

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket Nos. (as shown in Attachment 1)
OPERATING POWER REACTOR)	License Nos. (as shown in Attachment 1)
LICENSEES IDENTIFIED IN ATTACHMENT 1)	EA-06-137

**ORDER MODIFYING LICENSES
(EFFECTIVE IMMEDIATELY)**

I.

The licensees identified in Attachment 1 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) authorizing operation of nuclear power plants in accordance with the Atomic Energy Act of 1954 and Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50.

II.

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., using 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, and eventually Orders to selected licensees, to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On February 25, 2002, the Commission issued an Order to all operating power reactor licensees that required certain compensatory measures be implemented (February 25th Order).

On December 2, 2005, the Commission issued a Demand for Information (DFI) to the power reactor licensees. The DFI required responses regarding whether certain identified key mitigative strategies, related to Section B.5.b. of the February 25th Order, for loss of large areas of the plant due to large fires or explosions were applicable to their facilities. The DFI also required certain related information, including whether the licensees acknowledged that the identified key strategies were required by Section B.5.b. of the February 25th Order. All licensees responded to the DFI with the required information but all responses stated that the strategies were not required by Section B.5.b.

As a result of the Commission's continued assessment of Section B.5.b mitigation strategies for loss of large areas of the plant due to large fires or explosions, the Commission has determined that it is necessary at this time to require implementation of certain key radiological protection mitigation strategies. The key radiological protection mitigation strategies are set forth in Attachment 2¹ of this Order. Each licensee must amend its site security plan, safeguards contingency plan, guard training and qualification plan, and emergency plan as appropriate to address the key radiological protection mitigation strategies identified for its facilities. The Commission's assessment of the other mitigating strategies required by Section B.5.b. of the February 25th Order is continuing.

Any needed changes to the physical security plan, safeguards contingency plan, guard training and qualification plan, and emergency plan required by 10 CFR 50.34(c), 50.34(d), 73.55(b)(4)(ii), and 50.47(b) respectively, shall be completed and implemented within 120 days of the date of this Order.

¹Attachment 2 contains Safeguards Information and will not be publicly disclosed.

Pursuant to 10 CFR 2.202, 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.

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 1 TO THIS ORDER ARE MODIFIED AS FOLLOWS:

- A.
 1. Each licensee shall revise its physical security plan, safeguards contingency plan, guard training and qualification plan, and emergency plan prepared pursuant to 10 CFR 50.34(c), 50.34(d), 73.55(b)(4)(ii), and 50.47(b), as appropriate, to incorporate the key radiological protection mitigation strategies set forth in Attachment 2 to this Order. In addition, each licensee shall ensure that site procedures, and initial and recurring operations staff training programs, are updated to include the key radiological protection mitigation strategies set forth in Attachment 2 to this Order.
 2. Each licensee shall implement any necessary changes to its physical security plan, safeguards contingency plan, guard training and qualification plan, emergency plan, and site procedures and training programs **no later than 120 days from the date of this Order.**

- B. 1. Each licensee shall, within **35 days** of the date of this Order, notify the Commission, (1) if the licensee is unable to comply with any requirements of this Order, (2) if compliance with any requirement of this Order is unnecessary in the licensee's specific circumstances, or (3) if implementation of any requirement of this Order 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 of this Order would adversely impact safe operation of the facility must notify the Commission, within **35 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 facilities 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. Each licensee shall report to the Commission, in writing, when it has fully implemented this Order. The notification shall be made **no later than 120 days from the date of the Order** and include substitute security plan, safeguards contingency plan, guard training and qualification plan, and emergency plan pages that reflect any changes made to implement the Order.

D. All measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise, except that the licensee may change its physical security plans, safeguards contingency plans, and guard training and qualification plans if authorized by 10 CFR 50.54(p) and may change its revised emergency preparedness plan if authorized by 10 CFR 50.54(q).

Licensee responses to Conditions A.1., B.1., B.2., and C. 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 Reactor Regulation, 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 **35 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 an extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, 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 20555-0001. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; the Assistant General Counsel for Materials Litigation and Enforcement at the same address; the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific facility; and the licensee if the answer or hearing request is by a person other than the licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers and requests for 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 and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to 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 or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

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 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 **35 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/

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

Dated this 20th day of June 2006.