

SAFEGUARDS INFORMATION

(Document Date)

[Chief Nuclear Officer]

SUBJECT: ISSUANCE OF ORDER FOR INTERIM SAFEGUARDS AND SECURITY
COMPENSATORY MEASURES FOR [Plant Name]

Dear Mr.

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued the enclosed Order that modifies the current license for your facility to require compliance with the specified interim safeguards and security compensatory measures. The Order applies to decommissioning nuclear power plants with spent fuel in the spent fuel pool. Addressees are listed in Attachment 1 to the enclosed Order. These interim compensatory measures are listed in Attachment 2 (contains Safeguards Information) to the enclosed Order. The Commission recognizes that you have voluntarily and responsibly implemented additional security measures following the events of September 11, 2001, however, in light of the current threat environment, the Commission concludes that the security measures should be embodied in an Order, consistent with the established regulatory framework. The Commission has determined that the current threat environment requires that the enclosed Order be effective immediately.

These actions are interim and the basis for the Order is the need to take prudent actions to address security requirements in the current threat environment. This Order does not obviate the need for licensees to continue to meet the objectives of Security Level III, described in NRC Information Notice 98-35, "Threat Assessments and Consideration of Heightened Physical Protection Measures," and maintain the effectiveness of existing security measures taken in response to the events of September 11, 2001. The requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a more comprehensive re-evaluation of current safeguards and security programs.

The enclosed Order calls for responses and actions within specified time frames.

NOTICE: Attachment 2 to the Order (Interim Compensatory Measures) contains "Safeguards Information." Upon separation of Attachment 2 to the Order, this letter, the enclosed Order, and Attachment 1 to the Order (Addressee List) are "DECONTROLLED."

With respect to the notices and submission required by Sections III.B and III.C of the Order, for any requirement of Attachment 2 that requires an analysis or is contingent upon completion of another requirement of Attachment 2, it will be a sufficient response if the licensee states in its twenty-day submission: (1) that completion of the requirement is dependent upon completion of an analysis or other requirement; (2) the expected date of completion of the analysis or other requirement; and (3) that upon such completion, the licensee will promptly submit the results of such analysis or inform the NRC of the completion of the other requirement and the actions thereafter proposed with respect to the requirement at issue, as well as the projected date of completion. No extension of time from the twenty-day requirement is necessary for such responses submitted within twenty days.

As a separate matter, if the licensee wishes to preserve its right to request a hearing on any requirement contingent upon completion of an analysis or other requirement, a request for an extension of time to request a hearing must be filed within twenty days of the date of this Order in accordance with Section IV of the Order. Such a request may seek a reasonable period of time to request a hearing beyond the date that the staff informs the licensee whether the actions proposed and completion date for the requirement(s) contingent upon an analysis or other requirement are satisfactory.

Please contact your 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.

Sincerely,

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Docket No(s).

Enclosures: 1. Order
2. Order Attachment 1 - Address List
3. Order Attachment 2 - Interim Compensatory Measures for
the Current Threat Environment (Safeguards Information)

cc w/Enclosures 1 and Attachment 1 only: See next page

NOTICE: Attachment 2 to the Order (Interim Compensatory Measures) contains "Safeguards Information." Upon separation of Attachment 2 to the Order, this letter, the enclosed Order, and Attachment 1 to the Order (Addressee List) are "DECONTROLLED."

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket Nos. (as shown in Attachment 1)
ALL DECOMMISSIONING POWER)	License Nos. (as shown in Attachment 1)
REACTOR LICENSEES)	EA-02-077

**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 possession of nuclear power plants in accordance with the Atomic Energy Act of 1954 and 10 C.F.R. Part 50. Commission regulations at 10 C.F.R. § 50.54(p)(1) require these licensees to maintain safeguards contingency plan procedures in accordance with 10 C.F.R. Part 73, Appendix C. Specific safeguards requirements are contained in 10 C.F.R. § 73.55.

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. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to

assess the adequacy of security measures at licensed facilities. In addition, the Commission has commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its initial consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by licensees as prudent, interim measures to address the current threat environment in a consistent manner throughout the nuclear reactor community. Therefore, the Commission is imposing requirements, as set forth in Attachment 2¹ of this Order, on all decommissioning power reactor licensees. These interim requirements, 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 in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

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 safety.

