

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

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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.

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 2¹ 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 specific 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 environment, all specific licenses issued pursuant to 10 CFR 72.40 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 53, 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 72 and 73, it is hereby ordered, effective immediately, that all specific 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

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

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 interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).²

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.

Dated this 16th day of October, 2002.

Margaret V. Federline,

Deputy Director, Office of Nuclear Material Safety and Safeguards.

Attachment 1—Address List

Steve Redeker, Manager, Plant Closure & Decommissioning, Rancho Seco, Docket No. 72-11, Sacramento Municipal Utility District, 14440 Twin Cities Road, Herald, CA 95638
Stephen M. Quennoz, Vice President Power Supply/Generation, Trojan Nuclear Plant, Docket No. 72-17, Portland General Electric Company,

121 South West Salmon Street, Portland, OR 97204

Mr. Warren Bergholz, Acting Manager, Idaho Operations Office, Docket Nos. 72-9 and 72-20, U.S. Department of Energy, 850 Energy Drive, Idaho Falls, ID 83401

Michael B. Sellman, President and CEO, Prairie Island Nuclear Generating Plant, Docket No. 72-10, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016

Charles Cruse, Vice President—Nuclear Energy, Calvert Cliffs Nuclear Power Plant, Docket No. 72-8, Constellation Energy Group, Inc., 1650 Calvert Cliffs Pkwy, Office 2—OTF, Lusby, MD 20657

David Christian, Sr. Vice President Nuclear and Chief Nuclear Officer, North Anna Power Station, Docket No. 72-16, Virginia Electric & Power Company, 5000 Dominion Blvd., Glen Allen, VA 23060-6711

David Christian, Sr. Vice President Nuclear and, Chief Nuclear Officer, Surry Power Station, Docket No. 72-2, Virginia Electric & Power Company, 5000 Dominion Blvd., Glen Allen, VA 23060-7611

C.S. (Scotty) Hinnant, Senior Vice President and Chief Nuclear Officer, H.B. Robinson Steam Electric Plant, Docket No. 72-3, Progress Energy, Inc., 410 South Wilmington St., Raleigh, NC 27601

Michael S. Tuckman, Executive Vice President Nuclear Generation, Oconee Nuclear Station, Docket No. 72-4, Duke Energy Corporation, 526 South Church St, Mail Code EC 07 H, Charlotte, NC 28242

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OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Office of Science and Technology Policy

AGENCY: Office of Science and Technology Policy.

ACTION: Notice of availability.

SUMMARY: The Office of Science and Technology Policy (OSTP) has finalized its Information Quality Guidelines, which describe OSTP's pre-dissemination information quality control and an administrative mechanism for requests for correction of information publicly disseminated by OSTP. The final Information Quality

Guidelines are posted on OSTP's web site, <http://www.ostp.gov>.

DATES: OSTP's pre-dissemination review applies to information that OSTP first disseminates on or after October 1, 2002. OSTP's administrative mechanism for correcting information that OSTP disseminates applies to information that OSTP disseminates on or after October 1, 2002, regardless of when OSTP first disseminated the information.

FOR FURTHER INFORMATION CONTACT: Stan Sokul, Office of Science and Technology Policy, Washington, DC 20502. Telephone: (202) 456-7116.

SUPPLEMENTARY INFORMATION: Pursuant to prior Office of Management and Budget (OMB) guidance, on May 1, 2002, OSTP posted an initial draft of these guidelines on its web site, and published a Notice of their availability in the **Federal Register** seeking public comment by June 14, 2002. OSTP submitted draft guidelines to OMB on August 1, 2002, and revised draft guidelines again on September 24, 2002. These final guidelines reflect the results of the OMB review process.

In response to OSTP's **Federal Register** Notice, two public comments were received, from the Competitive Enterprise Institute (CEI) and the Center for Regulatory Effectiveness (CRE). Both public comments consisted of identical commentary on federal agency compliance with the Data Quality Act generally. In addition, the CRE comment enclosed a legal opinion stating that no agency dissemination of information should be excluded from the Data Quality Act (*i.e.*, challenging any exclusions to the definition of "information"), and the CEI comment included an argument why OSTP should cease disseminating the National Assessment on Climate Change. OSTP also received a June 10, 2002, and a September 5, 2002, "Memorandum for President's Management Council" from OMB. These OMB Memoranda provided agencies with additional guidance on designing information quality guidelines.

OSTP modified its May 1, 2002, draft guidelines in several respects in response to the OMB Memoranda and in response to OSTP-OMB discussions as part of OMB's review of OSTP's draft guidelines, but made no alterations in response to the public comments. While in many instances the OSTP guidelines conformed to the CRE/CEI commentary or the commentary was not applicable, in several instances the CRE/CEI commentary did challenge OMB guidelines that OSTP had followed. OSTP interprets the statute, however, as giving OMB broad discretion in

² 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.