

April 29, 2003

~~Safeguards Information~~
Pursuant to Section 147 of the Atomic Energy Act

EA-03-039

Holders of Licenses for Operating
Power Reactors as listed in
Attachment 1 to the Order

SUBJECT: ISSUANCE OF ORDER FOR COMPENSATORY MEASURES RELATED TO
TRAINING ENHANCEMENTS ON TACTICAL AND FIREARMS PROFICIENCY
AND PHYSICAL FITNESS APPLICABLE TO ARMED NUCLEAR POWER
PLANT SECURITY FORCE PERSONNEL

The U.S. Nuclear Regulatory Commission (NRC or Commission) has issued the enclosed Order (Enclosure) that modifies the current license for your facility to require compliance with the specified security personnel training compensatory measures (CMs). The Order applies to all Addressees listed in Attachment 1 to the Order. The information in Attachment 2 has been designated Safeguards Information, and in accordance with Section 147 of the Atomic Energy Act of 1954, as amended, the Commission requires that it be protected and that access to Safeguards Information be limited in accordance with Title 10 of the *Code of Federal Regulations* Section 73.21.

NOTICE: Attachment 2 to the Order (Compensatory Measures) contains ~~Safeguards Information~~ pursuant to Section 147 of the Atomic Energy Act. Upon separation from Attachment 2 to the Order, this letter, the enclosed Order, and Attachment 1 to the Order (Addressee List) are DECONTROLLED.

~~Safeguards Information~~
Pursuant to Section 147 of the Atomic Energy Act

The Commission recognizes that you voluntarily and responsibly implemented additional security measures following the events of September 11, 2001. However, tactical and firearms proficiency and physical fitness requirements need to be enhanced. Therefore, the Commission has determined that the security CMs attached to the Order must be implemented by licensees as prudent actions to enhance tactical and firearms proficiency and physical fitness of the armed security force. The Commission has determined that the enclosed Order shall be effective immediately.

This Order does not obviate the need for licensees to continue to meet the objectives of the current security protective measures level, described in NRC Regulatory Issue Summary 2002-12A, "Power Reactors NRC Threat Advisory and Protective Measures System," and to maintain the effectiveness of existing security measures taken in response to the events of September 11, 2001, and in compliance with the Order issued on February 25, 2002. The requirements will remain in effect until the Commission determines otherwise.

The enclosed Order requires responses and actions within specified time frames. Please contact your Licensing Project Manager to facilitate resolution of any issues related to compliance with the requirements in the enclosed Order, or if you have any other questions.

The enclosed Order has been forwarded to the Office of the Federal Register for publication without the associated safeguards information (Attachment 2).

Sincerely,

/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Docket Nos. As shown in Attachment 1 to Order

Enclosure: Order:

- Attachment 1: List of Addressees
- Attachment 2: Compensatory Measures

cc **excluding Attachment 2:** List of Addressees (Attachment 1) and
Service Lists - See ADAMS Accession No. ML030850429

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

7590-01-P

In the Matter of)
) Docket Nos. (as shown in Attachment 1)
ALL OPERATING POWER REACTOR) License Nos. (as shown in Attachment 1)
LICENSEES) EA-03-039

**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 Commission) authorizing operation of nuclear power plants in accordance with the Atomic Energy Act of 1954 (the Act) and Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50. Commission regulations at 10 CFR 50.54(p)(1) require these licensees to maintain safeguards contingency plan procedures in accordance with 10 CFR Part 73, Appendix C. Specific safeguards requirements for reactors are contained in 10 CFR 73.55.

II.

On September 11, 2001, terrorists simultaneously attacked targets in New York City, 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 February 25, 2002, the Commission issued Orders to the licensees of operating power

Enclosure

reactors 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 security review.

The Commission has determined that tactical proficiency and physical fitness requirements governing the licensee's armed security force personnel must be enhanced. Therefore, the Commission has determined that certain compensatory measures (CMs) are required to be implemented by licensees as prudent measures to improve tactical and firearms proficiency and physical fitness of the security forces at nuclear power reactor facilities. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 of this Order,¹ on all licensees of these facilities. Pursuant to Section 147 of the Act, the Commission is broadening the scope of information protected under 10 CFR Section 73.21(b)(1), and has designated the information in Attachment 2 as Safeguards Information (SGI). The Commission requires that the Safeguards Information be protected and that access to Safeguards Information be limited in accordance with 10 CFR Section 73.21. Pursuant to Section 147a of the Act, any person, "whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of Section 234 of this Act." Furthermore, willful violations of any regulation or order governing Safeguards Information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. (See Sections 147b and 223 of the Act.) The requirements in Attachment 2, 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. These requirements will remain in effect until the Commission determines otherwise.

¹Attachment 2 contains Safeguards Information. Therefore, Attachment 2 will not be released to the public.

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. Additionally, some measures may need to be tailored to the specific circumstances at the licensee's facility to achieve the intended objectives and avoid any unforeseen effect on safe operation.

In order to provide assurance that licensees are implementing the CMs to achieve a consistent level of protection, all licenses 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 CFR 2.202, the Commission finds 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 Act, 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. 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 and the security training and qualification plan.
 - 2. The Licensees shall immediately start implementation of the requirements in Attachment 2 to the Order and shall complete implementation, fully training and qualifying all armed security force personnel on the new requirements no later than October 29, 2004.

- B. 1. All Licensees shall, within thirty-five (35) 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 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 2 to this Order would adversely impact safe operation of the facility must notify the Commission, within thirty-five (35) days of the date of this Order, of the adverse safety impact and provide the basis for the Licensee's determination that the requirement has an adverse safety impact and provide 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 B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.
- C. 1. All Licensees shall, within thirty-five (35) 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 CFR 50.54(p), all measures implemented, or actions taken, in response to this Order shall be maintained until the Commission determines otherwise.

Licensee responses 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 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 within thirty-five (35) days of the date of this Order, and they may also request a hearing on this Order, within thirty-five (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 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, 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 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 shall also be sent to the Director, Office

of Nuclear Reactor Regulation, 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 U.S. 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 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), in addition to requesting a hearing, the Licensee may, 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 thirty-five (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/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Dated this 29th day of April 2003.

Attachment 1: List of Addressees
Attachment 2: Compensatory Measures