

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	Docket No. 72-01
GENERAL ELECTRIC COMPANY -	)	License No. SNM-2500
MORRIS OPERATION	)	EA-02-078

**ORDER MODIFYING LICENSE  
(EFFECTIVE IMMEDIATELY)**

I.

General Electric Company (the Licensee) holds a site-specific license issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing operation of an independent spent fuel storage installation (ISFSI) in accordance with the Atomic Energy Act of 1954 and 10 C.F.R. Part 72. Commission regulations at 10 C.F.R. § 72.184(b) requires the licensee to maintain safeguards contingency plan procedures in accordance with 10 C.F.R. Part 73, Appendix C. Specific safeguards requirements are contained in 10 C.F.R. § 73.51.

II.

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., 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 discuss and evaluate the current threat environment in order to

assess the adequacy of security measures at licensed facilities. In addition, the Commission has commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its initial consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by the Licensee as prudent, interim measures 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 this ISFSI Licensee. These interim requirements, which supplement existing regulatory requirements, will provide 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. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

The Commission recognizes that the Licensee may have already initiated many of the measures set forth in Attachment 1 to this Order in response to previously issued advisories or on their own. It is also recognized 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 the Licensee in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of public health and safety, in light of the continuing current threat

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

environment, the Commission concludes that the security measures must be embodied in an Order, consistent with the established regulatory framework. In order to provide assurance that the Licensee is implementing prudent measures to achieve a consistent level of protection to address the current threat environment, License No. SNM-2500 shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 C.F.R. § 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 53, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. § 2.202 and 10 C.F.R. Parts 72 and 73, IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT THE LICENSE IDENTIFIED IN THIS ORDER IS MODIFIED AS FOLLOWS:

- A. The Licensee 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 Licensee shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation by November 22, 2002.
- 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. If the Licensee considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact safe operation of its facility, it 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 requirement 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 in Condition B.1.
- C.
1. The Licensee shall, within twenty (20) days of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachment 1.
  2. The Licensee shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 1.
- D. Notwithstanding the provisions of 10 C.F.R. § 72.186, all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

The Licensee's response to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 C.F.R. § 72.4. In addition, Licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 C.F.R. § 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 C.F.R. § 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 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 III, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. § 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 C.F.R. § 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 ground 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.

FOR THE NUCLEAR REGULATORY COMMISSION  
**/RA/ original signed by /s/**  
Martin J. Virgilio, Director  
Office of Nuclear Material Safety  
and Safeguards

Dated this 23rd day of May 2002.