

reproducible copy to Angela R. McIntosh, U.S. Nuclear Regulatory Commission, Two White Flint North, Mail Stop T8F5, 11545 Rockville Pike, Rockville, MD 20852-2738. Submittals must be postmarked by September 15, 2004, and must pertain to the topics on the agenda for the meeting.

2. Questions from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection on NRC's Web site (<http://www.nrc.gov>) and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852-2738, telephone (800) 397-4209, on or about January 14, 2005. This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, U.S. Code of Federal Regulations, Part 7.

4. Attendees are requested to notify Angela R. McIntosh at (301) 415-5030 of their planned attendance if special services, such as for the hearing impaired, are necessary.

Dated at Rockville, Maryland, this 23rd day of August, 2004.

For the Nuclear Regulatory Commission.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 04-19595 Filed 8-26-04; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[License Nos. (as shown in Attachment 2);  
Docket Nos. (as shown in Attachment 2);  
EA-03-099]

### Decommissioning Power Reactor Licensees Order Modifying License (Effective Immediately)

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of order for implementation of additional security measures associated with access authorization.

**FOR FURTHER INFORMATION CONTACT:** John Hickman, Project Manager, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, MD 20852. Telephone: (301) 415-3017; fax number: (301) 415-5398; e-mail [JBH@nrc.gov](mailto:JBH@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

Pursuant to Code of Federal Regulations Title 10 part 2.106, the Nuclear Regulatory Commission is providing notice in the matter of decommissioning power reactor licensees order modifying license (effective immediately).

## II. Further Information

I. The licensees identified in Attachment 2 to this Order hold licenses issued by the Nuclear Regulatory Commission (NRC or Commission) authorizing possession of nuclear power plants in accordance with the Atomic Energy Act of 1954 and Code of Federal Regulations Title 10 (10 CFR) part 50. Commission regulations at 10 CFR 50.54(p)(1) require these licensee to maintain safeguards contingency plan procedures in accordance with 10 CFR part 73, Appendix C. Specific safeguards requirements are contained in 10 CFR 73.55.

II. On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to assess the adequacy of security measures at licensed facilities. In addition, the Commission conducted a comprehensive review of its safeguards and security programs and requirements.

As a result of its initial consideration of current safeguards and security requirements and the Order issued on May 23, 2002, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures are required to address the current threat environment. Therefore, the Commission is imposing requirements, as set forth in Attachment 1<sup>1</sup> of this Order, on all decommissioning power reactor licensees with spent fuel in the spent fuel pool. These requirements, which supplement existing regulatory requirements, provide the Commission with reasonable assurance that the public health and safety, and common defense and security continue to be

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

adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 1 to this Order in response to previously issued advisories, the May 2002 Order, or on their own. It also recognizes that some measures may not be possible or may need to be tailored to accommodate the specific circumstances existing at the licensee's facility to achieve the intended objectives and avoid any unforeseen effect on safety.

Although the additional security measures implemented by licensees in response to the Safeguards and Threat Advisories and the May 2002 Order have been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that these security measures must be supplemented further because the current threat environment continues to persist. Therefore, it is appropriate to require additional security measures and these measures must be embodied in an Order, consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all licenses identified in Attachment 2 to this Order shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR 2.202, I find that in the circumstances described above, the public health, safety and interest require that this Order be immediately effective.

III. Accordingly, pursuant to Sections 103, 104, 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 and 10 CFR parts 50 and 73, it is hereby ordered, effective immediately, that all licenses identified in Attachment 2 to this order are modified as follows:

A. All licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 1 to this Order except to the extent that a more stringent requirement is set forth in the licensee's security plan. The licensees shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation no later than 180 days from the date of this Order with the exception of additional security

measure B.4, which shall be implemented no later than 365 days from the date of this Order.

B.1. The Licensee 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 described in Attachment 1, (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 the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from or variation of any specific requirement.

2. Any licensee that considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact the safety of the facility 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 specified in the Attachment 1 requirements in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the licensee 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 under Condition B.1.

C.1. All licensees shall, within twenty (20) days of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 1.

2. All licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 1.

D. Notwithstanding the provisions of 10 CFR 50.54(p), all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise. The Licensee's response to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 50.4. In addition, licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21. The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

IV. In accordance with 10 CFR 2.202, the licensee 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 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 the licensee 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 I, II, III or IV as appropriate for the specific facility; and to the licensee 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 requests for a hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding

a hearing at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations or error.

In the absence of any request for hearing or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires, if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 18th day of August 2004.

For the Nuclear Regulatory Commission.

**Margaret V. Federline,**

*Deputy Director, Office of Nuclear Material Safety and Safeguards.*

**Attachment 2—Decommissioning Power Reactor Licensees With Spent Fuel in a Spent Fuel Pool**

**Senior Executive Contacts**

Mr. K. J. Heider, Vice President—Operations and Decommissioning, Haddam Neck Plant, Connecticut Yankee Atomic Power Co., Docket No. 50-213, License No. DPR-61, 362 Injun Hollow Road, East Hampton, CT 06424-3099.

Mr. Gregory Rueger, Senior Vice President Generation and Chief Nuclear Officer, Humboldt Bay Power Plant Unit 3, Pacific Gas and Electric Co., Docket No. 50-133, License No. DPR-7, Pacific Gas and Electric Company, 77 Beale Street, 32nd Floor, San Francisco, California 94105.

Mr. William L. Berg, President & CEO, La Crosse Boiling Water Reactor, Docket No. 50-409, License No. DPR-45, Dairy Land Power Cooperative, 3200 East Avenue South, La Crosse, WI 54601.

Mr. Harold B. Ray, Executive Vice President, San Onofre Nuclear Generating Station, Unit 1, Docket No. 50-206, License No. DPR-13, 8631 Rush Street, Rosemead, CA 91770.

Mr. John L. Skolds, President and Chief Nuclear Officer, Zion Nuclear Power Station, Units 1 and 2, Docket Nos. 50-295 & 50-304, License Nos. DPR-39 & DPR-48, Exelon Nuclear, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

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