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Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

*Exelon Generation Company, LLC, Docket No. 50–249, Dresden Nuclear Power Station, Unit 3, Grundy County, Illinois*

*Date of amendment request:* August 18, 2008.

*Description of amendment request:* The amendment revises Technical Specification 3.4.5, "RCS Leakage Detection Instrumentation," to support implementation of an alternative method of verifying that unidentified leakage in the drywell is within limits.

*Date of issuance:* August 22, 2008.

*Effective date:* As of the date of issuance and shall be implemented by 12:00 pm CDT on August 24, 2008.

*Amendment No.:* 221.

*Facility Operating License No. DPR–25:* Amendment revises the technical specifications and the operating license.

*Public comments requested as to proposed no significant hazards consideration (NSHC):*

No. On August 17, 2008, the staff issued a Notice of Enforcement Discretion, which was effective immediately and remained in effect until this amendment was issued.

The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained

in a safety evaluation dated August 22, 2008.

*Attorney for licensee:* Mr. Bradley J. Fewell, Associate General Counsel, Exelon Generation.

*NRC Branch Chief:* Russell Gibbs.

Dated at Rockville, Maryland, this 29th day of August 2008.

For the Nuclear Regulatory Commission.

**Joseph G. Giitter,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. E8–20567 Filed 9–8–08; 8:45 am]

**BILLING CODE 7590–01–P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 50–282–LR, 50–306–LR; ASLBP No. 08–871–01–LR–BD01]

### **Nuclear Management Company, LLC; Establishment of Atomic Safety and Licensing Board**

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, see 10 CFR 104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

#### **Nuclear Management Company, LLC (Prairie Island Nuclear Generating Plant, Units 1 and 2)**

This proceeding involves an application for renewal of the licenses that authorize Nuclear Management Company, LLC to operate Prairie Island Nuclear Generating Plant, Units 1 and 2 for a twenty-year period beyond their current expiration dates of, respectively, August 9, 2013 and October 29, 2014. In response to a June 17, 2008 Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing (73 FR 34,335), a petition to intervene has been submitted by Philip R. Mahowald on behalf of the Prairie Island Indian Community.

The Board is comprised of the following administrative judges: William J. Froehlich, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Thomas J. Hiron, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007 (72 FR 49,139).

Issued at Rockville, Maryland, this 3rd day of September 2008.

**E. Roy Hawkens,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. E8–20849 Filed 9–8–08; 8:45 am]

**BILLING CODE 7590–01–P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 50–243; EA–08–251]

### **In the Matter of: Oregon State University (Oregon State University TRIGA Reactor); Order Modifying Facility Operating License No. R–106**

**I**

Oregon State University (the licensee) is the holder of Facility Operating License No. R–106 (the license), issued by the U.S. Nuclear Regulatory Commission (NRC). The NRC plans to renew the license on September 10, 2008. The license authorizes operation of the Oregon State University TRIGA Reactor (the facility) at a power level up to 1,100 kilowatts thermal and in the pulse mode, with reactivity insertions not to exceed \$2.55, and to receive, possess, and use special nuclear material associated with facility operation. The facility is a research reactor located on the campus of Oregon State University, in the city of Corvallis, Benton County, Oregon. The mailing address is Radiation Center, Oregon State University, 100 Radiation Center, Corvallis, Oregon 97331–5903.

**II**

Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.64, limits the use of high-enriched uranium (HEU) fuel in domestic non-power reactors (research and test reactors) (see 51 FR 6514). The regulation, which became effective on March 27, 1986, requires that if Federal Government funding for conversion-related costs is available, each licensee of a non-power reactor authorized to use HEU fuel shall replace it with low-enriched uranium (LEU) fuel acceptable to the Commission unless the Commission has determined that the reactor has a unique purpose. The Commission's stated purpose for these requirements was to reduce, to the maximum extent possible, the use of HEU fuel in order to reduce the risk of theft and diversion of HEU fuel used in non-power reactors.

Paragraphs 50.64(b)(2)(i) and (ii) require that a licensee of a non-power reactor (1) not acquire more HEU fuel if LEU fuel that is acceptable to the Commission for that reactor is available when the licensee proposes to acquire HEU fuel, and (2) replace all HEU fuel in its possession with available LEU fuel acceptable to the Commission for that reactor in accordance with a schedule determined pursuant to 10 CFR 50.64(c)(2).

