Dated at Rockville, Maryland, this 7th day of November 1995.

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[Docket No. 50–344]

Portland General Electric Company, Trojan Nuclear Plant; Exemption

I.

Portland General Electric Company (PGE or the licensee) is the holder of Facility Operating (Possession Only) License No. NPF–1, which authorizes possession and maintenance of the Trojan Nuclear Plant (Trojan or the plant). The license provides, among other things, that the plant is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The plant is a permanently shutdown, defueled, pressurized light-water reactor undergoing the initial stages of decommissioning, which is located along the banks of the Columbia River in Columbia County, Oregon.

II.

Trojan received an operating license on November 21, 1975. On January 4, 1993, the Directors of PGE voted to accept the recommendation of the PGE management to permanently cease power operations at Trojan. The facility had been shut down since November 9, 1992, when a leak in the ''B'' steam generator was detected. PGE completed defueling of the reactor on January 27, 1993. On March 24, 1993, the NRC staff issued a confirmatory order to confirm a commitment by PGE not to move new or spent fuel into the reactor building without prior NRC approval. On May 5, 1993, the Commission issued Amendment No. 190 for Facility Operating License No. NPF–1, which converted the license to a possession-only license (POL).

Section 140.11(a)(4) of Title 10 of the Code of Federal Regulations, (10 CFR 140.11(a)(4)) requires each licensee to have and maintain primary nuclear liability insurance of $200 million. In addition, each licensee is required to maintain secondary financial protection in the form of private liability insurance under an industry retrospective plan. However, 10 CFR 140.8 allows the Commission, upon application of any interested person or upon its own initiative, to grant such exemptions from the requirements of Part 140 as it determines are authorized by law and are otherwise in the public interest.

In a letter dated April 6, 1995, the licensee requested a reduction in primary financial coverage and an exemption from participation in the industry retrospective rating plan requiring secondary level coverage requirements in 10 CFR 140.11(a)(4). The licensee requested that the exemption become effective on November 9, 1992, 3 years from the date of final shutdown of the reactors.

III.

The licensee justified the exemption request by citing existing NRC policy that provides for exemption from the requirements of 10 CFR 140.11(a)(4) for plants that have been permanently shut down, as presented in a staff requirements memorandum (SRM) dated July 13, 1993, on SECY–93–127, ''Financial Protection Required of Licensees of Large Nuclear Power Plants During Decommissioning.'' The licensee contends that as of November 9, 1995, no potential will exist for a reasonably conceivable accident at Trojan that could cause offsite damage resulting in liability claims exceeding $100 million. The licensee's conclusion is based on (1) Its analyses of operating events and design-basis accidents for Trojan in the permanently defueled condition described in the Trojan Defueled Safety Analysis Report; (2) the NRC staff's technical evaluation in SECY–93–127; and (3) the permanently shutdown status of the plant, including the significant period of elapsed time (3 years on November 9, 1995) in which the spent fuel decay heat will have had to dissipate.

The NRC staff independently evaluated the legal and technical issues associated with the application of the Price-Anderson Act to permanently shutdown reactors in SECY 93–127. In its evaluation, the staff concluded that the legislative history of the Price-Anderson Act establishes a legal framework and the discretionary authority to respond to licensee requests for a reduction in the level of primary financial protection and withdrawal from participation in the industry retrospective rating plan. Depending on the plant-specific configuration and the amount of elapsed time since permanent shutdown, the staff also concluded that potential hazards may exist at permanently shutdown reactors for which financial protection is warranted. The staff further concluded that accidents and hazards insured against under the Price-Anderson Act go beyond design-basis accidents and beyond those accidents considered ''credible'' as that term is used in 10 CFR Part 100 and in cases interpreting the application of the regulation.

In the exercise of its discretionary authority, the Commission could, so long as a potential hazard existed at a permanently shutdown reactor, require the full amount of primary financial protection and full participation in the industry retrospective rating plan. At such time as the hazard is determined to no longer exist, the Commission may reduce the amount of primary financial protection and permit the licensee to withdraw from participation in the industry retrospective rating plan.

Because the legislative history does not explicitly consider the potential hazards that might exist after termination of operation, the staff generically evaluated the offsite consequences associated with normal and abnormal operations, design-basis accidents, and beyond-design-basis accidents for reactors that have been permanently defueled and shut down. The staff concluded that aside from the handling, storage, and transportation of spent fuel and radioactive materials, no potential exists for a reasonably conceivable accident that could cause significant offsite damage.

