

Questions and Answers from RIC Session on Security Issues  
related to Orders issued by NRC on February 25, 2002

- Q1. Section III.A of the Order states, in effect, that all licensees *shall* comply with the Order and *shall* immediately start implementation. Should a licensee prepare a schedule and commence preliminary actions even if the licensee believes that the action may be unnecessary or impossible? How much time should the schedule allow for NRC review and approval of relief requested by licensees? Can the implementation schedule be based on receipt of NRC concurrence?
- A1. Consistent with Section III.B.1 of the Order, if the licensee believes that compliance with any of the requirements is unnecessary in their specific circumstances, or if they are unable to comply with any of the requirements, the licensee shall provide justification for seeking relief from or variation of any specific requirement. Based on the assumption that adequate justification has been provided, the NRC does not expect licensees to prepare a schedule or commence preliminary actions to implement requirements for which they are seeking relief. The current NRC action plan calls for the NRC reviews of licensee 20-day submittals be completed by April 20, 2002, such that the NRC review should not affect the ability of the licensees to meet the August 31, 2002, implementation date stated in Order Section III.A.
- Q2. What is the NRC standard for compliance with the Order's requirement to "immediately start implementation," in order to fulfill the intent of Section III.A? Is planning and other documentation considered to be part of implementation? Must some action on each of the individual Attachment 2 requirements be commenced immediately?
- A2. The NRC considers that any of the activities necessary to implement the requirements in Attachment 2 of the Order (e.g., planning, scheduling, engineering, procurement, construction, training, etc.) are part of immediately starting implementation. Action is required on each individual Attachment 2 requirement as necessary for the licensee to meet the Order implementation date of August 31, 2002.
- Q3. What is the standard for licensees having to "complete implementation" by a certain date, as referred to in Section III.A? Do all actions even remotely associated with change, such as training on procedure changes or plant modifications resulting from the Order, need to be completed prior to declaring implementation complete?
- A3. Licensees should consider implementation complete for a specific requirement when all actions have been completed as necessary to demonstrate that the specific interim compensatory measure is capable of providing the intended safeguards or security function (e.g., detection, deterrence, threat response). In some cases, plant modifications, procedure changes and training will be needed to implement the requirement.

- Q4. The Order states that the licenses listed in Attachment 1 are considered modified immediately. (See last sentence on page 3 of the Order.) Therefore, how can there be a conflict with the facility license as mentioned in item III.B(3)? Is this statement intended to inform the NRC of conflicts with requirements before the Order was issued?
- A4. Order Section III.A states, in part, that all Licensees shall, *notwithstanding the provisions of any Commission regulation or license to the contrary*, comply with the requirements described in Attachment 2 of the Order. This means that the requirements of the Order supercede any provisions of the regulations or provisions in the license. However, since the Orders for each plant were identical, it is possible that some plants may have had license conditions (in place prior to issuance of the Orders) that may in some way conflict with certain Order requirements. The intent of Order Section III.B.1(3) was for licensees to notify the NRC if implementation of any of the Order requirements would cause the licensee to be in violation with the provisions of any Commission regulation or the facility license given their plant specific circumstances.
- Q5. What if any detail should be provided when drafting the schedule required by Section III.C of the Order?
- A5. As a minimum, for each of the Order Attachment 2 requirements, the schedule should list the date for achieving compliance with the specific requirement. If a licensee determines that more detail should be provided to fully describe the actions they will take to meet the intent of the requirement, more detail can be provided as deemed necessary.
- Q6. Is there a standard for what circumstances would constitute an "adverse impact on the safe operation of the facility"? If not, should this concept be defined or assumptions stated by the licensee in the Answer or in some supporting document?
- A6. Due to plant specific circumstances, implementation of certain Order requirements could potentially introduce an unforeseen hazard or could significantly increase the potential for a known hazard to occur. Since each licensee is knowledgeable about its facility and procedures, the licensee is in the best position to determine the plant specific circumstances. In such situations, the licensee may consider that implementation of the requirement would have an adverse impact on safety (i.e., adequate protection would no longer be provided).

- Q7. Section III.B.2 of the Order discusses actions which may “adversely impact safe operation of the facility” and asks for proposals to either achieve the same objective of the specific requirement or a schedule for modifying the facility to address the adverse condition. The text goes further to state that if “neither approach is appropriate” then the licensee must address the condition under Section III.B.1. What is meant by “appropriate” (and please provide examples)?
- A7. In the context of Order Section III.B.2, “if neither approach is appropriate” means that the licensee cannot reasonably achieve the same objective of the requirement or modify the facility to address the adverse safety condition. The justification for seeking relief from the Order requirement should be specific enough such that the NRC can determine that neither approach is reasonably achievable (e.g., requirement would require extensive plant modifications that is not reasonably achievable from a schedule and cost standpoint - provide details regarding schedule and cost).
- Q8. What if a licensee is unable to fully comply with an Attachment 2 requirement and the NRC Staff later denies the request for relief, is there a way to preserve hearing rights following NRC disposition of relief requests?
- A8. As discussed in Section IV of the Order, a hearing may be requested within 20 days of the date of the Order. The Order does not address hearing requests past the 20 day time period.