

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

October 7, 2003

NRC REGULATORY ISSUE SUMMARY 2003-16
NRC THREAT ADVISORY AND PROTECTIVE MEASURES SYSTEM

ADDRESSEES

- (1) All Nuclear Regulatory Commission (NRC) power reactor licensees.
- (2) All NRC research and test reactors.
- (3) All NRC decommissioning power reactors and independent spent fuel storage installations using wet storage.
- (4) All NRC independent spent fuel storage installations using dry storage.
- (5) All NRC Category I fuel facilities.
- (6) All NRC Category III fuel facilities.
- (7) The NRC regulated uranium conversion facility
- (8) All NRC regulated gaseous diffusion plants.
- (9) All NRC power reactor licensees, research and test reactor licensees, independent spent fuel storage installation licensees, and special nuclear material licensees, who possess spent nuclear fuel; and all general licensees under 10 CFR 70.20a who transport spent nuclear fuel greater than 100 grams.

INTENT

NRC previously issued guidance regarding the Homeland Security Advisory System (HSAS) to certain groups of NRC licensees in RISs 2002-12A, -12B, -12C, -12D, -12E, -12F, -12G, -12H, -12I, -12I Revision 1, and -12L. The NRC is issuing this new Regulatory Issue Summary (RIS)

ML032681085

to identify a change in the implementation of the HSAS for the addressees above who received RISs 2002-12A, -12B, -12C, -12D, -12E, -12F, -12G, -12H, -12I, and -12I Revision 1¹. The change is required by Homeland Security Presidential Directive (HSPD)-5, "Management of Domestic Incidents," dated February 28, 2003. This RIS requires no action or written response on the part of any addressee.

DISCUSSION

The Homeland Security Act of 2002 reassigned the responsibility for administering the HSAS to the Secretary of Homeland Security. The HSAS implements HSPD-3, "Homeland Security Advisory System," dated March 12, 2002. Accordingly, items (24)(a) through (24)(e) of HSPD-5 provide amendments to HSPD-3 to reflect this change. (A copy of the text of HSPD-5 is attached to this RIS.) The change in responsibility is not expected to affect NRC licensees and certificate holders and does not in any way alter the NRC's expectations regarding licensee and certificate holder actions to be taken in response to HSAS threat conditions, as described in RISs 2002-12A, -12B, -12C, -12D, -12E, -12F, -12G, -12H, -12I, and -12I Revision 1.

Appropriate generic correspondence regarding the implementation of the National Response Plan (NRP), the National Incident Management System (NIMS), and potential impacts on NRC licensees and certificate holders will be issued at a later date.

BACKFIT DISCUSSION

This RIS does not require any action or written response or any modification to plant structures, systems, components, or designs; 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 and pertains to a staff position that does not represent a departure from current regulatory requirements and practice.

¹This RIS is not being sent to panoramic irradiators licensed under 10 CFR Part 36 or equivalent Agreement State Regulations because they have already received the change in RIS 2002-12L.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not request any information collection.

If you have any questions about this RIS, please contact the person listed below.

/RA/

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

/RA/

William D. Beckner, Chief
Reactor Operations Branch
Division of Inspection Program Management
Office of Nuclear Reactor Regulation

Technical contact: Robert J. Stransky, Jr., NSIR
301-415-6411
E-mail: rjs3@nrc.gov

Attachments:

1. List of Recently Issued NRC Regulatory Issue Summaries
2. HSPD-5, "Management of Domestic Incidents"
<http://www.whitehouse.gov/news/releases/2003/02/20030228-9.html>

LIST OF RECENTLY ISSUED
 NRC REGULATORY ISSUE SUMMARIES

| Regulatory Issue Summary No. | Subject | Date of Issuance | Issued to |
|------------------------------|---|------------------|---|
| 2003-15 | Consolidation of the Region I and Region II Materials Program | 09/05/2003 | All materials licensees. |
| 2003-14 | Preparation And Scheduling of Operator Licensing Examinations | 08/27/2003 | All holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel. |
| 2003-13 | NRC Review of Responses to Bulletin 2002-01, "Reactor Pressure Vessel Head Degradation and Reactor Coolant Pressure Boundary Integrity" | 07/29/2003 | All holders of construction permits or operating licenses for nuclear power reactors except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel. |
| 2003-12 | Clarification of NRC Guidance for Modifying Protective Actions | 06/24/2003 | All holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel. |
| 2003-11 | Reporting Requirements for Distributors of Devices Subject to the General License Requirements of 10 CFR 3.5 | 07/16/2003 | All licensees authorized to distribute devices containing byproduct material under 10 CFR 32.51, or equivalent Agreement State regulation. |

Note: NRC generic communications may be received in electronic format shortly after they are issued by subscribing to the NRC listserver as follows:

To subscribe send an e-mail to <listproc@nrc.gov>, no subject, and the following command in the message portion:

subscribe gc-nrr firstname lastname

HOMELAND SECURITY PRESIDENTIAL DIRECTIVE/HSPD - 5

Subject: Management of Domestic Incidents

Purpose

- (1) To enhance the ability of the United States to manage domestic incidents by establishing a single, comprehensive national incident management system.

