

**NUCLEAR REGULATORY
COMMISSION****[Docket No. 72-49; EA-03-174]****Entergy Operations, Inc., River Bend
Power Station; Order Modifying
Licenses (Effective Immediately)**

Entergy Operations, Inc., (EO) has 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 EO who has identified near term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR part 72. The Commission's regulations in 10 CFR 72.212(b)(5) and 10 CFR 73.55(h)(1) require EO 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.

On September 11, 2001, terrorists simultaneously attacked targets in New York 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 and other governmental agencies, 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 1¹ of this Order, on EO who

has indicated 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 until the Commission determines otherwise.

The Commission recognizes that some measures may not be possible or necessary, or may need to be tailored to accommodate the specific circumstances existing at EO's facility to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, the Commission concludes that security measures must be embodied in an Order consistent with the established regulatory framework. EO's general license issued pursuant to 10 CFR 72.210 shall be modified to include the requirements identified in Attachment 1 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 effective immediately.

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 your general license is modified as follows:

A. EO shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 1 to this Order except to the extent that a more stringent requirement is set forth in their security plan. EO shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation before spent fuel is initially placed in the ISFSI.

B. 1. EO 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 1, (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. If EO considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact the safe storage of spent fuel, EO 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 1 requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, EO 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. EO 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 1.

2. EO shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 1.

D. Notwithstanding the provisions of 10 CFR 72.212(b)(5), all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

EO's responses to Conditions B.1, B.2, C.1, and C.2, shall be submitted in accordance with 10 CFR 72.4. In addition, 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 EO of good cause.

In accordance with 10 CFR 2.202, EO 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 Material Safety and

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

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 IV; 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, 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 EO 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).

If a hearing is requested by EO 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 a hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), EO 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.

Dated at Rockville, MD, this 31st day of October 2003.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03-28502 Filed 11-13-03; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

System Energy Resources, Inc.; Notice of Receipt and Availability of Early Site Permit Application for the Grand Gulf ESP Site

On October 21, 2003, the Nuclear Regulatory Commission (NRC, the Commission) received an early site permit (ESP) application dated October 16, 2003, from System Energy Resources, Inc., a subsidiary of Entergy Corporation, filed pursuant to section 103 of the Atomic Energy Act and 10 CFR part 52. The site selected for the application is property co-located with the Grand Gulf Nuclear Station near Port Gibson, Mississippi and is identified as the Grand Gulf ESP site.

An applicant may seek an ESP in accordance with subpart A of 10 CFR part 52 separate from the filing of an application for a construction permit (CP) or combined license (COL) for a nuclear power facility. The ESP process allows resolution of issues relating to siting. At any time during the period of an ESP (up to 20 years), the permit holder may reference the permit in an application for a CP or COL.

Subsequent **Federal Register** notices will address the acceptability of the tendered ESP application for docketing and provisions for participation of the public and other parties in the ESP review process.

A copy of the application is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland and via the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet

at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>.

The accession number for the application is ML032960315. Future publicly available documents related to the application will also be posted in ADAMS. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov.

The application is also available to local residents at the Harriette Person Memorial Library in Port Gibson, Mississippi, and it will be available on the NRC web page at <http://www.nrc.gov/reactors/new-licensing/license-reviews/esp.html>.

Dated at Rockville, Maryland, this 7th day of November 2003.

For the Nuclear Regulatory Commission.

James E. Lyons,

Program Director, New, Research and Test Reactors Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 70-27]

Environmental Assessment and Finding of No Significant Impact of License Amendment for BWX Technologies, Inc.

ACTION: Notice of Environmental Assessment and Finding of No Significant Impact (FONSI) for Amendment of BWX Technologies, Inc., Materials License SNM-42 to approve the Final Status Survey Plan and Decommissioning Plan for Industrial Waste Landfill 1.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Stout, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T8-A33, Washington, DC 20555-0001, telephone (301) 415-5269 and e-mail des1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the amendment of Special Nuclear Material License SNM-42 to approve the Final Status Survey Plan (FSSP) and Decommissioning Plan (DP) for Industrial Waste Landfill 1 (ILW1) at the