

**NUCLEAR REGULATORY COMMISSION****Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Thermal-Hydraulic Phenomena (GSI-189); Notice of Meeting**

The ACRS Subcommittee on Thermal-Hydraulic Phenomena (GSI-189) will hold a meeting on November 5, 2002, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

*Tuesday, November 5, 2002—8:30 a.m. until 12:30 p.m.*

The purpose of this meeting is to discuss the results of additional analyses to quantify uncertainties to support the NRC Office of Nuclear Regulatory Research's proposed recommendation to resolve GSI-189, Susceptibility of Ice Condenser and Mark III Containments to Early Failure from Hydrogen Combustion During a Severe Accident. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman. Written statements will be accepted and made available to the Committee. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the Designated Federal Official, Ms. Maggalean W. Weston (telephone 301-

415-3151) between 7:30 a.m. and 5 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: October 17, 2002.

**Sher Bahadur,**

*Associate Director for Technical Support, ACRS/ACNW.*

[FR Doc. 02-27001 Filed 10-22-02; 8:45 am]

**BILLING CODE 7590—P**

**NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. (as shown in Attachment 1) EA-02-104]**

**Order Modifying Licenses (Effective Immediately)**

In the Matter of All 10 CFR part 50 licensees who currently store or have near term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR part 72.

**I**

The licensees identified in Attachment 1 to this Order have been issued a general license by the U.S. Nuclear Regulatory Commission (NRC or the Commission) authorizing storage of spent fuel in an independent spent fuel storage installation (ISFSI) in accordance with the Atomic Energy Act of 1954, 10 CFR part 50, and 10 CFR part 72. This Order is being issued to all licensees who currently store spent fuel or have identified near term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR part 72. Commission regulations at 10 CFR 72.212(b)(5) and 10 CFR 73.55(h)(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.

**II**

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, 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 been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its 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 ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachment 2<sup>1</sup> of this Order, on all licensees who currently store spent fuel or have identified near term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR part 72. 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 the Commission determines that other changes are needed.

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 the safe storage of spent fuel.

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, 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

<sup>1</sup> Attachment 2 contains SAFEGUARDS information and will not be released to the public.

environment, all general licenses issued pursuant to 10 CFR 72.210 to the licensees 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, I find that in the circumstances described above, the public health, safety and interest require that this Order be effective immediately.

### 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, 72 and 73, it is hereby ordered, effective immediately, that all general 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 April 16, 2003, or the first day that spent fuel is initially placed in the ISFSI, whichever is later.

B.1. All licensees shall, within 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 the safe storage of spent fuel must notify the Commission, within 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 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 72.186, 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 the Commission determines that other changes are needed.

Licensee responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 72.4. 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 Material Safety and Safeguards 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 an answer to this Order, and may request a hearing on this Order, within 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 Material Safety and Safeguards, 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 Material

Safety and Safeguards, 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 potential disruptions in delivery of mail to United States Government offices, it is requested that answers 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](mailto: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](mailto: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 interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).<sup>2</sup>

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 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 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.

<sup>2</sup> The 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.

Dated this 16th day of October, 2002.

**Margaret V. Federline,**

*Deputy Director, Office of Nuclear Material Safety and Safeguards.*

#### Attachment 1—Address List

Oliver D. Kingsley, Jr., President and Chief Nuclear Officer, Dresden Nuclear Power Station, Docket No. 72-37, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555

Michael B. Sellman, President and CEO, Point Beach Nuclear Plant, Docket No. 72-5, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016

Michael B. Sellman, President and CEO, Palisades Plant, Docket No. 72-7, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016

Robert F. Saunders, President and Chief Nuclear Officer, Davis-Besse Nuclear Power Station, Docket No. 72-14, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308

Robert G. Byram, Senior Vice President & Chief Nuclear Officer, Susquehanna Steam Electric Station, Docket No. 72-28, PPL Susquehanna, LLC, 2 North Ninth Street, Allentown, PA 18101

Oliver D. Kingsley, Jr., President and Chief Nuclear Officer, Peach Bottom Atomic Power Station, Docket No. 72-29, Exelon Generation Company, 4300 Winfield Road, Warrenville, IL 60555