Paragraph 50.64(c)(2)(i) requires, among other things, that each licensee of a non-power reactor authorized to possess and to use HEU fuel develop and submit to the Director of the Office of Nuclear Reactor Regulation (the Director) by March 27, 1987, and at 12-month intervals thereafter, a written proposal for meeting the requirements of the rule. The licensee shall include in its proposal a certification that Federal Government funding for conversion is available through the U.S. Department of Energy or other appropriate Federal agency. The proposal should also provide a schedule for conversion, based upon the availability of replacement fuel acceptable to the Commission for that reactor and upon consideration of other factors such as the availability of shipping casks, implementation of arrangements for available financial support, and reactor usage.

Paragraph 50.64(c)(2)(iii) requires the licensee to include in the proposal, to the extent required to effect conversion, all necessary changes to the license, the facility, and licensee procedures. This paragraph also requires the licensee to submit supporting safety analyses in time to meet the conversion schedule.

Paragraph 50.64(c)(2)(iii) also requires the Director to review the licensee proposal, to confirm the status of Federal Government funding, and to determine a final schedule, if the licensee has submitted a schedule for conversion.

Section 50.64(c)(3) requires the Director to review the supporting safety analyses and to issue an appropriate enforcement order directing both the conversion and, to the extent consistent with the protection of public health and safety, any necessary changes to the license, the facility, and licensee procedures. In the **Federal Register** notice of the final rule (51 FR 6514), the Commission explained that in most, if not all cases, the enforcement order would be an order to modify the license under 10 CFR 2.204 (now 10 CFR 2.202).

Any person, other than the licensee, whose interest may be affected by this proceeding and who desires to

participate as a party must file a written request for hearing or petition for leave to intervene meeting the requirements of 10 CFR 2.309, "Hearing Requests, Petitions to Intervene, Requirements for Standing, and Contentions."

### III

The U.S. Nuclear Regulatory Commission (NRC) maintains the Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. On November 6, 2007, the licensee submitted its conversion proposal (ADAMS Accession No. ML080420546), which was supplemented on February 11, and June 20, 2008 (ADAMS Accession Nos. ML080730057 and ML082350345), including its proposed modifications and supporting safety analyses. HEU fuel elements are to be replaced with LEU fuel elements. The reactor core contains fuel elements of the TRIGA design, with the fuel consisting of uranium-zirconium hydride with 30 weight percent uranium. These fuel elements contain the uranium-235 isotope at an enrichment of less than 20 percent. The NRC staff reviewed the licensee's proposal and the requirements of 10 CFR 50.64 and has determined that public health and safety and common defense and security require the licensee to convert the facility from the use of HEU to LEU fuel in accordance with the attachments to this Order and the schedule included herein. The attachments to this Order specify the changes to the license conditions and technical specifications that are needed to amend the facility license and contain an outline of a reactor startup report to be submitted to NRC within 6 months following return of the converted reactor to normal operation.

### IV

Accordingly, pursuant to Sections 51, 53, 57, 101, 104, 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and to Commission regulations in 10 CFR 2.202 and 10 CFR 50.64, *it is hereby ordered that:*

Facility Operating License No. R-106 is modified by amending the license conditions and technical specifications as stated in the attachments to this Order (Attachment 1: MODIFICATIONS TO FACILITY OPERATING LICENSE No. R-106; Attachment 2: OUTLINE OF REACTOR STARTUP REPORT). The Order becomes effective on the later date of either (1) the day the licensee receives an adequate number and type of LEU fuel elements to operate the facility as specified in the licensee

proposal dated November 6, 2007 (ADAMS Accession No. ML080420546), as supplemented on February 11, and June 20, 2008 (ADAMS Accession Nos. ML080730057 and ML082350345), or (2) 20 days after the date of publication of this Order in the **Federal Register**.

### V

Pursuant to 10 CFR 2.202, any person(s) whose interest may be affected by this proceeding, other than the licensee, and who wishes to participate as a party in the proceeding must file a written request within 20 days after the date of publication of this Order, setting forth with particularity the manner in which this Order adversely affects his or her interest and addressing the criteria set forth in 10 CFR 2.309. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which became effective on October 15, 2007. The NRC issued the E-filing final rule on August 28, 2007 (72 FR 49139), and codified it in pertinent part at 10 CFR part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," subpart B. The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least 10 days before the filing deadline, the requestor must contact the Office of the Secretary by e-mail at [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov), or by calling (301) 415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating, and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on the NRC's public Web site at <http://>

[www.nrc.gov/site-help/e-submittals/apply-certificates.html](http://www.nrc.gov/site-help/e-submittals/apply-certificates.html).

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, he or she can then submit a request for a hearing through EIE. Submissions should be in portable document format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. eastern time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., eastern time, Monday through Friday. The help line number is (800) 397-4209 or, locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the

document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers, in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a fair use application, participants are requested not to include copyrighted materials in their works.

