories will be sent to local, State, and Federal government agencies as appropriate. In general, the threat conditions escalate as the likelihood or imminence of an attack increases.

Although the threat condition will be determined by the Attorney General, the NRC is responsible under HSPD-3 to establish the appropriate protective measures for the facilities under its regulatory authority. In addition, the NRC is responsible for responding to risks, threats, incidents, and events at NRC licensed facilities or involving NRC licensed material.

Upon a declaration of an HSAS threat condition, the NRC will promptly notify affected licensees of the threat condition and the appropriate recommended protective measures to be taken.

In addition, the NRC may notify affected licensees to establish certain protective measures in the absence of an HSAS declaration. For example, the NRC could take such a step in response to an emergency or site-specific situation.

The NRC is using this RIS to announce its threat advisory and protective measures system to implement the HSAS for licensees transporting RAMQC, and spent nuclear fuel less than 100 grams. The NRC will use the color-coded system defined by the HSAS to relay information on the threat conditions. The NRC has also defined five levels of protective measures (Attachment B containing Safeguards Information), which generally correlate with the five color-coded conditions of the HSAS. Protective measures at each level build upon the actions defined in the lower levels. For example, measures at Level III will include those measures taken at levels I and II.

- Level I (low) protective measures, which generally correspond to the green threat condition, are considered routine level of operation. The protective measures are met by licensees maintaining their security programs required by the regulations, licenses, or Orders. Measures to enhance security need to be available for implementation in the event of a higher threat condition.
- Level II (guarded) protective measures, which generally correspond to the blue threat condition, involve more activities by the licensees, but generally do not involve significant non-routine actions. The activities typically relate to readiness, (e.g., notifying personnel to stand by or bringing in additional security officers to prepare for an enhanced response). Actions taken at Level II include actions taken at Level I.
- Level III (elevated) protective measures, which generally correspond to the yellow threat condition, involve enhanced security measures and additional resources, perhaps on a sustained basis, but utilize hardware and personnel already at the licensee's disposal. The first HSAS announcement on March 12, 2002, DHS considered the country to be in a yellow threat condition. Actions taken at Level III will include actions taken at Levels I and II.
- Level IV (high) protective measures, which generally correspond to the orange threat condition, assume that the licensee's security organization is at its highest sustainable level and that the licensee will request augmentation from local and State and possibly Federal resources to provide additional defensive capabilities. NRC advisories will provide additional specific information to the licensee(s) as information about the threat develops. Any additional licensee actions will be based on threat specific information. Actions taken at Level IV include actions taken at Levels I, II, and III.
- Level V (severe) protective measures, which generally correspond to the red threat condition, assume that the licensee will request augmentation by Federal resources (in addition to already requested State and local resources) to provide additional defensive capabilities. The NRC will facilitate implementation of this added Federal presence. It is expected that this condition will be limited to one or a very small number of licensees for a limited period of time. Any additional specific actions will be based on an ongoing

assessment of the threat by the NRC and other Federal agencies. Actions taken at Level V will include actions taken at Levels I, II, III, and IV.

When a change in threat condition that affects NRC and Agreements States' licensees, the NRC will issue a threat advisory to its licensees. The NRC will refer licensees to the recommended protective measures described in Attachment B. Regardless of the current threat condition, licensees are required to comply with existing regulations, licenses, and Orders. Attachment B provides clear descriptions of the basic actions that are necessary to achieve the desired level of protection. The NRC may tailor the protective measures, including specific instructions on protection against a specific mode of attack.

In some cases, the circumstances of a particular threat may warrant that additional security measures be implemented beyond those provided in Attachment B. Such additional measures may be necessary depending on the type of licensee affected, the safeguards risks associated with various licensed activities, the specific vulnerabilities of a given activity, the suspected mode of attack, and the likelihood and nature of the threat. Although most terrorist attacks occur without specific warning, whenever possible the NRC will provide information about the nature and projected time frame of the threat.

The protective measures in Attachment B are specified for particular threat levels depending on the seriousness of the threat and the urgency of the action to address the threat. Therefore, it is imperative that prompt implementation of the measures are performed to protect the facility (or activities).

