

January 7, 2003

EA-02-261

Holders of Licenses for Operating
Power Reactors as listed in
Enclosure 2

SUBJECT: ISSUANCE OF ORDER FOR COMPENSATORY MEASURES RELATED TO
ACCESS AUTHORIZATION

The U.S. Nuclear Regulatory Commission (NRC) has issued the enclosed Order that modifies the current license for your facility to require compliance with the specified safeguards and security compensatory measures (CMs). The Order applies to all Addressees listed in Enclosure 2 (Attachment 1 to the enclosed Order). These CMs are listed in Enclosure 3 (Attachment 2 to the enclosed Order). Additionally, guidance on acceptable methods to comply with the requirements of the Order is enclosed.

The Commission recognizes that you have voluntarily and responsibly implemented additional security measures following the events of September 11, 2001. However, as a result of its consideration of licensees' access authorization programs as part of the ongoing comprehensive security review, the Commission has determined that the additional security measures addressed by the enclosed CMs should be implemented by licensees as prudent measures, to improve access authorization and control at operating power reactors. The Commission has determined that the current threat environment requires that the enclosed Order be effective immediately.

This Order does not obviate the need for licensees to continue to maintain the effectiveness of existing security measures taken in response to the events of September 11, 2001, the current threat environment, and the Order issued on February 25, 2002. The requirements described in Attachment 2 to this Order supersede any conflicting references in Regulatory Guide 5.66, "Access Authorization Program for Nuclear Power Plants," that appear in your security plan. These requirements will remain in effect until the Commission determines otherwise.

NOTICE: Enclosures 3 and 4 contain "~~Safeguards Information.~~" Upon separation of Enclosures 3 and 4, this letter, and the enclosed Order are "DECONTROLLED."

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 its associated Attachment 2 (Safeguards Information).

Sincerely,

/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Enclosures: 1. Order
 2. Order Attachment 1 - Addressee List
 3. Order Attachment 2 - Compensatory Measures for
 Access Authorization (Safeguards Information)
 4. Implementing Guidance (Safeguards Information)

cc w/encls 1 and 2 only: See next page*

* For a complete listing off all parties cc'd, see ADAMS Accession number ML030060360. In order to reduce size and weight of documents mailed, enclosed service list is that associated with the specific facility noted.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket No(s). (as shown in Attachment 1)
ALL OPERATING POWER REACTOR)	License No(s). (as shown in Attachment 1)
LICENSEES)	EA-02-261

**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 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 are contained in 10 CFR §§ 73.55, 73.56, and 73.57.

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 February 25, 2002, the Commission issued Orders to the licensees of operating power 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 NRC's ongoing comprehensive security review.

As a result of its consideration of licensees' access authorization programs as part of the comprehensive security review, the Commission has determined that certain compensatory measures are required to be implemented by licensees as prudent measures to improve access authorization at operating power reactors. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 of this Order¹, 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 will 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 2 to this Order in response to previously issued advisories or on their own. It is also recognized that some measures may not be possible or necessary at some sites, or 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 safe operation.

In order to provide assurance that licensees are implementing prudent measures 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 immediately effective.

¹Attachment 2 contains SAFEGUARDS information and will not be released to the public.

III.

Accordingly, pursuant to Sections 103, 104, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, 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. 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. The Licensees shall immediately begin implementation of the requirements in Attachment 2 to the Order and shall complete implementation **no later than July 7, 2003**, with the exception of compensatory measure B.1.1, which shall be implemented **no later than April 7, 2003**, and C.1.6 and C.1.8, which shall be completed **no later than January 7, 2004**.
- B. 1. All Licensees shall, within **twenty (20) 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 also provide 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 **twenty (20) days** of the date 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 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 B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

- C. 1. All Licensees shall, within **twenty (20) 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 a response 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 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 response may consent to this Order. Unless the response consents to this Order, the response 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 response 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 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 United States Government offices, it is requested that decontrolled answers (no Safeguards Information) 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/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.714(d).²

²The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714 (d) and paragraphs (d)(1) and (d)(2) regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714 (d), please see 67 FR 20884; April 29, 2002.

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), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move that the presiding officer 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

/RA/

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Dated this 7th day of January, 2003