

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
OFFICE OF NUCLEAR REACTOR REGULATION
OFFICE OF NEW REACTORS
WASHINGTON, DC 20555

June 1, 2018

**NRC REGULATORY ISSUE SUMMARY 2018-03
NATIONAL TERRORISM ADVISORY SYSTEM AND PROTECTIVE MEASURES FOR THE
PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF
RADIOACTIVE MATERIAL**

ADDRESSEES

All holders of a U.S. Nuclear Regulatory Commission (NRC) license that authorizes possession of category 1 and category 2 quantities of radioactive material, NRC Master Materials Licensees, Agreement State Radiation Control Program Directors, and State Liaison Officers.

All holders of an operating license or construction permit for a nuclear power reactor under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," including those that have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

All holders of an operating license for a non-power reactor (research reactor, test reactor, critical assembly, or other non-power production and utilization facilities) under 10 CFR Part 50, including those that have permanently ceased operations.

All holders of a power reactor early site permit, combined license, standard design approval, or manufacturing license under 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants."

All holders of a license under 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material," that are required to have a security plan under 10 CFR Part 73, "Physical Protection of Plants and Materials," including licensees authorized to possess formula quantities of special nuclear material (SNM), licensees authorized to possess SNM of moderate strategic significance, and licensees authorized to possess SNM of low strategic significance.

All holders of a license under 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste."

NOTICE: The enclosures of this RIS contain Security-Related Information. Upon separation from the enclosures, this RIS is DECONTROLLED.

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INTENT

The NRC is issuing this regulatory issue summary (RIS) to provide information on the U.S. Department of Homeland Security's (DHS's) National Terrorism Advisory System (NTAS) to licensees who are authorized to possess category 1 and category 2 quantities of radioactive material that are listed in Appendix A, "Category 1 and Category 2 Radioactive Materials," to 10 CFR Part 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material." This RIS provides information that addressees may wish to consider in the event that DHS issues an NTAS alert.

This RIS supersedes RIS 2002-12L, Revision 1, "Panoramic and Underwater Irradiators NRC Threat Advisory and Protective Measures System," dated August 24, 2011¹; RIS 2002-12M, Revision 1, "Manufacturing and Distribution Licensees NRC Threat Advisory and Protective Measures System," dated August 24, 2011²; and RIS 2005-12, Revision 1, "Transportation of Radioactive Material Quantities of Concern NRC Threat Advisory and Protective Measures System," dated August 24, 2011³. This RIS requires no action or written response on the part of any addressee, and it does not impose new regulatory requirements on NRC licensees.

BACKGROUND

On March 11, 2002, President George W. Bush signed Homeland Security Presidential Directive (HSPD)-3, creating the Homeland Security Advisory System (HSAS). The HSAS was a graduated, color-coded threat advisory system to alert government authorities at all levels, private-sector stakeholders, and the general public about the risk of terrorist attacks. The HSAS consisted of five levels, ranging from the lowest threat level, "Green," to the most severe, "Red." Based on HSPD-3, the NRC issued a series of RISs⁴ to inform NRC licensees of the descriptions of the various threat advisory conditions and to inform NRC licensees about the preplanning of graded protective measures to respond to changes in the threat environment.

On January 26, 2011, President Barack Obama issued Presidential Policy Directive (PPD)-7, "National Terrorism Advisory System," dated January 26, 2011 (Enclosure 1 to this RIS). PPD-7 reaffirmed the need for a strong, effective national-level advisory system and directed DHS to establish a new threat advisory system to replace the HSAS.

The National Terrorism Advisory System (NTAS) has replaced the previous color-coded threat levels with a two-tiered advisory system designed to provide timely and relevant terrorist threat information to affected government, private-sector, and public stakeholders, as appropriate and in accordance with classification levels. The NTAS's two threat levels are "Elevated Alert" and "Imminent Alert."

In the changed threat environment after the attacks of September 11, 2001, the Commission determined that certain licensed material should be subject to enhanced security requirements,

¹ Agencywide Documents Access and Management System (ADAMS) Accession No. ML11189A109

² ADAMS Accession No. ML11189A115

³ ADAMS Accession No. ML11189A072

⁴ RIS 2002-12A through RIS 2002-12M:
(<https://www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues/2002/>)
RIS 2005-12, Rev. 1 (ADAMS Accession No. ML11189A072)

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and that individuals with unescorted access to risk-significant quantities of certain radioactive material should be subject to background investigations. As part of the development of the enhanced security measures for this licensed material, the NRC performed threat and vulnerability assessments. The purpose of these assessments was to identify gaps or vulnerabilities in security and the effectiveness and costs of certain physical protection enhancements at various licensed facilities. The agency used the results of these assessments to develop enhanced security requirements that were issued to licensees via orders, using a graded approach based on the relative risk and quantity of material possessed by the licensee.