HSPD-3 makes clear that agency heads "retain the authority to respond, as necessary, to risks, threats, incidents, or events at facilities (or activities) within the specific jurisdiction of their department or agency." Therefore, the Commission may need to impose additional measures in response to a fast-moving situation during the transition period prior to formal declaration of a threat escalation by the Attorney General.

The NRC will revise Attachment B to this RIS as necessary. In addition, this RIS will be reviewed at least once a year and revised as necessary. Licensees seeking to provide input to the RIS and possible revisions should forward comments to the contact listed below.

BACKFIT DISCUSSION

This RIS requires no action or written response and is therefore not a backfit under 10 CFR Part 50.109, 70.76, and 76.76. This RIS communicates actions the NRC considers appropriate at each threat level, but these actions are not requirements. Therefore, the staff did not perform a backfit analysis.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment was not published in the *Federal Register* because this RIS is informational. The Commission also plans to issue additional regulatory issue summaries in this series to cover additional classes of licensees, or NRC-licensed activities, as NRC's review progresses. Any specific comments should be forwarded to the contact listed below.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT of 1996

In accordance with the Small Business Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not contain information collections and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.).

CONTACT

Please direct any questions about this matter to the technical contact listed below.

/RA/

Patrick L. Hiland, Chief
Reactor Operations Branch
Division of Inspection Program Management
Office Nuclear Reactor Regulation

/RA/

Charles L. Miller, Director
Division of Industrial and Medical
Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

CONTACT: Rocky Foster, NSIR/DNS
(301) 415-7670
E-mail: rdf@nrc.gov

Attachments: (A) HSPD-3, Homeland Security Advisory System, as amended by HSPD-5
(B) Threat Conditions and Recommended Actions for the Transportation of Radioactive Material Quantities of Concern, and Spent Nuclear Fuel Less Than 100 grams
(C) List of Recently Issued NMSS Generic Communications

Attachment B will not be released to the public because it contains Safeguards Information and must be accorded the protection required under 10 CFR 73.21

Note: NRC generic communications may be found on the NRC public website, <http://www.nrc.gov>, under Electronic Reading Room/Document Collections.

Homeland Security Presidential Directive-3, as amended by Homeland Security Presidential Directive-5

Purpose

The Nation requires a Homeland Security Advisory System to provide a comprehensive and effective means to disseminate information regarding the risk of terrorist acts to Federal, State, and local authorities and to the American people. Such a system would provide warnings in the form of a set of graduated "Threat Conditions" that would increase as the risk of the threat increases. At each Threat Condition, Federal departments and agencies would implement a corresponding set of "Protective Measures" to further reduce vulnerability or increase response capability during a period of heightened alert.

This system is intended to create a common vocabulary, context, and structure for an ongoing national discussion about the nature of the threats that confront the homeland and the appropriate measures that should be taken in response. It seeks to inform and facilitate decisions appropriate to different levels of government and to private citizens at home and at work.

Homeland Security Advisory System

The Homeland Security Advisory System shall be binding on the executive branch and suggested, although voluntary, to other levels of government and the private sector. There are five Threat Conditions, each identified by a description and corresponding color. From lowest to highest, the levels and colors are:

Low = Green;
Guarded = Blue;
Elevated = Yellow;
High = Orange;
Severe = Red.

The higher the Threat Condition, the greater the risk of a terrorist attack. Risk includes both the probability of an attack occurring and its potential gravity. Threat Conditions shall be assigned by the Secretary of Homeland Security in consultation with the Assistant to the President for Homeland Security. Except in exigent circumstances, the Secretary of Homeland Security shall seek the views of the Attorney General, and any other federal agency heads the Secretary deems appropriate, including other members of the Homeland Security Council, on the Threat Condition to be assigned. Threat Conditions may be assigned for the entire Nation, or they may be set for a particular geographic area or industrial sector. Assigned Threat Conditions shall be reviewed at regular intervals to determine whether adjustments are warranted.

Attachment A

For facilities, personnel, and operations inside the territorial United States, all Federal departments, agencies, and offices other than military facilities shall conform their existing threat advisory systems to this system and henceforth administer their systems consistent with the determination of the Secretary of Homeland Security with regard to the Threat Condition in effect.

