



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

May 20, 2021

Vice President, Operations  
Entergy Nuclear Operations, Inc.  
Indian Point Energy Center  
450 Broadway, GSB  
P.O. Box 249  
Buchanan, NY 10511-0249

SUBJECT: INDIAN POINT NUCLEAR GENERATING UNIT NOS. 2 AND 3 – WITHDRAWAL OF ORDER EA-12-051, “ORDER MODIFYING LICENSES WITH REGARD TO RELIABLE SPENT FUEL POOL INSTRUMENTATION” (EPID NO. L-2019-JLD-0002)

Dear Sir or Madam:

This letter documents the withdrawal of Order EA-12-051, “Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation” (the order) at Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point), as described below.

By letter dated March 12, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12054A679), the U.S. Nuclear Regulatory Commission (NRC, the Commission) issued the order to Entergy Nuclear Operations, Inc. (Entergy, the licensee). The order requires certain actions at Indian Point associated with the Fukushima Near-Term Task Force recommendations. Specifically, the order requires that reliable spent fuel pool (SFP) instrumentation be installed and maintained in the event of a beyond-design-basis external event.

Section IV of the order required that Entergy submit to the Commission for review an overall integrated plan by February 28, 2013, describing how Indian Point will achieve compliance with the requirements of the order. The licensee responded to the order by letter dated February 27, 2013 (ADAMS Accession No. ML13072A082). By letter dated August 12, 2016 (ADAMS Accession No. ML16235A292), the licensee notified the NRC that full compliance with the order had been achieved at Indian Point Unit 2. By letter dated May 20, 2015 (ADAMS Accession No. ML15149A140), the licensee notified the NRC that full compliance with the order had been achieved at Indian Point Unit 3. The NRC staff issued a safety evaluation describing its review of the Indian Point order compliance plan on March 27, 2017 (ADAMS Accession No. ML17065A171), and documented a compliance inspection at the Indian Point site by letter dated January 31, 2018 (ADAMS Accession No. ML18031A358).

Section IV of the order also stipulates that the NRC’s Director of the Office of Nuclear Reactor Regulation may, in writing, relax or rescind any of the conditions of the order upon demonstration by the licensee of good cause.

By letter dated February 8, 2017 (ADAMS Accession No. ML17044A004), Entergy submitted a written certification that it decided to permanently cease power operations at Indian Point in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.82(a)(1)(i).

In this letter, Entergy provided notification to the NRC of its intent to permanently cease power operations at Indian Point Unit 2 no later than April 30, 2020, and Indian Point Unit 3 no later than April 30, 2021.

By letter dated May 12, 2020 (ADAMS Accession No. ML20133J902), Entergy certified to the NRC that it had permanently ceased power operations at Indian Point Unit 2 on April 30, 2020. In this letter, the licensee also provided notification to the NRC under 10 CFR 50.82(a)(1)(ii) that, as of May 12, 2020, all fuel has been permanently removed from the Indian Point Unit 2 reactor vessel and placed in the SFP. Further, Entergy confirmed its understanding that, under 10 CFR 50.82(a)(2), the 10 CFR Part 50 license for Indian Point Unit 2 no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel.

By letter dated May 11, 2021 (ADAMS Accession No. ML21131A157), Entergy certified to the NRC that it had permanently ceased power operations at Indian Point Unit 3 on April 30, 2021. In this letter, the licensee also provided notification to the NRC under 10 CFR 50.82(a)(1)(ii) that, as of May 11, 2021, all fuel has been permanently removed from the Indian Point Unit 3 reactor vessel and placed in the SFP. Further, Entergy confirmed its understanding that, under 10 CFR 50.82(a)(2), the 10 CFR Part 50 license for Indian Point Unit 3 no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel.

By letter dated June 6, 2019 (ADAMS Accession No. ML19157A248), Entergy requested rescission (technically, withdrawal) of the order, to be effective upon the docketing of the 10 CFR 50.82(a)(1)(i) and (ii) certifications for permanent cessation of power operations and permanent removal of fuel from the reactor vessel.

The licensee's June 6, 2019, rescission request letter asserts that good cause exists to rescind the requirements of the order. The licensee's letter observes that Section III of the order states that the Commission determined that all power reactor licensees and construction permit holders must have a reliable means of remotely monitoring wide-range SFP levels to support effective prioritization of event mitigation and recovery actions in the event of a beyond-design-basis external event. According to the licensee, this statement forms the basis of the order and reflects the need to effectively deploy limited resources to mitigate very low frequency events with the potential to challenge both the reactor and the SFP. The licensee further states that after Indian Point is permanently shut down and defueled, plant staff would not have to prioritize event mitigation and recovery actions; the focus of the plant staff would be the SFP condition.

Because the licensee for Indian Point has docketed the 10 CFR 50.82(a)(1)(i) and (ii) certifications for permanent cessation of power operations and permanent removal of fuel from the reactor vessel, and has acknowledged, consistent with 10 CFR 50.82(a)(2), that the Indian Point 10 CFR Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel, the NRC staff finds that the safety of the fuel in the SFP becomes the primary safety function for site personnel. In the event of a challenge to the safety of fuel stored in the SFP, the focus of the facility staff would be the SFP condition, without the possibility of a concurrent challenge to the reactor and primary containment safety functions.

Thus, in the event of a beyond-design-basis external event, effective prioritization of event mitigation and recovery actions would be simplified, and the application of the order requirements would no longer be necessary to serve the order's underlying purpose.

Based on the above, the NRC staff concludes that the licensee has demonstrated good cause for the withdrawal of Order EA-12-051. Accordingly, the NRC is withdrawing its March 12, 2012, Order EA-12-051 with respect to Indian Point Generating Unit Nos. 2 and 3.

Sincerely,

Andrea D. Veil, Director  
Office of Nuclear Reactor Regulation

Docket Nos. 50-247 and 50-286

cc: Listserv

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**ADAMS Accession No.: ML21089A198**

**NRR-106**

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NAME	RBernardo	SLent	UShoop
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OFFICE	OE/D (acting)	NRR/DORL/D	OGC – NLO
NAME	AVegel (FPeduzzi for)	CErlanger	RCarpenter
DATE	4/20/2021	4/28/2021	5/12/2021
OFFICE	NRR/D		
NAME	AVeil		
DATE	5/20/2021		

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