

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIALS SAFETY AND SAFEGUARDS
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**NRC REGULATORY ISSUE SUMMARY 2002-12F
CATEGORY III FUEL FACILITIES
NRC THREAT ADVISORY AND PROTECTIVE MEASURES SYSTEM**

ADDRESSEES

All U.S. Nuclear Regulatory Commission (NRC) category III fuel facilities.

INTENT

The NRC is issuing this Regulatory Issue Summary (RIS) to inform addressees of changes to the descriptions of the various threat advisory conditions and provide guidance that addressees may use in preplanning graded protective measures to respond to changes in the threat environment. This RIS supersedes Information Notice 98-35, "Threat Assessments and Consideration of Heightened Physical Protection Measures" (dated September 4, 1998).¹ It is noted that a RIS is generally used to communicate with the nuclear industry on a variety of matters for which no response or action is required. This RIS communicates actions the NRC considers appropriate at each threat level. In the interest of expediency, the Commission has determined that issuance of this RIS is the most efficient mechanism to align the Office of Homeland Security, NRC, and licensee expectations with respect to licensees' response to threat advisories.

BACKGROUND

The Office of Homeland Security (OHS) has developed a Homeland Security Advisory System (HSAS) to provide a comprehensive and effective system to disseminate information regarding the risk of terrorist attacks to Federal, State, and local authorities and the public. The HSAS implements Homeland Security Presidential Directive 3 (HSPD-3), March 11, 2002. This new

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¹ Because of its classification as Safeguards Information, NRC restricted distribution of Information Notice 98-35 to certain classes of licensees.

system includes five color-coded threat conditions with a description of corresponding actions at each level. These conditions are:

- 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

DISCUSSION

The HSAS provides a consistent national framework for allowing government officials and citizens to communicate the nature and degree 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 Attorney General, in consultation with the Assistant to the President for Homeland Security will consider, 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?
- To what degree is the target vulnerable to the threat?

HSAS advisories regarding threat conditions may be declared for the entire nation or for a specific geographical area, or functional or industrial sector, and 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 has the obligation under HSPD-3 to establish the appropriate protective measures. In addition, the NRC has the obligation to respond to risks, threats, incidents, and events at NRC-regulated facilities, or involving NRC-regulated materials.

Upon a declaration of an HSAS threat condition, the NRC will promptly notify affected licensees of the threat condition and of the appropriate protective measures. In addition, the NRC may find it appropriate to notify affected licensees to establish certain protective measures in the absence of an HSAS declaration. The NRC could take such a step, for example, to respond to an emergency or a site-specific situation.

The NRC is using this RIS to announce its threat advisory and protective measures system to implement the HSAS for category III fuel facilities. The NRC will relay information relating to the threat conditions using the color-coded system defined by the HSAS. The NRC has also

defined protective measures in five levels, 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.

- The level I (Low) protective measures, which generally correspond to the green threat condition, are considered to be the routine level of operation and are satisfied by licensees maintaining the security programs required by the regulations, individual licenses, and Orders. Measures to enhance security need to be available so that they can be readied or implemented in higher threat conditions when called upon.
- The level II (Guarded) protective measures, which generally correspond to the blue threat condition, warrant more action by the licensees, but will generally not involve significant action beyond the routine level of operation. These actions would typically relate to readiness, e.g., notifying personnel to standby, or bringing in additional security officers to prepare for an enhanced response. Actions taken at level II will include those taken at level I.
- The level III (Elevated) protective measures, which generally correspond to the yellow threat condition, warrant enhanced security measures and additional resources, perhaps on a sustained basis, but would be based on hardware and personnel already at the licensee's disposal. (Note: When the HSAS was first announced on March 12, 2002, OHS also announced that the country was then considered to be in a Yellow threat condition.) Actions taken at level III will include those taken at levels I and II.
- The 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 by local and State, and possibly Federal, resources to provide additional defensive capabilities to the extent such resources can be made available. (Note: NRC advisories will provide additional specific information to the licensee(s) as information about the threat develops. Any additional licensee actions will be based upon threat specific information). Actions taken at level IV will include those taken at levels I, II, and III.
- The level V (Severe) protective measures, which generally correspond to the red threat condition, assume that the licensee will request augmentation by Federal resources beyond State and local resources to provide additional defensive capabilities to the extent such resources can be made available to enhance the security of the facility. NRC will facilitate implementation of this added Federal presence. (Note: 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 those taken at levels I, II, III, and IV.