Definitions

- (2) In this directive:
 - (a) the term “Secretary” means the Secretary of Homeland Security.
 - (b) the term “federal departments and agencies” means those executive departments enumerated in 5 USC 101, together with the Department of Homeland Security; independent establishments as defined by 5 USC 104(1); government corporations as defined by 5 USC 103(1); and the United States Postal Service.
 - (c) the terms “State,” “local,” and the “United States” when it is used in a geographical sense, have the same meanings as used in the Homeland Security Act of 2002, Public Law 107-296.

Policy

- (3) To prevent, prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies, the United States Government shall establish a single, comprehensive approach to domestic incident management. The objective of the United States Government is to ensure that all levels of government across the Nation have the capability to work efficiently and effectively together, using a national approach to domestic incident management. In these efforts, with regard to domestic incidents, the United States Government treats crisis management and consequence management as a single, integrated function, rather than as two separate functions.
- (4) The Secretary of Homeland Security is the principal federal official for domestic incident management. Pursuant to the Homeland Security Act of 2002, the Secretary is responsible for coordinating federal operations within the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies. The Secretary shall coordinate the federal government’s resources utilized in response to or recovery from terrorist attacks, major disasters, or other emergencies if and when any one of the following four conditions applies: (1) a federal department or agency acting under its own authority has requested the assistance of the Secretary; (2) the resources of State and local authorities are overwhelmed *and* federal assistance has been requested by the appropriate State and local authorities; (3) more than one federal

department or agency has become substantially involved in responding to the incident; or (4) the Secretary has been directed to assume responsibility for managing the domestic incident by the President.

- (5) Nothing in this directive alters, or impedes the ability to carry out, the authorities of federal departments and agencies to perform their responsibilities under law. All federal departments and agencies shall cooperate with the Secretary in the Secretary's domestic incident management role.
- (6) The federal government recognizes the roles and responsibilities of State and local authorities in domestic incident management. Initial responsibility for managing domestic incidents generally falls on State and local authorities. The federal government will assist State and local authorities when their resources are overwhelmed, or when federal interests are involved. The Secretary will coordinate with State and local governments to ensure adequate planning, equipment, training, and exercise activities. The Secretary will also provide assistance to State and local governments to develop all-hazards plans and capabilities, including those of greatest importance to the security of the United States, and will ensure that State, local, and federal plans are compatible.
- (7) The federal government recognizes the role that the private and non-governmental sectors play in preventing, preparing for, responding to, and recovering from terrorist attacks, major disasters, and other emergencies. The Secretary will coordinate with the private and non-governmental sectors to ensure adequate planning, equipment, training, and exercise activities and to promote partnerships to address incident management capabilities.
- (8) The Attorney General has lead responsibility for criminal investigations of terrorist acts or terrorist threats by individual(s) or group(s) inside the United States, or directed at United States citizens or institutions abroad, where such acts are within the federal criminal jurisdiction of the United States, as well as for related intelligence collection activities within the United States, subject to the National Security Act of 1947 and other applicable law, Executive Order 12333, and Attorney General-approved procedures pursuant to that Executive Order. Generally acting through the Federal Bureau of Investigation, the Attorney General, in cooperation with other United States Government departments and agencies engaged in activities to protect our national security, shall also coordinate the activities of the other members of the law enforcement community to detect, prevent, preempt, and disrupt terrorist attacks against the United States. Following a terrorist threat or an actual incident that falls within the criminal jurisdiction of the United States, the full capabilities of the United States shall be dedicated, consistent with United States law and with activities of other U.S. Government departments and agencies to protect our national security, to assisting the Attorney General to identify the perpetrators and bring them to justice. The Attorney General and the Secretary shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments.

