



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 16, 2021

Mr. David P. Rhoades
Senior Vice President
Exelon Generation Company, LLC
President and Chief Nuclear Officer
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: THREE MILE ISLAND NUCLEAR STATION, UNIT 1 – WITHDRAWAL OF INTERIM COMPENSATORY MEASURE B.1.a IN EA-02-026, “ORDER FOR INTERIM SAFEGUARDS AND SECURITY COMPENSATORY MEASURES”

Dear Mr. Rhoades:

By letter dated February 25, 2002 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML020510333), the U.S. Nuclear Regulatory Commission (NRC) issued Order EA-02-026, “Order for Interim Safeguards and Security Compensatory Measures,” to all operating nuclear power reactor licensees. Following the terrorist attacks on September 11, 2001, the NRC supplemented the security measures required for protection against the design-basis threat at nuclear power reactor facilities through a series of security orders. These orders, including Order EA-02-026, established new requirements for specific training; access authorization enhancements; and enhancements to defensive strategies, mitigative measures, and integrated response.

The NRC amended Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 50, 52, 72, and 73, including Appendices B and C to Part 73, through a final rule (“Power Reactor Security Requirements”) published in the *Federal Register* on March 27, 2009 (74 FR 13925). The rulemaking codified generically applicable security requirements previously issued by orders and updated the existing power reactor security requirements. The rule became effective on May 26, 2009.

By letter dated November 28, 2011 (ADAMS Accession No. ML111220447), the NRC partially rescinded Order EA-02-026. The requirements of the Order EA-02-026 addressed by Interim Compensatory Measure (ICM) B.1.a involved operator training for specific security-initiated events that were not covered by proposed or existing regulations and remained in effect.

By letter dated June 20, 2017 (ADAMS Accession No. ML17171A151), pursuant to 10 CFR 50.82(a)(1)(i), Exelon Generation Company, LLC (Exelon) provided formal notification to the NRC that it planned to cease power operations at Three Mile Island Nuclear Station, Unit 1 (TMI-1) on or about September 30, 2019. By letter dated September 26, 2019 (ADAMS Accession No. ML19269E480), Exelon provided notification to the NRC that the TMI-1 reactor permanently ceased power operations on September 20, 2019, and certified that fuel was permanently removed from the reactor vessel and placed in the spent fuel pool as of that date. Upon docketing of these certifications for permanent cessation of operations and permanent

removal of fuel from the TMI-1 reactor vessel, as specified in 10 CFR 50.82(a)(2), the 10 CFR Part 50 license for TMI-1 no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel. The TMI-1 facility license has been amended to a possession-only license (ADAMS Accession No. ML19211D317).

Section III of Order EA-02-026 provides the NRC's Director of the Office of Nuclear Reactor Regulation the authority to relax or rescind any or all of the conditions of the Order upon demonstration by the licensee of good cause.

By letter dated October 9, 2020 (ADAMS Accession No. ML20286A214), Exelon requested rescission of ICM B.1.a in Order EA-02-026 for TMI-1 based on TMI-1's transition from an operating reactor to non-operating reactor.

In the October 9, 2020, letter, Exelon cited the following reason to demonstrate good cause for the rescission of ICM B.1.a of the Order EA-02-026:

- The specific security-initiated event addressed in ICM B.1.a of the Order EA-02-026 does not have any immediate effect on the storage or cooling of spent fuel; therefore, there is no longer a need to address the specific security-initiated event in ICM B.1.a of the Order EA-02-026.

The NRC staff notes that since TMI-1 is permanently shut down and defueled, the primary security focus is the protection of the spent fuel. The specific security-initiated event addressed in ICM B.1.a of the Order EA-02-026 does not have any immediate effect on the storage or cooling of spent fuel.

In addition, the NRC staff recognizes that TMI-1 will maintain mitigation strategies for the protection of spent fuel pursuant to condition 2.C.(17) of its license. License condition 2.C.(17) requires TMI-1 to develop and maintain strategies and staff training to address large fires and explosions, including for protection of the spent fuel. The NRC staff has determined that withdrawing ICM B.1.a in Order EA-02-026 will not reduce the capability of the licensee to mitigate any consequences from the specific security-initiated event described in Order EA-02-026, even in the unlikely case that the event could have some effect on the systems used for storage and cooling of spent fuel. The operations staff will continue to receive training on mitigation strategies related to the protection of spent fuel.

For the reasons discussed above, the NRC staff concludes that the licensee has demonstrated good cause to withdraw ICM B.1.a in Order EA-02-026. Therefore, the NRC withdraws ICM B.1.a in Order EA-02-026.

Sincerely,

Mike King

Digitally signed by Mike
King
Date: 2021.02.16
12:35:31 -05'00'

Andrea D. Veil, Acting Director
Office of Nuclear Reactor Regulation

Docket No. 50-289

cc: Listserv

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ADAMS Accession No. ML21008A330**NRR-106**

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