

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	Docket Nos. (as shown in Attachment 1)
ALL 10 C.F.R. PART 50 LICENSEES	)	EA-02-104
WHO CURRENTLY STORE OR HAVE	)	
NEAR TERM PLANS TO STORE	)	
SPENT FUEL IN AN ISFSI UNDER	)	
THE GENERAL LICENSE PROVISIONS	)	
OF 10 C.F.R. PART 72	)	
	)	

**ORDER MODIFYING LICENSES  
(EFFECTIVE IMMEDIATELY)**

I.

The licensees identified in Attachment 1 to this Order have been issued a general license by the U.S. Nuclear Regulatory Commission (NRC or the Commission) authorizing storage of spent fuel in an independent spent fuel storage installation (ISFSI) in accordance with the Atomic Energy Act of 1954, 10 C.F.R. Part 50, and 10 C.F.R. Part 72. This Order is being issued to all licensees who currently store spent fuel or have identified near term plans to store spent fuel in an ISFSI under the general license provisions of 10 C.F.R. Part 72. Commission regulations at 10 C.F.R. § 72.212(b)(5) and 10 C.F.R. § 73.55(h)(1) require these licensees 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. § 73.55.

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 been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its 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 licensees as prudent, interim measures, to address the current threat environment in a consistent manner throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachment 2<sup>1</sup> of this Order, on all licensees who currently store spent fuel or have identified near term plans to store spent fuel in an ISFSI under the general license provisions of 10 C.F.R. Part 72. 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

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<sup>1</sup> Attachment 2 contains SAFEGUARDS information and will not be released to the public.

the Commission that a significant change in the threat environment has occurred, or the Commission determines that other changes are needed.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 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 necessary at some sites, 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 the safe storage of spent fuel.

Although the additional security measures implemented by the licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of public health and safety, 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 licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all general licenses issued pursuant to 10 C.F.R. § 72.210 to the licensees identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 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 effective immediately.

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 C.F.R. § 2.202 and 10 C.F.R. Parts 50, 72 and 73, IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT ALL GENERAL LICENSES IDENTIFIED IN ATTACHMENT 1 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 2 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 2 to the Order and shall complete implementation by **April 16, 2003**, or the first day that spent fuel is initially placed in the ISFSI, whichever is later.
- B.
  - 1. All licensees shall, within **twenty (20) days** of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in their 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 licensees' 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 2 to this Order would adversely impact the safe storage of spent fuel 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 2 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. All licensees 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 2.
- 2. All licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.
- 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 the Commission determines that other changes are needed.

Licensee responses 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 in which to submit an answer or request a hearing 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 potential disruptions 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](mailto: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](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 interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. § 2.714(d).<sup>2</sup>

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.

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<sup>2</sup>The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714 (d) and paragraphs (d)(1) and (d)(2) regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714 (d), please see 67 FR 20884; April 29, 2002.

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

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Margaret V. Federline, Deputy Director  
Office of Nuclear Material Safety  
and Safeguards

Dated this 16<sup>th</sup> day of October 2002.



## **Attachment 1**

### **Address List**

Oliver D. Kingsley, Jr.  
President and Chief Nuclear Officer  
Dresden Nuclear Power Station  
Docket No. 72-37  
Exelon Generation Company, LLC  
4300 Winfield Road  
Warrenville, IL 60555

Michael B. Sellman  
President and CEO  
Point Beach Nuclear Plant  
Docket No. 72-5  
Nuclear Management Company, LLC  
700 First Street  
Hudson, WI 54016

Michael B. Sellman  
President and CEO  
Palisades Plant  
Docket No. 72-7  
Nuclear Management Company, LLC  
700 First Street  
Hudson, WI 54016

Robert F. Saunders  
President and Chief Nuclear Officer  
Davis-Besse Nuclear Power Station  
Docket No. 72-14  
FirstEnergy Nuclear Operating Company  
FirstEnergy Corporation  
76 South Main Street  
Akron, OH 44308

Robert G. Byram  
Senior Vice President & Chief Nuclear  
Officer  
Susquehanna Steam Electric Station  
Docket No. 72-28  
PPL Susquehanna, LLC  
2 North Ninth Street  
Allentown, PA 18101