- (9) Nothing in this directive impairs or otherwise affects the authority of the Secretary of Defense over the Department of Defense, including the chain of command for military forces from the President as Commander in Chief, to the Secretary of Defense, to the commander of military forces, or military command and control procedures. The Secretary of Defense shall provide military support to civil authorities for domestic incidents as directed by the President or when consistent with military readiness and appropriate under the circumstances and the law. The Secretary of Defense shall retain command of military forces providing civil support. The Secretary of Defense and the Secretary shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments.
- (10) The Secretary of State has the responsibility, consistent with other United States Government activities to protect our national security, to coordinate international activities related to the prevention, preparation, response, and recovery from a domestic incident, and for the protection of United States citizens and United States interests overseas. The Secretary of State and the Secretary shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments.
- (11) The Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs shall be responsible for interagency policy coordination on domestic and international incident management, respectively, as directed by the President. The Assistant to the President for Homeland Security and the Assistant to the President for National Security Affairs shall work together to ensure that the United States' domestic and international incident management efforts are seamlessly united.
- (12) The Secretary shall ensure that, as appropriate, information related to domestic incidents is gathered and provided to the public, the private sector, State and local authorities, federal departments and agencies, and, generally through the Assistant to the President for Homeland Security, to the President. The Secretary shall provide standardized, quantitative reports to the Assistant to the President for Homeland Security on the readiness and preparedness of the Nation – at all levels of government – to prevent, prepare for, respond to, and recover from domestic incidents.
- (13) Nothing in this directive shall be construed to grant to any Assistant to the President any authority to issue orders to federal departments and agencies, their officers, or their employees.

Tasking

- (14) The heads of all federal departments and agencies are directed to provide their full and prompt cooperation, resources, and support, as appropriate and consistent with their own responsibilities for protecting our national security, to the Secretary, the Attorney General, the Secretary of Defense, and the Secretary of State in the exercise of the individual leadership responsibilities and missions assigned in paragraphs (4), (8), (9), and (10), respectively, above.

- (15) The Secretary shall develop, submit for review to the Homeland Security Council, and administer a National Incident Management System (NIMS). This system will provide a consistent nationwide approach for federal, State, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. To provide for interoperability and compatibility among federal, State, and local capabilities, the NIMS will include a core set of concepts, principles, terminology, and technologies covering the incident command system; multi-agency coordination systems; unified command; training; identification and management of resources (including systems for classifying types of resources); qualifications and certification; and the collection, tracking, and reporting of incident information and incident resources.
- (16) The Secretary shall develop, submit for review to the Homeland Security Council, and administer a National Response Plan (NRP). The Secretary shall consult with appropriate Assistants to the President (including the Assistant to the President for Economic Policy) and the Director of the Office of Science and Technology Policy, and other such federal officials as may be appropriate, in developing and implementing the NRP. This plan shall integrate federal government domestic prevention, preparedness, response, and recovery plans into one all-discipline, all-hazards plan. The NRP shall be unclassified. If certain operational aspects require classification, they shall be included in classified annexes to the NRP.
- (a) The NRP, using the NIMS, shall, with regard to response to domestic incidents, provide the structure and mechanisms for national level policy and operational direction for federal support to State and local incident managers and for exercising direct federal authorities and responsibilities, as appropriate.
- (b) The NRP will include protocols for operating under different threats or threat levels; incorporation of existing federal emergency and incident management plans (with appropriate modifications and revisions) as either integrated components of the NRP or as supporting operational plans; and additional operational plans or annexes, as appropriate, including public affairs and intergovernmental communications.
- (c) The NRP will include a consistent approach to reporting incidents, providing assessments, and making recommendations to the President, the Secretary, and the Homeland Security Council.
- (d) The NRP will include rigorous requirements for continuous improvements from testing, exercising, experience with incidents, and new information and technologies.
- (17) The Secretary shall:
- (a) By April 1, 2003, (1) develop and publish an initial version of the NRP, in consultation with other federal departments and agencies; and (2) provide the Assistant to the President for Homeland Security with a plan for full development and implementation of the NRP.

- (b) By June 1, 2003, (1) in consultation with federal departments and agencies and with State and local governments, develop a national system of standards, guidelines, and protocols to implement the NIMS; and (2) establish a mechanism for ensuring ongoing management and maintenance of the NIMS, including regular consultation with other federal departments and agencies and with State and local governments.
 - (c) By September 1, 2003, in consultation with federal departments and agencies and the Assistant to the President for Homeland Security, review existing authorities and regulations and prepare recommendations for the President on revisions necessary to implement fully the NRP.
- (18) The heads of federal departments and agencies shall adopt the NIMS within their departments and agencies and shall provide support and assistance to the Secretary in the development and maintenance of the NIMS. All federal departments and agencies will use the NIMS in their domestic incident management and emergency prevention, preparedness, response, recovery, and mitigation activities, as well as those actions taken in support of State or local entities. The heads of federal departments and agencies shall participate in the NRP, shall assist and support the Secretary in the development and maintenance of the NRP, and shall participate in and use domestic incident reporting systems and protocols established by the Secretary.
- (19) The head of each federal department and agency shall:
 - (a) By June 1, 2003, make initial revisions to existing plans in accordance with the initial version of the NRP.
 - (b) By August 1, 2003, submit a plan to adopt and implement the NIMS to the Secretary and the Assistant to the President for Homeland Security. The Assistant to the President for Homeland Security shall advise the President on whether such plans effectively implement the NIMS.
- (20) Beginning in Fiscal Year 2005, federal departments and agencies shall make adoption of the NIMS a requirement, to the extent permitted by law, for providing federal preparedness assistance through grants, contracts, or other activities. The Secretary shall develop standards and guidelines for determining whether a State or local entity has adopted the NIMS.

