

previously evaluated already include dose contributions from MSIV leakage at the maximum leakage rate currently permitted by the TS. Appendix 2 of Attachment 3 of the January 14, 1994, submittal shows the previously calculated doses and the new calculated doses resulting from the proposed changes.

The staff concluded that the current exemption was acceptable based on: The method of MSIV testing (i.e., 22 psig test pressure when applied between MSIVs on a single steam line); a radiological analysis that assumed a 11.5 scfh MSIV leak rate, and the licensee's commitment that the MSIVs would be periodically tested to ensure the validity of the radiological analysis (i.e., verify that the MSIV leakage rate during testing is accounted for separately in the radiological analysis of the site. The proposed changes do not affect the bases for the current exemption. The modification and implementing TS change request: Will not alter the procedure method of MSIV testing (i.e., test pressure will remain at 22 psig when applied between MSIVs) and are based on the results of a radiological analysis where the proposed leakage rate and the resulting doses are still within regulatory limits. Also, the MSIVs will be periodically tested to assure the validity of the analysis (i.e., verify that the proposed MSIV leakage rate assumed in the radiological analysis is not exceeded per proposed TS 3.6.1.2.c), and the MSIV leakage will still be accounted for separately in the radiological analysis of the site.

For the reasons set forth above, the NRC staff concludes that there is reasonable assurance that: The current MSIV leak testing method (i.e., test pressure of 22 psig when applied between MSIV) is an acceptable method; the proposed alternate MSIV leakage pathway (main steam lines and condenser), and the calculated doses obtained by performing radiological analysis (calculated using an MSIV leakage rate limit of 100 scfh per MSIV not to exceed 200 scfh for all four main steam lines) are within the limits of 10 CFR Part 100 and GDC 19. The staff finds it acceptable to continue to exclude the measured MSIV leakage rate from the combined local rate, since the leakage is accounted for separately and continues to meet the underlying purpose of the rule. Therefore, the staff finds the requested exemption presented in the licensee's December 22, 1994, submittal acceptable.

### III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule \* \* \*,"

The underlying purpose of the rule is to assure that the total valve leakage is within the limits of 10 CFR Part 100 and GDC-19. The licensee's analysis has demonstrated that an adequate margin can be maintained even if leakage from the MSIV is considered separately and subject to a leakage restriction of 100 scfh per MSIV, not to exceed a total of 200 scfh for all four main steam lines.

### IV

Accordingly, the Commission has determined that, pursuant to 10 CFR Part 50.12, an exemption is authorized by law and will not present an undue risk to the public health and safety, and that there are special circumstances present, as specified in 10 CFR 50.12(a)(2). An exemption is hereby granted from the requirements of Sections II.H.4, III.C.2(a), and III.C.3 of Appendix J to 10 CFR Part 50. The exemption allows (1) leakage testing of the MSIVs after deletion of the LCS, using a test pressure of 22 psig applied between MSIVs and a leakage rate limit of 100 scfh per MSIV, not to exceed 200 scfh for all main steam lines, and (2) exclusion of the measured MSIV leakage rate from the combined local leak rate.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 7226).

The exemption is effective upon issuance and will be implemented prior to startup of Cycle 4 for LGS, Unit 2, and prior to startup of Cycle 7 for LGS, Unit 1.

Dated at Rockville, Maryland this 16th day of February 1995.

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[Docket No. 50-353]

### Philadelphia Electric Company; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 53 to Facility Operating License No. NPF-85 issued to Philadelphia Electric Company, which revised the Technical Specifications for operation of the Limerick Generating Station, Unit 2, located in Montgomery County, Pennsylvania.

The amendment is effective as of the date of issuance. The amendment modified the Technical Specifications to permit an increase in the allowable leak rate for main steam isolation valves (MSIV), and delete the MSIV leakage control system (LCS). The main steam drain lines and the main condenser would be utilized as an alternate MSIV leakage treatment system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which set forth in the license amendment.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on September 26, 1994 (59 FR 49089). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (60 FR 7226).

For further details with respect to the action see (1) the application for amendments dated January 14, 1994, and supplemented by letters dated August 1, October 25, December 13, December 22, 1994 (two submittals), and February 7, 1995 (2) Amendment No. 53 to License No. NPF-85, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at

the Pottstown Public library, 500 High Street, Pottstown, PA.

Dated at Rockville, Maryland, this 16th day of February 1995.

For the Nuclear Regulatory Commission.