A severe transportation accident could cause local contamination requiring cleanup and offsite liabilities resulting from traffic disruption and damage to property. The possibility of this type of accident would warrant the licensee's maintaining some level of liability insurance. The liabilities and indemnification requirements associated with the transfer of spent fuel from the licensee to the Department of Energy will be evaluated on a case-by-case basis in the future, when spent fuel is shipped to a repository.

The most significant accident sequence for a permanently defueled and shutdown reactor involves the complete loss of water from a light-water reactor spent fuel pool. This beyond-design-basis accident sequence could result in a zirconium fuel cladding fire that could propagate through the spent fuel storage pool and result in significant offsite consequences. Although such an accident is beyond the design bases, it may be considered ''reasonably conceivable'' and could warrant requiring substantial financial protection. Such an accident is possible during the first year after reactor shutdown for a low-density spent fuel storage configuration and during the first 2 to 3 years after shutdown for spent fuel stored in certain high-density configurations.

Accident scenarios involving blockage of coolant channels in conjunction with loss of spent fuel pool water could hypothetically further extend the time at which a zirconium fuel cladding fire could occur. However, in addition to being less likely than loss of water, air flow to react with the zirconium and to disperse fission products would most likely be inhibited by such blockage. The staff believes that this sequence approaches the strictly hypothetical.

Once the requisite cooling period after reactor shutdown has elapsed, the zirconium fuel cladding fire sequence is no longer a concern because the fuel would air cool sufficiently to avoid zirconium fuel cladding combustion. Possible accident scenarios after these cooling periods have elapsed possess greatly reduced consequences but could result in small releases or precautionary evacuations that could result in offsite liability.

With respect to the Trojan plant-specific evaluation, the NRC staff independently evaluated the legal and technical justifications for the exemption presented by the licensee. The NRC recognizes the current condition of the Trojan plant, that is, permanently shut down and defueled, licensed for ''possession-only,'' and under a confirmatory order that prohibits fuel movement from the spent fuel pool into the reactor building without approval of the Commission. The staff concurred with the licensee's evaluation of credible design-basis accidents and their minimal associated offsite consequences.

The staff also considered liability coverage needs associated with decommissioning activities, transportation of radioactive materials, design-basis accidents, and beyond-design-basis accidents as previously noted herein. The results of the staff's evaluation, as embodied in the staff requirements memorandum of July 13, 1993, on SECY 93–127 and in SECY 93–127, allow (after the requisite minimum spent fuel cooling period has elapsed) a reduction in the amount of financial protection required of licensees of large nuclear plants that have been prematurely shut down. The Trojan plant was permanently shut down on November 9, 1992; therefore, as of November 9, 1995, 3 years will have elapsed since the permanent shutdown of the Trojan plant. This time period meets the criteria established in SECY 93–127 for relief from financial protection requirements.

IV.

On the basis of its independent evaluation as embodied in the staff requirements memorandum of July 13, 1993, on SECY 93–127 and in SECY 93–127, the staff concluded that sufficient bases exist for the Commission's approval of relief from the financial protection requirements for the Trojan plant. The staff also concluded that granting the proposed exemption does not increase the probability or consequences of any accidents or reduce the margin of safety at this facility.

V.

Based on Sections III. and IV. above, the Commission has determined that pursuant to 10 CFR 140.8, this exemption is authorized by law and is otherwise in the public interest. Therefore, the Commission grants an exemption from the requirements of 10 CFR 140.11(a)(4) to the extent that primary financial protection in the amount of $100 million shall be maintained. An exemption from participation in the industry retrospective rating plan (secondary level financial protection) is granted for the Trojan plant effective November 9, 1995, 3 years from the date of final shutdown of the reactor.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (60 FR 55741 dated November 2, 1995).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 2nd day of November 1995.

Brian K. Grimes,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

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Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide is a proposed Revision 1 to Regulatory Guide 1.153, and it is temporarily identified as DG–1042, ''Criteria for Safety Systems.'' The guide will be in Division 1, ''Power Reactors.'' This regulatory guide is being revised to provide current guidance on methods acceptable to the NRC staff for complying with the Commission's regulations with respect to the design, reliability, qualification, and testability of the power, instrumentation, and control portions of safety systems of nuclear power plants.

The draft guide has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by January 12, 1996.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: Parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC NUREGs and RegGuides for Comment subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' For further information about options available for NRC at FedWorld, consult the ''Help/Information Center'' from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and data bases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS,