

SAFEGUARDS INFORMATION - MODIFIED HANDLING

November 5, 2004

SUBJECT: ISSUANCE OF ORDER IMPOSING REQUIREMENTS FOR PROTECTING
CERTAIN SAFEGUARDS INFORMATION

Dear Licensees or Certificate Holders:

The U.S. Nuclear Regulatory Commission (NRC) has issued the enclosed generic Order (Enclosure 1) requiring you to implement specific requirements to ensure proper handling and protection of safeguards information (SGI) to avoid unauthorized disclosure. Orders contain requirements that licensees or certificate holders must implement beyond those currently required by NRC. You must respond to this Order by filing a written answer, under oath or affirmation, consenting to the Order or providing the reasons why you believe the Order should not have been issued.

The NRC has taken this action because it intends to issue a subsequent series of orders to licensees or certificate holders that may transport, ship, or receive certain radioactive material in quantities of concern in the near future. These subsequent orders will mandate the implementation of Additional Security Measures (ASMs) to enhance the transport security of certain radioactive material quantities of concern. The radioactive material quantities of concern are defined in Table A of the ASMs. The NRC will issue Orders to both NRC and Agreement State Licensees or certificate holders under its authority to protect the common defense and security, which has not been relinquished to the Agreement States. As a potentially affected licensee or certificate holder, the NRC is providing you draft copies of the ASMs (Enclosure 2) and RIS Table "Threat Conditions and Specific Actions for Licensees or Certificate Holders who Transport Radioactive Material Quantities of Concern" (Enclosure 3, Attachment 2) for your review and comment.

Warning: Violation of Section 147 of the Atomic Energy Act of 1954, "Safeguards Information" is subject to Civil or Criminal penalties.

Document transmitted herewith contains Safeguards Information. When separated from enclosures, this document is for OFFICIAL USE ONLY.

OFFICIAL USE ONLY

May be exempt from public release under the Freedom of Information Act (5 U.S.C. 552)
Exemption number 2
Nuclear Regulatory Commission review required before public release.
M.C Layton, NSIR/DNS/MTWS
Name and organization of person making determination.
Date of Determination _____

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Under Section 147 of the Atomic Energy Act of 1954, as amended, the Commission has authority to "issue such orders, as necessary, to prohibit the unauthorized disclosure of safeguards information. . ." Unauthorized disclosure of SGI may result in civil and criminal penalties. The Commission has determined that Enclosures 2 and 3, and licensee's or certificate holder's physical protection measures to implement these ASMs, are SGI and will not be released to the public. The Order you are receiving directs you to protect this information from unauthorized disclosure in accordance with "Modified Handling Requirements for Protection of Certain Safeguards Information (SGI-M)" (Attachment 2 to Enclosure 1).

The Commission has also determined that individual cover letters and Orders should continue to be designated as sensitive unclassified information for Official Use Only (OUO) and will be withheld from the public. You should protect this information as you would your own confidential commercial or financial information and only reveal it to those persons who need the information for conduct of official business. The OUO information should, as a minimum, be stored in a room or building that is protected by electronic access controls, security guards, or alternatively, in a locking cabinet or other equivalent storage container.

A generic Order without the OUO information will be published in the *Federal Register*.

To facilitate discussion of industry comments on the draft documents, and to assist you in understanding SGI and its protection from unauthorized release, the NRC is in the process of scheduling three closed (not open to the public) meetings:

<u>Date</u>	<u>Location</u>
1. Friday, December 3, 2004	NRC Region III Offices, Lisle, IL
2. Monday, December 6, 2004	NRC Headquarter Offices, Rockville, MD
3. Thursday, December 9, 2004	Edward R. Roybal Auditorium & Conference Center, Oakland Federal Building, Oakland, CA

More detailed information about the time and locations of these meetings will be provided in a separate meeting announcement. Only individuals authorized access to SGI may attend the meetings and must pre-register. If you plan on attending one of these meetings, please pre-register by notifying Rocky Foster at 301-415-7670 or by e-mail at Transport_Security@nrc.gov to inform the NRC which meeting and who will be attending from your organization.

If you cannot attend one of these meetings and wish to submit written comments, please follow the requirements for marking and mailing SGI as described in Attachment 2 to Enclosure 1.

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For comments to be considered, they should reach NRC by December 9, 2004. You may mail your comments to either of the following addresses:

U.S. Postal Service Delivery

Director, Division of Nuclear Security
Office of Nuclear Security
and Incident Response
Mail Stop T-4D8 (ATTN: R. Foster)
Washington, D.C. 20555-0001

Overnight Express Delivery

Director, Division of Nuclear Security
Office of Nuclear Security
and Incident Response
Mail Stop T-4D8 (ATTN: R. Foster)
Two White Flint North
11545 Rockville Pike
Rockville, Maryland 20852-2738

If you have any questions about this letter you can contact Rocky Foster, Office of Nuclear Security and Incident Response, at the above number or e-mail address.

Sincerely,

/RA/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures: 1. Order Imposing Requirements for the Protection of Certain Safeguards Information
 A. Attachment 1 List of Licensees
 B. Attachment 2 Modified Handling Requirement Instructions
2. Draft Additional Security Measures
3. Draft NRC Regulatory Issue Summary XXXX-XXX, Transportation of
 Radioactive Material Quantities of Concern NRC Threat Advisory and Protective
 Measures System

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2. Draft Additional Security Measures
3. Draft NRC Regulatory Issue Summary XXXX-XXX, Transportation of
Radioactive Material Quantities of Concern NRC Threat Advisory and Protective
Measures System

Distribution:

DNMS Regions I, II < III, & IV
OEMail

SLO Regions I, II, III, & IV
OEWeb

NSIR R/F

NMSS R/F

ACCESSION NO.: ML042980004

Order: ML042980005

Attachment 2: ML042980006

PKG: ML042980007

* See previous concurrence

OFC:	MTWS*	MTWS*	PD:DNS*	INFOSEC*	D:DNS*	D:STP*
NAME:	RFoster	PBrochman for MLayton	JShea	ASylvious	GTracy	PLohaus
DATE:	10/25/04	10/25/04	10/26/04	10/26/04	10/28/04	10/27/04
OFC:	D:IMNS*	D:DWM*	D:FCSS*	OGC*	OE*	
NAME:	CMiller	JGreeves	RPierson	JGoldberg	FCongel	
DATE:	10/18/04	10/27/04	11/2/04	10/27/04	11/1/04	
OFC:	D:NSIR*	D:NMSS				
NAME:	RZimmerman	JStrosnider				
DATE:	11/3/04	11/5/04				

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