**Frank Rinaldi,**

*Project Manager, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.*

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[Docket No. 030-29343; License No. 29-19310-02 (Expired); EA 94-226]

**Environmental Testing Laboratories, Inc., Philadelphia, Pennsylvania; Order Imposing a Civil Monetary Penalty**

**I**

Environmental Testing Laboratories (ETL), Inc. (Licensee), is the holder of expired Byproduct Materials License No. 29-19310-02 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on July 31, 1986. The License authorized the possession and use of nickel-63 in plated sources or foils, not to exceed 15 millicuries per foil, in accordance with the conditions specified therein. The License expired on August 31, 1991.

**II**

ETL did not submit an application for renewal of the License under 10 CFR 30.37 prior to its expiration on August 31, 1991, nor did ETL notify the Commission, in writing under 10 CFR 30.36, of a decision not to renew the License 30 days prior to its expiration. Although Mr. Walter Holm, Jr., the Radiation Safety Officer, stated ETL's intentions in a letter dated May 15, 1991, to terminate the license, until January 24, 1995, ETL had not transferred the licensed material to an authorized recipient, nor had ETL applied for an NRC license.

On January 14, 1993, NRC Region I issued a Notice of Violation (NOV) at Severity Level IV to ETL, mailed to Mr. Walter Holm, for possession of byproduct material without a valid NRC license. The letter forwarding the NOV directed the Licensee to place the byproduct material in secure storage, not to use the material, and promptly transfer the byproduct material to an authorized recipient. The Licensee did not respond to that NOV. In a June 7, 1994 letter, the NRC again reminded ETL of the need to respond to the NRC Notice of Violation. ETL did not respond. In addition, ETL did not respond to a telephone message left on October 26, 1994. On November 10,

1994, a written Notice of Violation and Proposed Imposition of Civil Penalty (Notice); Notification of Consideration of the Imposition of Daily Civil Penalties; and Order to Cease and Desist Use and Possession of Regulated Byproduct Material were served upon ETL. The Notice categorized the violation at Severity Level III since ETL had not transferred the material nor responded to the NOV issued on January 14, 1993. ETL has not responded in writing to the Notice, even though a response was required by December 10, 1994, and even though the NRC contacted ETL on January 3, 6 and 18, 1995, regarding submittal of a response. ETL has not responded to the Order to Cease and Desist as required. However, NRD, a sub-contractor of Perkin-Elmer (an authorized recipient) received the sealed source from ETL on January 24, 1995.

**III**

The NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated in the Notice, and that a penalty of \$3,000 should be imposed.

**IV**

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

ETL pay a penalty in the amount of \$3,000 within 30 days of the date on this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852-2738.

**V**

ETL may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If ETL fails to request a hearing within 30 days of the date of this Order,

the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event ETL requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether ETL was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and

(b) Whether on the basis of such violations, this Order should be sustained.

Dated at Rockville, Maryland this 15th day of February 1995.

For the Nuclear Regulatory Commission.

**James Lieberman,**

*Director, Office of Enforcement.*

**Appendix—Violations and Conclusion**

On November 10, 1994, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued based on a review of communications (and associated documents) conducted between the NRC and Environmental Testing Laboratories, Inc. (ETL) between November 1991 and October 26, 1994. ETL has not responded to the Notice, even though a response was required by December 10, 1994, and even though NRC contacted ETL on January 3, 6 and 18, 1995, to remind them of need to respond. The violations set forth in the Notice, as well as the NRC conclusion on this matter, are as follows:

*1. Restatement of Violations*

A. 10 CFR 30.3 states, in part, that except for persons exempt as provided in 10 CFR Parts 30 and 150, no person shall possess or use byproduct material except as authorized in a specific or general license issued pursuant to the regulations in this chapter.

Contrary to the above, from January 14, 1993 through October 31, 1994, ETL has been in possession of byproduct material not authorized under a specific or general license, and ETL is not exempt as provided in 10 CFR Parts 30 and 150. (01013)

B. 10 CFR 30.36(b) requires, in part, that each licensee notify the Commission promptly, in writing, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license.

10 CFR 30.36(c)(1) requires, in part, that if a licensee does not submit an application for license renewal under 10 CFR 30.37, the licensee shall, on or before the expiration date specified in the license, terminate use of byproduct material; properly dispose of byproduct material; submit a completed form NRC-314, which certifies information concerning the disposition of material; and conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey.

Contrary to the above, as of August 31, 1991, the NRC license issued to ETL expired and the licensee did not submit an application for license renewal nor did it