

SAFEGUARDS INFORMATION - MODIFIED HANDLING

June 6, 2003

SUBJECT: ISSUANCE OF ORDER FOR COMPENSATORY MEASURES

Dear Licensee:

The U.S. Nuclear Regulatory Commission (NRC) has issued the enclosed generic Order (Enclosure 1) requiring you to implement specific compensatory measures (CMs). These CMs are listed in Attachment 2 to Enclosure 1. The NRC is issuing Orders to both NRC and Agreement State licensees under NRC's authority to protect the common defense and security. That authority has not been relinquished to the Agreement States. The Commission recognizes that you may have voluntarily and responsibly implemented additional measures following events of September 11, 2001, but in light of the current threat environment, the Commission concludes that those and other measures in Attachment 2 to Enclosure 1 should be embodied in an Order, consistent with the established regulatory framework. This Order does not obviate the need for you to: (1) consider implementing protective measures specified for a given threat condition level in the U.S. Nuclear Regulatory Commission's June 6, 2003, Regulatory Issue Summary (RIS) for Panoramic and Underwater Irradiator Licensees on the NRC's Threat Advisory and Protective Measures System (Enclosure 2); and (2) maintain the effectiveness of existing security measures taken in response to the events of September 11, 2001. Implementing guidance (Enclosure 3) provides additional details about NRC's expectations for compliance.

The Commission has determined that the current threat environment requires that the enclosed Order be effective immediately. The requirements will remain in effect until the Commission determines otherwise.

The enclosed Order calls for response within specified time frames. With respect to the notices and submissions required by Sections IIIB and IIIC of the Order, for any requirement of Attachment 2 to Enclosure 1 that is contingent on completion of another requirement of Attachment 2 to Enclosure 1, it will be a sufficient response if you state in your twenty-day submission that completion of the requirement is dependent on completion of another requirement and the expected date of completion of the other requirement. Upon completion of such other requirement, you should promptly submit the results and the actions thereafter proposed with respect to the requirement at issue, as well as the projected date of completion. No extension of time from the twenty-day requirement is necessary for such responses submitted within twenty days.

Warning: Violation of Section 147 of the Atomic Energy Act of 1954, "Safeguards Information" is subject to Civil or Criminal penalties.

Document transmitted herewith contains Safeguards Information. When separated from enclosures, this document is Decontrolled.

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As a separate matter, if you wish to preserve your right to request a hearing on any requirement contingent upon completion of another requirement, a request for an extension of time to request a hearing must be filed within twenty days of the date of this Order in accordance with Section IV of the Order. Such a request may seek a reasonable period of time to request a hearing beyond the date that the staff informs you whether the actions proposed and completion date for the requirement(s) contingent upon another requirement are satisfactory.

Under Section 147 of the Atomic Energy Act of 1954, as amended, the Commission has authority to "issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information...." Unauthorized disclosure of safeguards information may result in civil and criminal penalties. The Commission has determined that the CMs (Attachment 2 to Enclosure 1), the RIS Table "Threat Conditions and Specific Actions for Panoramic and Underwater Irradiators (sources greater than 10,000 curies)" [Attachment 2 to Enclosure 2], the Implementing Guidance (Attachment 3) and licensee's physical protection measures to implement these CMs contain safeguards information and will not be released to the public. The Order directs you to protect this information from unauthorized disclosure in accordance with "Modified Handling Requirements for Protection of Certain Safeguards Information (SGI-M)" (Attachment 3 to enclosure 1). If your response to the Order includes specific security measures used to implement the CMs, we request that you provide that information in a separate enclosure or attachment. You will then need to follow the appropriate protection requirements to put the appropriate markings on the documents and inner mailing envelope when sending it to the NRC. Enclosure 4 provides additional guidance in the form of frequently asked questions that stemmed from the series of meetings held the week of April 7, 2003, to discuss safeguards information for Irradiator licensees. If you have further questions about proper handling and protecting safeguards information contact Bernard Stapleton at 301-415-2432 or bws2@nrc.gov or Fritz Sturz at 301-415-6678 or fcs@nrc.gov.

The Commission has also determined that the List of Irradiator Licensees (Attachment 1 to Enclosure 1) and individual cover letters and Orders should continue to be designated as sensitive unclassified information for Official Use Only and will be withheld from the public. Each licensee should protect this information as it would its own confidential commercial or financial information and only reveal it to those persons who need the information for conduct of official business. The Official Use Only information should, as a minimum, be stored in a space or building that is protected by electronic access controls, security guards, or alternatively, in a locking cabinet or other equivalent storage container.

Please contact Charles Cox at (301) 415-6755 to facilitate resolution of any issues related to compliance with the requirements in the enclosed Order, or if you have any other questions.

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The enclosed Order without the Safeguards Information and Official Use Only information has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures: (1) Order Imposing Compensatory Measures with Attachments
(2) Regulatory Issue Summary (RIS) 2002-12L with Enclosures
(3) Implementing Guidance
(4) Frequently Asked Questions about SGI-M

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DISTRIBUTION (transmittal letter only - without sensitive information)

NMSS Dir.Off. r/f NSIR Dir. Off. r/f OGC SECY J.Shea G.Smith
 FSturz

PUBLIC (without safeguards information - CM, RIS. and Guidance and without OOU)

* See Previous concurrence Accession Number: ML031340779

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