If a hearing is requested and the request is granted by the Commission, the NRC will issue an order designating the time and place of the hearing.

In the absence of any request for hearing, the provisions as specified in Section IV shall be final twenty (20) days after the date of publication of this Order in the **Federal Register**.

In accordance with 10 CFR 51.10(d) this Order is not subject to Section 102(2) of the National Environmental Policy Act, as amended. The NRC staff notes, however, that with respect to environmental impacts associated with the changes imposed by this Order as described in the safety evaluation, the changes would, if imposed by other than an order, meet the definition of a categorical exclusion in accordance with 10 CFR 51.22(c)(9). Thus, pursuant to either 10 CFR 51.10(d) or 51.22(c)(9), no environmental assessment or environmental impact statement is required.

Detailed guidance which the NRC uses to review applications from research reactor licensees appears in NUREG-1537, "Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors," February 1996, which can be obtained from the Commission's Public Document Room (PDR). The public may also access NUREG-1537 through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS Accession Nos. ML0412430055 for part one and ML042430048 for part two.

For further information see the application from the licensee dated November 6, 2007 (ADAMS Accession No. ML080420546), as supplemented on

February 11, and June 20, 2008 (ADAMS Accession Nos. ML080730057 and ML082350345), the NRC staff's requests for additional information (ADAMS Accession Nos. ML080090308 and ML081050294), and the cover letter to the licensee and the staff's safety evaluation dated September 4, 2008, (ADAMS Accession No. ML082390775). On April 4, 2008, the NRC staff issued an Order to the licensee to allow receipt and possession of the special nuclear material needed for the conversion (ADAMS Accession No. ML080730395). These documents are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who have problems accessing the documents in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397-4209 or (301) 415-4737 or by e-mail to [pdrc@nrc.gov](mailto:pdrc@nrc.gov).

Dated this 4th day of September 2008.

For the Nuclear Regulatory Commission  
**James T. Wiggins**,  
*Deputy Director, Office of Nuclear Reactor Regulation.*

#### **ATTACHMENT 1—Modifications to Facility Operating License NO. R-106**

##### *A. License Conditions Revised by This Order*

2.B.(2) Pursuant to the Act and 10 CFR part 70, "Domestic Licensing of Special Nuclear Material,"

a. To receive, possess and use, in connection with operation of the facility, up to 16.30 kilograms of contained uranium-235 enriched to less than 20 percent in the form of TRIGA reactor fuel;

b. To receive, possess and use, in connection with operation of the facility, up to 100 grams of contained uranium-235 of any enrichment in the form of fission chambers and flux foils;

c. To receive, possess, but not use, up to 656 grams of uranium-235 enriched to less than 20 percent in the form of the core from the AGN-201 reactor;

d. To receive, possess, use, but not separate, in connection with operation of the facility, such special nuclear material as may be produced by operation of the facility; and

e. To possess, but not use, up to 12.83 kilograms of contained uranium-235 at equal to or greater than 20 percent enrichment in the form of TRIGA fuel until the existing inventory of this fuel is removed from the facility.

##### *2.C.(2) Technical Specifications*

The Technical Specifications contained in Appendix A, as revised through Amendment No. 22, are hereby incorporated in the license. The licensee shall operate the facility

in accordance with the Technical Specifications.

#### ATTACHMENT 2—Outline of Reactor Startup Report

Within 6 months following the return of the converted reactor to normal operation, submit the following information to the NRC. Information on the HEU core should be presented to the extent it exists.

1. Critical mass:
  - Measurement with HEU;
  - Measurement with LEU;
  - Comparisons with calculations for LEU and if available, HEU.
2. Excess (operational) reactivity:
  - Measurement with HEU;
  - Measurement with LEU;
  - Comparisons with calculations for LEU and if available, HEU.
3. Control rod calibrations:
  - Measurement of HEU and LEU rod worths and comparisons with calculations for LEU and if available, HEU.
4. Reactor power calibration:
  - Methods and measurements that ensure operation within the license limit and comparison between HEU and LEU nuclear instrumentation set points, detector positions and detector output.
5. Shutdown margin:
  - Measurement with HEU;
  - Measurement with LEU;
  - Comparisons with calculations for LEU and if available, HEU.
6. Thermal neutron flux distributions:
  - Measurements of the core and measured experimental facilities (to the extent available) with HEU and LEU and comparisons with calculations for LEU and if available, HEU.
7. Reactor physics measurements:
  - Results of determination of LEU effective delayed neutron fraction, temperature coefficient, and void coefficient to the extent that measurements are possible and comparison with calculations and available HEU core measurements.
8. Initial LEU core loading:
  - Measurements made during initial loading of the LEU fuel, presenting subcritical multiplication measurements, predictions of multiplication for next fuel additions, and prediction and verification of final criticality conditions.
9. Primary coolant measurements:
  - Results of any primary coolant water sample measurements for fission product activity taken during the first 30 days of LEU operation.
10. Results of any test pulses performed and comparison with calculations and available HEU core measurements.
11. Discussion of results:
  - Discussion of the comparison of the various results including an explanation of any significant differences that could affect normal operation and accident analyses.

