

Commission has been conducting a comprehensive review of its safeguards and security programs and requirements. As part of this review, the Commission issued an Order to NFS on August 21, 2002, to implement interim compensatory measures (ICMs) to enhance physical security of licensed operations at this facility.

As a result of information provided by the intelligence community concerning the nature of the threat and the Commission's assessment of this information, the Commission has determined that a revision is needed to the Design Basis Threat (DBT) specified in 10 CFR 73.1. Therefore, the Commission is imposing a revised DBT, as set forth in Attachment 1<sup>1</sup> of this Order. The DBT, which supercedes the DBT specified in 10 CFR 73.1, provides 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. The requirements of this Order will remain in effect until the Commission determines otherwise. To address the DBT set forth in Attachment 1 of this Order, NFS is required to revise its physical security plan, safeguards contingency plan, and guard training and qualification plan that are required by 10 CFR 70.22.

In order to provide assurance that NFS is implementing prudent measures to protect against the DBT, Materials License SNM-124 shall be modified to require that the physical security plan, safeguards contingency plan, and the guard training and qualification plan, required by 10 CFR 70.22 be revised to provide protection against this DBT. Upon completion of NRC review and approval of the revised physical security plan, including pertinent requirements of the Order issued on August 21, 2002, safeguards contingency plan, and the guard training and qualification plan, and their full implementation, the Commission will consider requests to relax or rescind, either in whole or in part, the requirements of the Order issued on August 21, 2002, imposing ICMs. In addition, pursuant to 10 CFR 2.202, 70.32, and 70.81, I find that, in the circumstances described above, the public health, safety and interest and the common defense and security require that this Order be immediately effective.

Accordingly, pursuant to sections 53, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10

CFR 2.202, 70.32, and 70.81, it is hereby ordered, effective immediately, that material license SNM-124 is modified as follows:

A. 1. NFS shall, notwithstanding the provisions of any Commission regulation, license, or order to the contrary, revise its physical protection plan, safeguards contingency plan, and guard training and qualification plan prepared pursuant to 10 CFR 70.22 to provide protection against the DBT set forth in Attachment 1 to this Order. NFS shall submit the revised physical security plan, revised safeguards contingency plan, and revised guard training and qualification plan including an implementation schedule, to the Commission for review and approval no later than April 29, 2004.

2. The revised physical security plan, revised safeguards contingency plan, and revised guard training and qualification plan must be fully implemented by the licensee by October 29, 2004.

B. 1. NFS shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements of this Order, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause NFS to be in violation of the provisions of any Commission regulation or its facility license. The notification shall provide NFS's justification for seeking relief from, or variation of, any specific requirement.

2. If NFS considers that implementation of any of the requirements of this Order would adversely impact safe operation of its facility, NFS must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives of this Order, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, NFS must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C. NFS shall report to the Commission, in writing, when it has fully implemented the approved revisions to its physical security plan, safeguards contingency plan, and guard training and qualification plan to protect against the DBT described in Attachment 1 to this Order.

D. Notwithstanding the provisions of any Commission regulation, license or order to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise, except that NFS may make changes to their revised physical security plan, safeguards contingency plan, and guard training and qualification plan if authorized by 10 CFR 73.32(e) or (g).

NFS's responses to Conditions A.1, B.1, B.2, and C above, shall be submitted in accordance with 10 CFR 70.5. In addition, NFS's submittals that contain classified information shall be properly marked and handled in accordance with 10 CFR 95.39.

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.

In accordance with 10 CFR 2.202, NFS must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing 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. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which NFS or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or 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, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator for NRC Region II and to NFS if the answer or hearing request is by a person other than the licensee. 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

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