Technical and Conforming Amendments to National Security Presidential Directive-1 (NSPD-1)

- (21) NSPD-1 (“Organization of the National Security Council System”) is amended by replacing the fifth sentence of the third paragraph on the first page with the following: “The Attorney General, the Secretary of Homeland Security, and the Director of the Office of Management and Budget shall be invited to attend meetings pertaining to their responsibilities.”.

Technical and Conforming Amendments to National Security Presidential Directive-8 (NSPD-8)

- (22) NSPD-8 (“National Director and Deputy National Security Advisor for Combating Terrorism”) is amended by striking “and the Office of Homeland Security,” on page 4, and inserting “the Department of Homeland Security, and the Homeland Security Council” in lieu thereof.

Technical and Conforming Amendments to Homeland Security Presidential Directive-2 (HSPD-2)

- (23) HSPD-2 (“Combating Terrorism Through Immigration Policies”) is amended as follows:
- (a) striking “the Commissioner of the Immigration and Naturalization Service (INS)” in the second sentence of the second paragraph in section 1, and inserting “the Secretary of Homeland Security” in lieu thereof ;
 - (b) striking “the INS,” in the third paragraph in section 1, and inserting “the Department of Homeland Security” in lieu thereof;
 - (c) inserting “, the Secretary of Homeland Security,” after “The Attorney General” in the fourth paragraph in section 1;
 - (d) inserting “, the Secretary of Homeland Security,” after “the Attorney General” in the fifth paragraph in section 1;
 - (e) striking “the INS and the Customs Service” in the first sentence of the first paragraph of section 2, and inserting “the Department of Homeland Security” in lieu thereof;
 - (f) striking “Customs and INS” in the first sentence of the second paragraph of section 2, and inserting “the Department of Homeland Security” in lieu thereof;
 - (g) striking “the two agencies” in the second sentence of the second paragraph of section 2, and inserting “the Department of Homeland Security” in lieu thereof;
 - (h) striking “the Secretary of the Treasury” wherever it appears in section 2, and inserting “the Secretary of Homeland Security” in lieu thereof;
 - (i) inserting “, the Secretary of Homeland Security,” after “The Secretary of State” wherever the latter appears in section 3;
 - (j) inserting “, the Department of Homeland Security,” after “the Department of State,” in the second sentence in the third paragraph in section 3;
 - (k) inserting “the Secretary of Homeland Security,” after “the Secretary of State,” in the first sentence of the fifth paragraph of section 3;

- (l) striking “INS” in the first sentence of the sixth paragraph of section 3, and inserting “Department of Homeland Security” in lieu thereof;
- (m) striking “the Treasury” wherever it appears in section 4 and inserting “Homeland Security” in lieu thereof;
- (n) inserting “, the Secretary of Homeland Security,” after “the Attorney General” in the first sentence in section 5; and
- (o) inserting “, Homeland Security” after “State” in the first sentence of section 6.

Technical and Conforming Amendments to Homeland Security Presidential Directive-3 (HSPD-3)

- (24) The Homeland Security Act of 2002 assigned the responsibility for administering the Homeland Security Advisory System to the Secretary of Homeland Security. Accordingly, HSPD-3 of March 12, 2002 (“Homeland Security Advisory System”) is amended as follows:
 - (a) replacing the third sentence of the second paragraph entitled “Homeland Security Advisory System” with “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.”
 - (b) inserting “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.” as a new paragraph after the fifth paragraph of the section entitled “Homeland Security Advisory System.”
 - (c) inserting “, the Secretary of Homeland Security” after “The Director of Central Intelligence” in the first sentence of the seventh paragraph of the section entitled “Homeland Security Advisory System”.
 - (d) striking “Attorney General” wherever it appears (except in the sentences referred to in subsections (a) and (c) above), and inserting “the Secretary of Homeland Security” in lieu thereof; and
 - (e) striking the section entitled “Comment and Review Periods.”