Oliver D. Kingsley, Jr.  
President and Chief Nuclear Officer  
Peach Bottom Atomic Power Station  
Docket No. 72-29  
Exelon Generation Company  
4300 Winfield Road  
Warrenville, IL 60555

Michael S. Tuckman  
Executive Vice President Nuclear  
Generation  
Oconee Nuclear Station  
Docket No. 72-40  
Duke Energy Corporation  
526 South Church St  
Mail Code EC 07 H  
Charlotte NC 28242

Michael S. Tuckman  
Executive Vice President Nuclear  
Generation  
William B. McGuire Nuclear Station  
Docket No. 72-38  
Duke Energy Corporation  
526 South Church St  
Mail Code EC 07 H  
Charlotte NC 28242

W. G. Hairston, III  
President and Chief Executive Officer  
Edwin I. Hatch Nuclear Plant  
Docket No. 72-36  
Southern Nuclear Operating Company, Inc.  
40 Inverness Center Parkway  
Birmingham, AL 35242

Gary J. Taylor  
Senior Vice President and Chief Operating  
Officer  
Arkansas Nuclear One  
Docket No. 72-13  
Entergy Operations Inc.  
1340 Echelon Parkway  
Jackson, MS 39213

Harold B. Ray  
Executive Vice President  
San Onofre Nuclear Generating Station  
Docket No. 72-41  
Southern California Edison  
8631 Rush Street  
Rosemead, CA 91770

James M. Levine  
Executive Vice President and Chief  
Operating Officer  
Palo Verde Nuclear Generating Station  
Docket No. 72-44  
Arizona Public Service Company  
400 North 5th Street, MS 9046  
Phoenix, AZ 85004

J. V. Parrish  
Chief Executive Officer  
Columbia Generating Station  
Docket No. 72-35  
Energy Northwest  
MD 1023  
Snake River Warehouse  
North Power Plant Loop  
Richland, WA 99352

Michael B. Sellman  
President and Chief Executive Officer  
Duane Arnold Energy Center  
Docket No. 72-32  
Nuclear Management Company, LLC,  
700 First Street  
Hudson WI 54016

Robert A. Fenech  
Senior Vice President, Nuclear, Fossil, and  
Hydro Operations  
Big Rock Point Nuclear Plant  
Docket No. 72-43  
Consumers Energy Company  
212 West Michigan Avenue  
Jackson, MI 49201

Michael Kansler  
Senior Vice President and Chief Operating  
Officer  
James A. Fitzpatrick Nuclear Power Plant  
Docket No. 72-12  
Entergy Nuclear Operations, Inc.  
440 Hamilton Avenue  
White Plains, NY 10601

Russell A. Mellor  
President  
Yankee Nuclear Power Station  
Docket No. 72-31  
Yankee Atomic Electric Company  
19 Midstate Drive, Suite 200  
Auburn, MA 01501

Michael J. Meisner  
Chief Nuclear Officer  
Maine Yankee Atomic Power Station  
Docket No. 72-30  
Maine Yankee Atomic Power Company  
321 Old Ferry Road  
Wiscasset, Maine 04578-4922

K. J. Heider  
Vice President - Operations and  
Decommissioning  
Haddam Neck Plant  
Connecticut Yankee Atomic Power Co.  
Docket No. 72-39  
362 Injun Hollow Road  
East Hampton, CT 06424-3099

Oliver D. Kingsley, Jr.  
President and Chief Nuclear Officer  
Oyster Creek Nuclear Generating Station  
Docket No. 72-15  
Exelon Generation Company, LLC  
4300 Winfield Road  
Warrenville, IL 60555

John A. Scalice  
Chief Nuclear Officer and Executive Vice  
President  
Sequoyah Nuclear Plant  
Docket No. 72-34  
Tennessee Valley Authority  
6A Lookout Place  
1101 Market Street  
Chattanooga, TN 37402-2801

W. G. Hairston, III  
President and Chief Executive Officer  
Joseph M. Farley Nuclear Plant  
Docket No. 72-42  
Southern Nuclear Operating Company, Inc.  
40 Inverness Center Parkway  
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