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

Although the additional security measures implemented by the licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of public health and safety, in light of the continuing threat environment, the Commission concludes that the security measures must be embodied in an Order, consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, 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 C.F.R. § 2.202, I find that in the circumstances described above, the public health, safety and interest require that this Order be immediately effective.

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 C.F.R. § 2.202 and 10 C.F.R. 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 start implementation of the requirements in Attachment 2 to the Order and shall complete implementation by November 22, 2002.

- 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 provide the Licensees' 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 safety of the facility must notify the Commission, within twenty (20) days 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 C.F.R. § 50.54(p), all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment has occurred, or until the Commission determines that other changes are needed following a comprehensive re-evaluation of current safeguards and security programs.

Licensee responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 C.F.R. § 50.4. In addition, Licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 C.F.R. § 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 C.F.R. § 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer 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 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 as to 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 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 plant; and to the Licensee if the answer or hearing request is by a person other than the Licensee. 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 C.F.R. § 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 C.F.R. § 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing 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 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.

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FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Dated this day of May 2002

Decommissioning Nuclear Power Plants With Spent Fuel in the Spent Fuel Pool

Senior Executive Contacts

Mr. Robert A. Fenech
Senior Vice President, Nuclear, Fossil, and Hydro Operations
Big Rock Point Nuclear Plant
Docket No. 50-155
License No. DPR-6
Consumers Energy Company
212 West Michigan Avenue
Jackson, MI 49201

Mr. K. J. Heider
Vice President - Operations and Decommissioning
Haddam Neck Plant
Connecticut Yankee Atomic Power Co.
Docket No. 50-213
License No. DPR-61
362 Injun Hollow Road
East Hampton, CT 06424-3099

Mr. Gregory Rueger
Senior Vice President Generation and Chief Nuclear Officer
Humboldt Bay Power Plant Unit III
Pacific Gas and Electric Co.
Docket No. 50-133
License No. DPR-7
Pacific Gas and Electric Company
77 Beale Street, 32nd Floor
San Francisco, California 94105

Mr. Michael Kansler
Chief Nuclear Officer
Indian Point Nuclear Generating Unit 1
Docket No. 50-003
License No. DPR-5
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue, Suite 12 A
White Plains, NY 10601

Mr. William L. Berg
President & CEO
La Crosse Boiling Water Reactor
Docket No. 50-409
License No. DPR-45
Dairy Land Power Cooperative
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La Crosse, WI 54601

Mr. Michael J. Meisner
Chief Nuclear Officer
Maine Yankee Atomic Power Station
Docket No. 50-309
License No. DPR-36
Maine Yankee Atomic Power Company
321 Old Ferry Road
Wiscasset, Maine 04578-4922

Mr. William R. Matthews
Vice President & Senior Nuclear Executive - Millstone
Millstone Power Station - Unit 1
Docket No. 50-245
License No. DPR-21
Dominion Nuclear Connecticut, Inc.
Rope Ferry Road
Waterford, CT 06385

Mr. Steve Redeker
Manager, Plant Closure & Decommissioning
Rancho Seco
Docket No. 50-312
License No. DPR-54
Sacramento Municipal Utility District
14440 Twin Cities Road
Herald, CA 95638

Mr. Harold B. Ray
Executive Vice President
San Onofre Nuclear Generating Station, Unit 1
Docket No. 50-206
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Southern California Edison
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Mr. Stephen M. Quennoz
Vice President Power Supply/Generation
Trojan Nuclear Plant
Docket No. 50-344
License No. NPF-1
Portland General Electric Company
121 South West Salmon Street
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Mr. Russell A. Mellor
President
Yankee Nuclear Power Station
Docket No. 50-29
License No. DPR-3
Yankee Atomic Electric Company
19 Midstate Drive, Suite 200
Auburn, MA 01501

Mr. John L. Skolds
President and Chief Nuclear Officer
Zion Nuclear Power Station, Units 1 and 2
Docket Nos. 50-295 & 50-304
License Nos. DPR-39 & DPR-48
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Exelon Generation Company, LLC
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Warrenville, IL 60555