



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

May 28, 2021

Mr. Richard J. Burroni  
Site Vice President  
Entergy Nuclear Operations, Inc.  
Indian Point Energy Center  
450 Broadway, General Services Building  
P.O. Box 249  
Buchanan, NY 10511-0249

SUBJECT: INDIAN POINT NUCLEAR GENERATING UNIT NO. 3 - WITHDRAWAL OF INTERIM COMPENSATORY MEASURE B.1.a FROM EA-02-026, "ORDER FOR INTERIM SAFEGUARDS AND SECURITY COMPENSATORY MEASURES" (EPID L-2019-LLL-0029)

Dear Mr. Burroni:

By letter dated February 25, 2002 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML020500410), 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) Part 50, "Domestic Licensing of Production and Utilization Facilities"; 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants"; 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste"; 10 CFR Part 73, "Physical Protection of Plants and Materials"; and Appendix B, "General Criteria for Security Personnel," to 10 CFR Part 73, and Appendix C, "Licensee Safeguards Contingency Plans," to 10 CFR Part 73 through a final rule titled "Power Reactor Security Requirements," which the agency published in Volume 74 of the *Federal Register*, page 13925, on March 27, 2009 (74 FR 13925). The rulemaking codified generically applicable security requirements that the agency 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By letter dated November 28, 2011 (ADAMS Accession No. ML111220447), the NRC partially rescinded Order EA-02-026.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 Interim Compensatory Measure (ICM) B.1.a in Order EA-02-026 involve operator training for specific security-initiated events. These requirements are not covered by proposed or existing regulations and remained in effect.

By letter dated February 8, 2017 (ADAMS Accession No. ML17044A004), Entergy Nuclear Operations, Inc. (Entergy or the licensee), submitted a notification of permanent cessation of power operations for Indian Point Nuclear Generating Unit Nos. 2 and 3 (Indian Point 2 and 3). In this letter, Entergy notified the NRC of its intent to permanently cease operations no later than April 30, 2020, and April 30, 2021, for Indian Point 2 and 3, respectively.

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

By letter dated July 30, 2019 (ADAMS Accession No. ML19232A070), Entergy requested that the NRC rescind ICM B.1.a in Order EA-02-026 for Indian Point 2 and 3 based on the transition of these units from operating reactors to non-operating reactors. Entergy cited the following reasons to demonstrate good cause for rescinding ICM B.1.a in Order EA-02-026:

- Indian Point 2 and 3 will permanently cease power operations no later than April 30, 2020, and April 30, 2021, respectively. Per 10 CFR 50.82(a)(2), once the certifications for permanent cessation of operations and permanent removal of fuel from each reactor vessel are submitted to the NRC in accordance with 10 CFR 50.82(a)(1)(i) and (ii), the 10 CFR Part 50 license will no longer authorize operation of the reactor or retention of fuel in the reactor vessel. As a result, there is no longer a need to address the specific security-initiated event in ICM B.1.a in Order EA-02-026, which is primarily associated with reactor operation.

In its letter dated May 12, 2020 (ADAMS Accession No. ML20133J902), Entergy certified that power operations ceased at Indian Point 2 on April 30, 2020, and that the fuel was permanently removed from the Indian Point 2 reactor vessel and placed in the Indian Point 2 spent fuel pool on May 12, 2020. By letter dated July 30, 2020 (ADAMS Accession No. ML20170B022), the NRC approved the licensee's rescission request and withdrew ICM B.1.a of Order EA-02-026 for Indian Point 2.

By letter dated May 11, 2021 (ADAMS Accession No. ML21131A157), Entergy certified that power operations ceased at Indian Point 3 on April 30, 2021, and that the fuel was permanently removed from the Indian Point 3 reactor vessel and placed in the Indian Point 3 spent fuel pool on May 11, 2021. Entergy further acknowledged that the Indian Point 3 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 notes that since Indian Point 3 is permanently shut down and defueled, the primary security focus is the protection of the spent fuel. The operator training for the specific security-initiated event addressed in ICM B.1.a of 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 Indian Point 3 will maintain mitigation strategies for the protection of spent fuel under License Condition 2.AC. License Condition 2.AC requires Indian Point 3 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 with respect to Indian Point 3 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.

For the reasons discussed above, the NRC staff concludes that the licensee has demonstrated good cause to withdraw ICM B.1.a of Order EA-02-026. Therefore, in light of the docketing of the 10 CFR 50.82(a)(1)(i) and (ii) certifications for permanent cessation of operations and removal of fuel from the reactor vessel, the NRC withdraws ICM B.1.a of Order EA-02-026 for Indian Point 3.

Sincerely,

Andrea D. Veil, Director  
Office of Nuclear Reactor Regulation

Docket No. 50-286

cc: Listserv

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**ADAMS Accession No.: ML21114A002**

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