The assignment of a Threat Condition shall prompt the implementation of an appropriate set of Protective Measures. Protective Measures are the specific steps an organization shall take to reduce its vulnerability or increase its ability to respond during a period of heightened alert. The authority to craft and implement Protective Measures rests with the Federal departments and agencies. It is recognized that departments and agencies may have several preplanned sets of responses to a particular Threat Condition to facilitate a rapid, appropriate, and tailored response. Department and agency heads are responsible for developing their own Protective Measures and other antiterrorism or self-protection and continuity plans, and resourcing, rehearsing, documenting, and maintaining these plans. Likewise, they retain the authority to respond, as necessary, to risks, threats, incidents, or events at facilities within the specific jurisdiction of their department or agency, and, as authorized by law, to direct agencies and industries to implement their own Protective Measures. They shall continue to be responsible for taking all appropriate proactive steps to reduce the vulnerability of their personnel and facilities to terrorist attack. Federal department and agency heads shall submit an annual written report to the President, through the Assistant to the President for Homeland Security, describing the steps they have taken to develop and implement appropriate Protective Measures for each Threat Condition. Governors, mayors, and the leaders of other organizations are encouraged to conduct a similar review of their organizations' Protective Measures.

At the request of the Secretary of Homeland Security, the Department of Justice shall permit and facilitate the use of delivery systems administered or managed by the Department of Justice for the purposes of delivering threat information pursuant to the Homeland Security Advisory System.

The decision whether to publicly announce Threat Conditions shall be made on a case-by-case basis by the Secretary of Homeland Security in consultation with the Assistant to the President for Homeland Security. Every effort shall be made to share as much information regarding the threat as possible, consistent with the safety of the Nation. The Secretary of Homeland Security shall ensure, consistent with the safety of the Nation, that State and local government officials and law enforcement authorities are provided the most relevant and timely information. The Secretary of Homeland Security shall be responsible for identifying any other information developed in the threat assessment process that would be useful to State and local officials and others and conveying it to them as permitted consistent with the constraints of classification. The Secretary of Homeland Security shall establish a process and a system for conveying relevant information to Federal, State, and local government officials, law enforcement authorities, and the private sector expeditiously.

The Director of Central Intelligence, Secretary of Homeland Security and the Attorney General shall ensure that a continuous and timely flow of integrated threat assessments and reports is provided to the President, the Vice President, Assistant to the President and Chief of Staff, the Assistant to the President for Homeland Security, and the Assistant to the President for National Security Affairs. Whenever possible and practicable, these integrated threat assessments and reports shall be reviewed and commented upon by the wider interagency community.

A decision on which Threat Condition to assign shall integrate a variety of considerations. This integration will rely on qualitative assessment, not quantitative calculation. Higher Threat Conditions indicate greater risk of a terrorist act, with risk including both probability and gravity. Despite best efforts, there can be no guarantee that, at any given Threat Condition, a terrorist attack will not occur. An initial and important factor is the quality of the threat information itself. The evaluation of this threat information shall include, but not be limited to, the following factors:

To what degree is the threat information credible?

To what degree is the threat information corroborated?

To what degree is the threat specific and/or imminent?

How grave are the potential consequences of the threat?

Threat Conditions and Associated Protective Measures

The world has changed since September 11, 2001. We remain a Nation at risk to terrorist attacks and will remain at risk for the foreseeable future. At all Threat Conditions, we must remain vigilant, prepared, and ready to deter terrorist attacks. The following Threat Conditions each represent an increasing risk of terrorist attacks. Beneath each Threat Condition are some suggested Protective Measures, recognizing that the heads of Federal departments and agencies are responsible for developing and implementing appropriate agency-specific Protective Measures:

Low Condition (Green). This condition is declared when there is a low risk of terrorist attacks. Federal departments and agencies should consider the following general measures in addition to the agency-specific Protective Measures they develop and implement:

Refining and exercising as appropriate preplanned Protective Measures;

Ensuring personnel receive proper training on the Homeland Security Advisory System and specific preplanned department or agency Protective Measures; and

Institutionalizing a process to assure that all facilities and regulated sectors are regularly assessed for vulnerabilities to terrorist attacks, and all reasonable measures are taken to mitigate these vulnerabilities.