Michael S. Tuckman, Executive Vice President Nuclear Generation, Oconee Nuclear Station, Docket No. 72-40, Duke Energy Corporation, 526 South Church St, Mail Code EC 07 H, Charlotte, NC 28242

Michael S. Tuckman, Executive Vice President, Nuclear Generation, William B. McGuire Nuclear Station, Docket No. 72-38, Duke Energy Corporation, 526 South Church St, Mail Code EC 07 H, Charlotte, NC 28242

W.G. Hairston, III, President and Chief Executive Officer, Edwin I. Hatch Nuclear Plant, Docket No. 72-36, Southern Nuclear Operating Company, Inc., 40 Inverness Center Parkway, Birmingham, AL 35242

Gary J. Taylor, Senior Vice President and Chief Operating Officer, Arkansas Nuclear One, Docket No. 72-13, Entergy Operations Inc., 1340 Echelon Parkway, Jackson, MS 39213

Harold B. Ray, Executive Vice President, San Onofre Nuclear Generating Station, Docket No. 72-41, Southern California Edison, 8631 Rush Street, Rosemead, CA 91770

James M. Levine, Executive Vice President and Chief Operating Officer,

Palo Verde Nuclear Generating Station, Docket No. 72-44, Arizona Public Service Company, 400 North 5th Street, MS 9046, Phoenix, AZ 85004

J.V. Parrish, Chief Executive Officer, Columbia Generating Station, Docket No. 72-35, Energy Northwest, MD 1023, Snake River Warehouse, North Power Plant Loop, Richland, WA 99352

Michael B. Sellman, President and Chief Executive Officer, Duane Arnold Energy Center, Docket No. 72-32, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016

Robert A. Fenech, Senior Vice President, Nuclear, Fossil, and Hydro Operations, Big Rock Point Nuclear Plant, Docket No. 72-43, Consumers Energy Company, 212 West Michigan Avenue, Jackson, MI 49201

Michael Kansler, Senior Vice President and Chief Operating Officer, James A. Fitzpatrick Nuclear Power Plant, Docket No. 72-12, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601

Russell A. Mellor, President, Yankee Nuclear Power Station, Docket No. 72-31, Yankee Atomic Electric Company, 19 Midstate Drive, Suite 200, Auburn, MA 01501

Michael J. Meisner, Chief Nuclear Officer, Maine Yankee Atomic Power Station, Docket No. 72-30, Maine Yankee Atomic Power Company, 321 Old Ferry Road, Wiscasset, ME 04578-4922

K. J. Heider, Vice President—Operations and Decommissioning, Haddam Neck Plant, Connecticut Yankee Atomic Power Co., Docket No. 72-39, 362 Injun Hollow Road, East Hampton, CT 06424-3099

Oliver D. Kingsley, Jr. President and Chief Nuclear Officer, Oyster Creek Nuclear Generating Station, Docket No. 72-15, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555

John A. Scalice, Chief Nuclear Officer and Executive Vice President, Sequoyah Nuclear Plant, Docket No. 72-34, Tennessee Valley Authority, 6A Lookout Place, 1101 Market Street, Chattanooga, TN 37402-2801

W.G. Hairston, III, President and Chief Executive Officer, Joseph M. Farley Nuclear Plant, Docket No. 72-42, Southern Nuclear Operating Company, Inc., 40 Inverness Center Parkway, Birmingham, AL 35242

[FR Doc. 02-26986 Filed 10-22-02; 8:45 am]  
BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. (as shown in Attachment 1) EA-02-104]

### Order Modifying Licenses (Effective Immediately)

In the matter of: all 10 CFR part 72 licensees who currently store or have near term plans to store spent fuel in an ISFSI under the specific license provisions of 10 CFR part 72.

#### I

The licensees identified in Attachment 1 to this Order have been issued a specific license by the U.S. Nuclear Regulatory Commission (NRC or the Commission) authorizing storage of spent fuel in an independent spent fuel storage installation (ISFSI) in accordance with the Atomic Energy Act of 1954, and 10 CFR part 72. This Order is being issued to all licensees who currently store spent fuel or have identified near term plans to store spent fuel in an ISFSI under the specific license provisions of 10 CFR part 72. Commission regulations at 10 CFR 72.184(b) 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 73.51 or 73.55, as applicable.

#### II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, 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 been conducting a comprehensive review of its safeguards and security programs and requirements.

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