

**From:** Debra Damiano  
**To:** Barr, Cynthia  
**Date:** Thu, Aug 19, 2004 3:25 PM  
**Subject:** INFO - FRN revised per instructions from NRC\ADMIDAS\IRDB

Cynthia,

Attached is revised FRN per instructions from Dora Mendiola & Betty Golden (in keeping with the Federal Register guidance).

The footnote "Attachement 1 contains SAFEGUARDS information and will not be released to the public." was put back into the FRN (at the first occurrence of "Attachment 1" on page 3).

The "Attachments: 1) ... 2)..." on the signature page of the FRN were whited-out.

The header on the ISFSI Addressee List Attachment was modified to add "Attachment to Order."

The page numbering was changed to consecutive numbering (i.e., the first page of the addressee list is page no. "9", followed by "10", etc.

Debra Damiano (dmd1@nrc.gov)  
301-415-8500

B/3

[7590-01-P]

**NUCLEAR REGULATORY COMMISSION****Docket Nos. (as shown in Attachment 2)****EA-03-097****In the Matter of ALL INDEPENDENT SPENT FUEL  
STORAGE INSTALLATION 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:** Cynthia Barr, Project Manager, Licensing and Inspection Directorate, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, MD 20852. Telephone: (301) 415 -4015; fax number: (301) 415-8555; e-mail CSB2@nrc.gov.**SUPPLEMENTARY INFORMATION:****I. Introduction**

Pursuant to 10 CFR 2.106, the Nuclear Regulatory Commission (NRC) is providing notice in the Matter of all independent spent fuel storage installation licensees order modifying license (effective immediately).

**II. Further Information**

The licensees identified in Attachment 2 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) authorizing the operation of Independent Spent Fuel Storage Installation (ISFSI) facilities in accordance with the Atomic Energy Act of 1954 and Title 10 of the Code of Federal Regulations (10 CFR) Part 50 and/or

10 C.F.R. Part 72. Commission regulations at 10 C.F.R. 72.184 and 10 C.F.R. 72.212 require these licensee to have a safeguards contingency plan to respond to threats of radiological sabotage, and to protect the spent fuel against the threat of radiological sabotage.

Inasmuch as an insider has an opportunity equal to or greater than any other person to commit radiological sabotage, the Commission has determined these measures to be prudent. 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.

## 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. On October 16, 2002, the Commission issued Orders to the licensees of operating independent spent fuel storage installations to put the actions taken in response to the Advisories in the established regulatory framework and to implement additional security enhancements which emerged from the NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, 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 requirements, 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 in a consistent manner throughout the nuclear ISFSI community. Therefore, the

Commission is imposing requirements, as set forth in Attachment 1<sup>1</sup> of this Order, on all licensees of these facilities. These 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 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 October 2002 Order, or on their own. It also recognizes that some measures may not be possible or necessary at some sites, 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 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 these actions must be supplemented further because the current threat environment continues to persist. Therefore, it is appropriate to require certain 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, licenses issued pursuant to 10 C.F.R. 72.40 and 10 C.F.R. 72.210 to the licensees 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 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.

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

## III

Accordingly, pursuant to Sections 53, 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 LICENSES IDENTIFIED IN ATTACHMENT 2 TO THIS ORDER IS 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 the additional security measures B.4, which shall be implemented **no later than 365 days from the date of this Order**, or the first day that spent fuel is initially placed in the ISFSI, whichever is later.
- 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 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 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 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 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 C.F.R. 72.186 and 10 C.F.R. 72.212(b)(5), all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise. 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 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 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 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.



FOR THE NUCLEAR REGULATORY COMMISSION

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

Dated this 18 day of August 2004.