Guarded Condition (Blue). This condition is declared when there is a general risk of terrorist attacks. In addition to the Protective Measures taken in the previous Threat Condition, Federal departments and agencies should consider the following general measures in addition to the agency-specific Protective Measures that they will develop and implement:

- Checking communications with designated emergency response or command locations;
- Reviewing and updating emergency response procedures; and
- Providing the public with any information that would strengthen its ability to act appropriately.

Elevated Condition (Yellow). An Elevated Condition is declared when there is a significant risk of terrorist attacks. In addition to the Protective Measures taken in the previous Threat Conditions, Federal departments and agencies should consider the following general measures in addition to the Protective Measures that they will develop and implement:

- Increasing surveillance of critical locations;
- Coordinating emergency plans as appropriate with nearby jurisdictions;
- Assessing whether the precise characteristics of the threat require the further refinement of preplanned Protective Measures; and
- Implementing, as appropriate, contingency and emergency response plans.

High Condition (Orange). A High Condition is declared when there is a high risk of terrorist attacks. In addition to the Protective Measures taken in the previous Threat Conditions, Federal departments and agencies should consider the following general measures in addition to the agency-specific Protective Measures that they will develop and implement:

- Coordinating necessary security efforts with Federal, State, and local law enforcement agencies or any National Guard or other appropriate armed forces organizations;
- Taking additional precautions at public events and possibly considering alternative venues or even cancellation;
- Preparing to execute contingency procedures, such as moving to an alternate site or dispersing their workforce; and
- Restricting threatened facility access to essential personnel only.

Severe Condition (Red). A Severe Condition reflects a severe risk of terrorist attacks. Under most circumstances, the Protective Measures for a Severe Condition are not intended to be sustained for substantial periods of time. In addition to the Protective Measures in the previous Threat Conditions, Federal departments and agencies also should consider the following general measures in addition to the agency-specific Protective Measures that they will develop and implement:

Increasing or redirecting personnel to address critical emergency needs;

Assigning emergency response personnel and pre-positioning and mobilizing specially trained teams or resources;

Monitoring, redirecting, or constraining transportation systems; and

Closing public and government facilities.

Attachment B will not be released to the public because it contains Safeguards Information and must be accorded the protection required under 10 CFR 73.21

Attachment B

RIS 2005-12

Recently Issued NMSS Generic Communications

Date	GC No.	Subject	Addressees
06/10/05	RIS-05-10	Performance-Based Approach for Associated Equipment in 10 CFR 34.20	All industrial radiography licensees and manufacturers and distributors of industrial radiography equipment.
04/18/05	RIS-05-06	Reporting Requirements for Gauges Damaged at Temporary Job Sites	All material licensees possessing portable gauges, regulated under 10 CFR Part 30.
04/14/05	RIS-05-04	Guidance on the Protection of Unattended Openings that Intersect a Security Boundary or Area	All holders of operating licenses or construction permits for nuclear power reactors, research and test reactors, decommissioning reactors with fuel on site, Category 1 fuel cycle facilities, critical mass facilities, uranium conversion facility, independent spent fuel storage installations, gaseous diffusion plants, and certain other material licensees.
6/23/05	IN-05-17	Manual Brachytherapy Source Jamming	All medical licensees authorized to possess a Mick applicator.
05/17/05	IN-05-013	Potential Non-conservative Error in Modeling Geometric Regions in the Keno-v.a Criticality Code	All licensees using the Keno-V.a criticality code module in Standardized Computer Analyses for Licensing Evaluation (SCALE) software developed by Oak Ridge National Laboratory (ORNL)
05/17/05	IN-05-012	Excessively Large Criticality Safety Limits Fail to Provide Double Contingency at Fuel Cycle Facility	All licensees authorized to possess a critical mass of special nuclear material.
04/07/05	IN-05-010	Changes to 10 CFR Part 71 Packages	All 10 CFR Part 71 licensees and certificate holders.

Note: NRC generic communications may be found on the NRC public website, <http://www.nrc.gov>, under Electronic Reading Room/Document Collections.