Generically applicable requirements are most effectively implemented through rulemaking rather than by orders. Therefore, the NRC developed a rule for enhanced security for category 1 and category 2 quantities of radioactive material. In developing this rule, the NRC considered, among other things, the various orders, lessons learned during implementation of the orders, recommendations of an independent external review panel and the Materials Program Working Group, and stakeholder comments received on the proposed rule and draft implementation guidance. In SECY-11-0170, “Final Rule: Physical Protection of Byproduct Material (RIN 3150-AI12),” dated December 8, 2011 (ADAMS Accession No. ML112920070), the NRC staff requested Commission approval to publish a final rule in the *Federal Register* that would add a new 10 CFR Part 37. The final rule established security requirements for the commercial use of category 1 and category 2 quantities of radioactive material and for the transportation of small quantities of irradiated fuel. In SRM-SECY-11-170, “Final Rule: Physical Protection of Byproduct Material (RIN 3150-AI12),” dated March 16, 2012 (ADAMS Accession No. ML120760457), the Commission approved issuance of 10 CFR Part 37 to enhance the security measures for category 1 and category 2 quantities of radioactive material. The NRC published the final rule in the *Federal Register* on March 19, 2013 (78 FR 16921). The new 10 CFR Part 37, which NRC licensees were required to comply with by March 19, 2014, established physical security requirements for the possession and use of category 1 and category 2 quantities of radioactive material that are listed in Appendix A to 10 CFR Part 37.

SUMMARY OF ISSUE

In the NTAS advisory system, an “Elevated Alert” threat level warns of a credible terrorist threat against the United States and its territories that is general in both timing and target, or the alert details significant trends and developments in terrorism such that it is reasonable to recommend the implementation of protective measures to thwart or mitigate an attack.

An “Imminent Alert” warns of a credible, specific, and impending terrorist threat against the United States and its territories and recommends the implementation of protective measures to thwart or mitigate an attack.

The NRC recommends that licensees in possession of category 1 and category 2 quantities of radioactive material as listed in Appendix A to 10 CFR Part 37 maintain awareness of the NTAS. The NRC further recommends that, following an NTAS alert, these licensees should consider the information found in Enclosures 2 and 3 of this RIS.

The NRC notes that licensees required to implement a physical security plan in accordance with paragraph (a) of 10 CFR 73.55, “Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage,” are also required under

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10 CFR 73.55(k)(10) to establish, maintain, and implement a threat warning system. These licensees may wish to use the information in this RIS to revise their existing threat warning system.

BACKFITTING AND ISSUE FINALITY

This RIS provides information to licensees that should be considered in the event that DHS issues an NTAS alert. This RIS requires no action or written response. Inclusion of the information described in this RIS on the part of addressees in communications otherwise required under NRC regulations is strictly voluntary. Therefore, this RIS does not represent backfitting as defined in 10 CFR 50.109(a)(1), 10 CFR 70.76(a)(1), or 10 CFR 72.62(a), nor is it otherwise inconsistent with any issue finality provision in 10 CFR Part 52. Consequently, the NRC staff did not perform a backfit analysis for this RIS or further address the issue finality criteria in Part 52.

FEDERAL REGISTER NOTIFICATION

The NRC did not publish in the *Federal Register* a notice of opportunity for public comment on this RIS due to the security-related information contained within the RIS. The NRC did provide the RIS for comment to the Agreement State Radiation Control Program Directors and to the Nuclear Energy Institute. The staff considered all comments, which resulted in minor clarifications to Enclosure 3 of the RIS.

CONGRESSIONAL REVIEW ACT

This RIS is not a rule as defined in the Congressional Review Act (5 U.S.C. §§ 801–808).

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not contain new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). The Office of Management and Budget (OMB) approved existing requirements under approval numbers 3150-0214 and 3150-0002.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

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CONTACTS

This RIS requires no specific action or written response. If you have any questions about this summary, please contact the technical contact listed below or the appropriate regional office.

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Enclosures:

1. PPD-7, "National Terrorism Advisory System"
2. Threat Alerts and Specific Actions for the Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material
3. Threat Alerts and Specific Actions for the Transportation of Category 1 and Category 2 Quantities of Radioactive Material and Irradiated Reactor Fuel Less Than or Equal to 100 Grams (per 10 CFR 73.35)

Note: NRC generic communications may be found on the NRC public Web site, <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/>, under NRC Library/Document Collections. Enclosures will not be released to the public because they contain Official Use Only—Security-Related Information.

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DATE: June 1, 2018**

ADAMS Package Accession No.: ML17268A282; *via email

EPID: L-2016-CRS-0005

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