James E. Ellis  
Manager, Morris Operation  
General Electric Company  
GE Morris Operation Plant  
Docket No. 72-1  
7555 East Collins Road  
Morris, IL 60450-9740

David A. Christian  
Senior Vice President and Chief Nuclear Officer  
Virginia Electric and Power Company  
Surry Power Station, Units 1 and 2  
Docket No. 72-2  
Innsbrook Technical Center  
5000 Dominion Boulevard  
Glen Allen, VA 23060-6711

J. W. Moyer  
Senior Vice President and Chief Nuclear Officer  
Progress Energy  
H. B. Robinson Steam Electric Plant, Unit 2  
Docket No. 72-3  
3581 West Entrance Road  
Hartsville, NC 29550

Henry B. Barron  
Group Vice President Nuclear Generation and Chief Nuclear Officer  
Duke Power Company  
Oconee Nuclear Station, Units 1, 2 and 3  
Docket No. 72-4  
526 South Church Street, EC07H  
P.O Box 1006(28201-1006)  
Charlotte, NC 28202

John Paul Cowan  
Executive Vice President and Chief Nuclear Officer  
Nuclear Management Company, LLC  
Point Beach Nuclear Plant, Units 1 and 2  
Docket No. 72-5  
700 First Street  
Hudson, WI 54016  
John Paul Cowan  
Executive Vice President and Chief Nuclear Officer  
Nuclear Management Company, LLC  
Palisades Nuclear Plant  
Docket No. 72-7  
700 First Street  
Hudson, WI 54016

George Vanderheyden  
Vice President  
Calvert Cliffs Nuclear Power Plant, Inc.  
Calvert Cliffs Nuclear Power Plant, Units 1 and 2  
Docket No. 72-8  
1650 Calvert Cliffs Parkway  
Lusby, MD 20357-4702

Elizabeth D. Sellers  
Manager, INEEL  
c/o Deeann Long-Security  
US DOE, Idaho Operations Office, South  
Fort Saint Vrain Power Station  
Docket No. 72-9  
785 DOE Place  
Mailstop 1170  
Idaho Falls, ID 83401-1203

John Paul Cowan  
Executive Vice President and Chief Nuclear Officer  
Nuclear Management Company, LLC  
Prairie Island Nuclear Generating Plant  
Docket No. 72-10  
700 First Street  
Hudson, WI 54016

Steve Redecker  
Plant Manager, Rancho Seco Nuclear Generating Station  
Sacramento Municipal Utility District  
Rancho Seco Nuclear Generating Station  
Docket No. 72-11  
14440 Twin Cities Road  
Herald, CA 95638-9799

Michael Kansler  
President  
Entergy Nuclear Operations, Inc.  
James A. FitzPatrick Nuclear Power Plant  
Docket No. 72-12  
440 Hamilton Avenue  
White Plains, NY 10601  
Jeffrey S. Forbes  
Site Vice President  
Entergy Nuclear Operations, Inc.  
Arkansas Nuclear One, Units 1 and 2  
Docket No. 72-13  
1448 S. R. 333  
Russellville, AR 72802

Gary Leidich  
Vice President  
First Energy  
Davis-Besse Nuclear Power Station  
Docket No. 72-14  
76 S. Main Street  
Akron, OH 44308

Christopher M. Crane  
President and Chief Nuclear Officer  
Exelon Generation Company, LLC  
Oyster Creek Nuclear Generating Station  
Docket No. 72-15  
4300 Winfield Road  
Warrenville, IL 60555

David A. Christian  
Senior Vice President and Chief Nuclear Officer  
Virginia Electric and Power Company  
North Anna Power Station  
Docket No. 72-16  
Innsbrook Technical Center  
5000 Dominion Boulevard  
Glen Allen, VA 23060-6711

Stephen M. Quennoz  
Vice President Power Supply Generation  
Portland General Electric Company  
Trojan Nuclear Power Plant  
Docket No. 72-17  
121 South West Salmon Street  
Portland, OR 97204

Elizabeth D. Sellers  
Manager, INEEL  
c/o Deeann Long-Security  
US DOE, Idaho Operations Office, South  
Three Mile Island Power Station, Unit 2  
Docket No. 72-20  
785 DOE Place  
Mailstop 1170  
Idaho Falls, ID 83401-1203

Bryce L. Shriver  
Senior Vice President and CNO  
Susquehanna Steam Electric Company  
Susquehanna Steam Electric Station, Units 1 and 2  
Docket No. 72-28  
2 North Ninth Street  
Allentown, PA 18101

Christopher M. Crane  
President and CNO  
Exelon Generation Company, LLC  
Peach Bottom Atomic Power Station, Units 2 and 3  
Docket No. 72-29  
4300 Winfield Road  
Warrenville, IL 60555