When the Attorney General of the United States makes a change in threat condition that affects NRC licensees, the NRC will issue a threat advisory notifying its licensees of the change. The NRC will refer licensees to the recommended protective measures outlined in the table attached to this RIS. Regardless of the current threat condition, licensees are required to comply with existing regulations, licenses, and Orders. The table is designed to provide a clear description of the basic actions appropriate to achieve the desired level of protection. The NRC may tailor the protective measures to be implemented based on the nature of the threat, including specific instructions regarding 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 the attached table. For example, such additional measures may be necessary depending upon the type of licensee affected, the safeguards risks associated with various licensed activities, the specific vulnerabilities at a given site, 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 timeframe of the threat.

The protective measures in the attached table are assigned to particular threat levels, reflecting the seriousness of the threat and the need for timely action to address the threat. Therefore, prompt implementation of the measures is essential if the steps are to be effective in protecting the facility.

The Commission may need to direct additional measures to deal with a fast-moving situation in the transition period before a formal declaration of a threat escalation by the Attorney General. HSPD-3 makes clear that agency heads “retain the authority to respond, as necessary, to risks, threats, incidents, or events at facilities within the specific jurisdiction of their department or agency.” In these cases, the NRC threat advisory will include additional specific guidance beyond what is generically prescribed in the tables for a particular threat level.

NRC will update the table enclosed with this RIS as necessary to reflect changes in protective measures for various threat levels and to reflect results from its ongoing comprehensive review of security matters. In addition, this RIS will be reviewed at least once a year and revised as necessary consistent with requirements to report changes to the Office of Homeland Security by August 1 of each year. Licensees seeking to provide input to the RIS and possible revisions should forward comments to the contact listed below.

BACKFIT DISCUSSION

RISs are generally used to communicate with the nuclear industry on a variety of matters for which no response or action is required. This RIS communicates actions the NRC considers appropriate at each threat level, but these actions are not requirements. A backfit analysis has not been performed.

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.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not request any information collection; therefore, this RIS is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.)

If you have any questions about this matter, please telephone or e-mail the technical contact listed below.

/RA by TJohnson for/

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Enclosures: (1) HSPD-3, Homeland Security Advisory System
(2) Threat Conditions and Specific Actions for Category III Fuel Facilities

Enclosure 2 will not be released to the public because it contains Safeguards Information and must be accorded the protection required under 10 CFR 73.21.



Homeland Security Presidential Directive-3

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 Attorney General in consultation with the Assistant to the President for Homeland Security. Except in exigent circumstances, the Attorney General shall seek the views of the appropriate Homeland Security Principals or their subordinates, and other parties as appropriate, 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.

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 Attorney General 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.

The decision whether to publicly announce Threat Conditions shall be made on a case-by-case basis by the Attorney General 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 Attorney General 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 Attorney General 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 Attorney General 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 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:

1. To what degree is the threat information credible?
2. To what degree is the threat information corroborated?
3. To what degree is the threat specific and/or imminent?
4. 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:

1. **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:
 1. Refining and exercising as appropriate preplanned Protective Measures;
 2. Ensuring personnel receive proper training on the Homeland Security Advisory System and specific preplanned department or agency Protective Measures; and
 3. 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.
2. **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:
 1. Checking communications with designated emergency response or command locations;
 2. Reviewing and updating emergency response procedures; and
 3. Providing the public with any information that would strengthen its ability to act appropriately.

3. **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:
 1. Increasing surveillance of critical locations;
 2. Coordinating emergency plans as appropriate with nearby jurisdictions;
 3. Assessing whether the precise characteristics of the threat require the further refinement of preplanned Protective Measures; and
 4. Implementing, as appropriate, contingency and emergency response plans.

4. **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:
 1. Coordinating necessary security efforts with Federal, State, and local law enforcement agencies or any National Guard or other appropriate armed forces organizations;
 2. Taking additional precautions at public events and possibly considering alternative venues or even cancellation;
 3. Preparing to execute contingency procedures, such as moving to an alternate site or dispersing their workforce; and
 4. Restricting threatened facility access to essential personnel only.

5. **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:
 1. Increasing or redirecting personnel to address critical emergency needs;
 2. Assigning emergency response personnel and pre-positioning and mobilizing specially trained teams or resources;
 3. Monitoring, redirecting, or constraining transportation systems; and
 4. Closing public and government facilities.

Comment and Review Periods

The Attorney General, in consultation and coordination with the Assistant to the President for Homeland Security, shall, for 45 days from the date of this directive, seek the views of government officials at all levels and of public interest groups and the private sector on the proposed Homeland Security Advisory System.

One hundred thirty-five days from the date of this directive the Attorney General, after consultation and coordination with the Assistant to the President for Homeland Security, and having considered the views received during the comment period, shall recommend to the President in writing proposed refinements to the Homeland Security Advisory System.