[FR Doc. E8-20997 Filed 9-8-08; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-027; EA-08-250]

### In the Matter of Washington State University (Washington State University TRIGA Reactor); Order Modifying Facility Operating License No. R-76

#### I

Washington State University (the licensee) is the holder of Amended Facility Operating License No. R-76 (the license) originally issued on March 6, 1961, by the U.S. Atomic Energy Commission and subsequently renewed on August 11, 1982, by the U.S. Nuclear Regulatory Commission (the NRC or the Commission). The license authorizes operation of the Washington State University TRIGA Reactor (the facility) at a power level up to 1,000 kilowatts thermal and to receive, possess, and use special nuclear material associated with the operation. The facility is a research reactor located on the campus of the Washington State University, in the city of Pullman, Whitman County, Washington. The mailing address is Nuclear Radiation Center, Washington State University, P.O. Box 641300, Pullman, Washington 99164-1300.

#### II

Title 10 of the Code of Federal Regulations (10 CFR) Section 50.64, limits the use of high-enriched uranium (HEU) fuel in domestic non-power reactors (research and test reactors) (see 51 FR 6514). The regulation, which became effective on March 27, 1986, requires that if Federal Government funding for conversion-related costs is available, each licensee of a non-power reactor authorized to use HEU fuel shall replace it with low-enriched uranium (LEU) fuel acceptable to the Commission unless the Commission has determined that the reactor has a unique purpose. The Commission's stated purpose for these requirements was to reduce, to the maximum extent possible, the use of HEU fuel in order to reduce the risk of theft and diversion of HEU fuel used in non-power reactors.

Paragraphs 50.64(b)(2)(i) and (ii) require that a licensee of a non-power reactor (1) not acquire more HEU fuel if LEU fuel that is acceptable to the Commission for that reactor is available when the licensee proposes to acquire HEU fuel, and (2) replace all HEU fuel in its possession with available LEU fuel acceptable to the Commission for that reactor in accordance with a schedule determined pursuant to 10 CFR 50.64(c)(2).

Paragraph 50.64(c)(2)(i) requires, among other things, that each licensee of a non-power reactor authorized to possess and to use HEU fuel develop and submit to the Director of the Office of Nuclear Reactor Regulation (the Director) by March 27, 1987, and at 12-month intervals thereafter, a written proposal for meeting the requirements of the rule. The licensee shall include in its proposal a certification that Federal Government funding for conversion is available through the U.S. Department of Energy or other appropriate Federal agency. The proposal should also provide a schedule for conversion, based upon availability of replacement fuel acceptable to the Commission for that reactor and upon consideration of other factors such as the availability of shipping casks, implementation of arrangements for available financial support, and reactor usage.

Paragraph 50.64(c)(2)(iii) requires the licensee to include in the proposal, to the extent required to effect conversion, all necessary changes to the license, the facility, and licensee procedures. This paragraph also requires the licensee to submit supporting safety analyses in time to meet the conversion schedule.

Paragraph 50.64(c)(2)(iii) also requires the Director to review the licensee proposal, to confirm the status of Federal Government funding, and to determine a final schedule, if the licensee has submitted a schedule for conversion.

Section 50.64(c)(3) requires the Director to review the supporting safety analyses and to issue an appropriate enforcement order directing both the conversion and, to the extent consistent with the protection of public health and safety, any necessary changes to the license, the facility, and licensee procedures. In the **Federal Register** notice of the final rule (51 FR 6514), the Commission explained that in most, if not all cases, the enforcement order would be an order to modify the license under 10 CFR 2.204 (now 10 CFR 2.202).

Any person, other than the licensee, whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for hearing or petition for leave to intervene meeting the requirements of 10 CFR 2.309, "Hearing Requests, Petitions to Intervene, Requirements for Standing, and Contentions."

#### III

The U.S. Nuclear Regulatory Commission (NRC) maintains the Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the