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

Richard Kackick  
Chief Nuclear Officer  
Yankee Atomic Electric Company  
Yankee Rowe Nuclear Power Station  
Docket No. 72-31  
19 Midstate Drive, Suite 200  
Auburn, MA 01501

John Paul Cowan  
Executive Vice President and Chief Nuclear Officer  
Nuclear Management Company, LLC  
Duane Arnold Energy Center  
Docket No. 72-32  
700 First Street  
Hudson, WI 54016  
Karl Singer

Chief Nuclear Officer  
Tennessee Valley Authority  
Sequoyah Nuclear Plant, Units 1 and 2  
Docket No. 72-34  
1101 Market Street 6A Lookout Place  
Chattanooga, TN 37402-2801

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

Louis Sumner  
Site Vice President  
Southern Nuclear Operating Company  
Edwin I. Hatch Nuclear Plant, Units 1 and 2  
Docket No. 72-36  
40 Inverness Center Parkway  
Birmingham, AL 35242

Christopher M. Crane  
President and Chief Nuclear Officer  
Exelon Generation Company, LLC  
Dresden Nuclear Power Station, Units 2 and 3  
Docket No. 72-37  
4300 Winfield Road  
Warrenville, IL 60555

Henry B. Barron  
Group Vice President Nuclear Generation and Chief Nuclear Officer  
Duke Power Company  
William B. McGuire Nuclear Station, Units 1 and 2  
Docket No. 72-38  
526 South Church Street, EC07H  
P.O Box 1006(28201-1006)  
Charlotte, NC 28202

Wayne A. Norton  
President  
Connecticut Yankee Atomic Power Company  
Haddam Neck Nuclear Plant  
Docket No. 72-39  
362 Injun Hollow Road  
East Hampton, CT 06424-3099

Henry B. Barron  
Group Vice President Nuclear Generation and Chief Nuclear Officer

Duke Power Company  
Oconee Nuclear Station  
Docket No. 72-40  
526 South Church Street, EC07H  
P.O Box 1006(28201-1006)  
Charlotte, NC 28202

Harold B. Ray  
Executive Vice President  
Southern California Edison  
San Onofre Nuclear Station, Units 2 and 3  
Docket No. 72-41  
8631 Rush Street  
Rosemead, CA 91770

Mike Stinson  
Site Vice President  
Southern Nuclear Operating Company  
Joseph M. Farley Nuclear Plant, Units 1 and 2  
Docket No. 72-42  
40 Inverness Center Parkway  
Birmingham, AL 35242

Robert A. Fenech  
Senior Vice President, Nuclear, Fossil, and Hydro Operations  
Consumer Energy Company  
Big Rock Point Restoration Site  
Docket No. 72-43  
1945 W. Parnell Road  
Jackson, MI 49201

Gregg R. Overbeck  
Senior Vice President  
Arizona Public Service Company  
Palo Verde Nuclear Generating Station  
Units 1, 2 and 3  
Docket No. 72-44  
5801 South Wintersburg Road Mail Station 7602  
Tonopah, AZ 85354-7529

David A. Christian  
Senior Vice President, Chief Nuclear Officer  
Virginia Electric and Power Company  
Millstone Power Station, Units 2 and 3  
Docket No. 72-47  
Innsbrook Technical Center  
5000 Dominion Boulevard  
Glen Allen, VA 23060-6711

Paul Hinnenkamp  
Vice President Operations  
Entergy Operations, Inc.  
River Bend Station, Unit 1  
Docket No. 72-49  
5485 U.S. Highway 61  
St. Francisville, LA 70775

Michael Kansler  
President  
Entergy Nuclear Operations  
Indian Point Nuclear Generating Station, Units 2 and 3  
Docket No. 72-51  
440 Hamilton Avenue  
White Plains, NY 10601

Karl Singer  
Chief Nuclear Officer  
Tennessee Valley Authority  
Browns Ferry Nuclear Plant, Units 1, 2 and 3  
Docket No. 72-52  
1101 Market Street 6A Lookout Place  
Chattanooga, TN 37402-2801