

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

**NUCLEAR FUEL SERVICES, INC.**  
**ERWIN, TN**

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Docket No. 70-143  
License No. SNM-124  
EA-03-132

**CONFIRMATORY ORDER MODIFYING LICENSE  
(EFFECTIVE IMMEDIATELY)**

I

Nuclear Fuel Services, Inc., (NFS) is the holder of Special Nuclear Material License No. SNM 124 issued by the U.S. Nuclear Regulatory (NRC or Commission) pursuant to 10 C.F.R. Part 70. NFS is authorized by their license to receive, possess, and transfer special nuclear material in accordance with the Atomic Energy Act of 1954, as amended, and 10 C.F.R. Part 70. The NFS license, originally issued on September 18, 1957, was renewed on July 2, 1999, and is due to expire on July 31, 2009.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and

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evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are warranted as prudent, interim measures to address the current threat environment. Therefore, the Commission is imposing interim requirements, set forth in Attachment 1<sup>1</sup> of this Order, which supplement existing regulatory requirements, to provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

### III

In February 2003, NRC issued Orders to Category III fuel cycle licensees directing each licensee to implement interim compensatory measures (ICMs) to enhance physical security at its facilities. NFS did not receive an order at that time because an amendment authorizing operation of a new Category III complex was still pending. In a letter to NFS dated February 11, 2003, NRC provided a copy of the ICMs to NFS for its information and use in designing the new complex. NFS responded on March 25, 2003, indicating its intention to comply with the ICMs.

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<sup>1</sup> Attachment 1 contains safeguards information and will not be released to the public.

The Commission recognizes that some of the requirements set forth in Attachment 1<sup>2</sup> to this Order have already been initiated by NFS in response to previously-issued advisories, or on its own<sup>3</sup> and that some measures have been tailored to specifically accommodate the specific circumstances and characteristics existing at NFS's facility to achieve the intended objectives and avoid any unforeseen effect on safe operation.

By letter dated July 3, 2003, NFS consented to this Order with the commitments as described in Section IV below. NFS further agreed in its July 3, 2003, letter that this Order is to be effective upon issuance and that it has waived its right to a hearing. Implementation of this commitment provides enhanced assurance that sufficient resources will be applied to the physical protection program.

I find that NFS' commitment as set forth in its letters of March 25 and July 3, 2003, is acceptable and necessary, and conclude that with this commitment, the public health and safety, and common defense and security, are reasonably assured. In view of the foregoing, I have determined that the public health and safety, and common defense and security, require that NFS' commitment be confirmed by this Order. Based on the above and NFS' consent, this Order is immediately effective upon issuance.

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<sup>2</sup> To the extent that specific measures identified in Attachment 1 to this Order require actions pertaining to NFS's possession and use of chemicals, such actions are being directed on the basis of the potential impact of such chemicals on radioactive materials and activities subject to NRC regulation.

<sup>3</sup> See letter from B. Marie Moore, Vice President, NFS, to Mary T. Adams, NRC, dated July 3, 2003.

## IV

Accordingly, pursuant to Sections 53, 63, 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. § 2.202 and 10 C.F.R. Part 70, IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT MATERIAL LICENSE SNM-124 IS MODIFIED AS FOLLOWS:

- A. NFS shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 1 to this Order. NFS shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation **before the introduction of Category III quantities of special nuclear material into the Blended Low-Enriched Uranium Complex.**
- B. NFS shall report to the Commission when it has achieved full compliance with the requirements described in Attachment 1.
- C. Notwithstanding any provision of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

NFS's response to Condition B above shall be submitted in accordance with 10 C.F.R. § 70.5. In addition, NFS's submittals that contain safeguards information shall be properly marked and handled in accordance with 10 C.F.R. § 73.21.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions upon demonstration by NFS of good cause.

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within twenty (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 Nuclear Material Safety and Safeguards, 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, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region II, Sam Nunn Atlanta Federal Center, Suite 23 T85, 61 Forsyth Street, S.W. Atlanta, GA 30303-3415, and to NFS. Because of possible disruptions 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 requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. § 2.714(d).

If a hearing is requested by 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.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above 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 specified in Section IV 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.

FOR THE NUCLEAR REGULATORY COMMISSION

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

Dated this 8<sup>th</sup> day of July, 2003