

regarding the COL application or the NRC Staff's associated environmental review that do fall within the scope of the uncontested proceeding (i.e., issues that are not within the scope of admitted contentions), they should be aware that many of the procedures and rights applicable to the NRC's contested hearing process due to the inherently adversarial nature of such proceedings are not available with respect to this uncontested hearing. Participation in the NRC's contested hearing process is governed by 10 CFR 2.309 (for persons or entities, including States, local governments, or Indian Tribes, seeking to file contentions of their own) and 10 CFR 2.315(c) (for interested States, local governments, and Indian Tribes seeking to participate with respect to contentions filed by others). Participation in this uncontested hearing does not affect a State's, local government's, or Indian Tribe's right to participate in the separate contested hearing process.

The Commission recognizes that a request to participate under 10 CFR 2.315(c) in proceedings regarding this COL application was previously dismissed on mootness grounds by an NRC Atomic Safety and Licensing Board. Such dismissals apply solely to the contested portion of the proceeding, and do not affect any rights to participate in this uncontested portion of the proceeding.

Dated at Rockville, Maryland, this 22nd day of August 2011.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

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## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 70-7001; Certificate No. GDP-1; EA-11-056; NRC-2011-056]

### **In the Matter of United States Enrichment Corporation; Paducah Gaseous Enrichment Plant; Confirmatory Order (Effective Immediately)**

#### **I**

The United States Enrichment Corporation (USEC), a subsidiary of USEC Inc., is the holder of the United States Nuclear Regulatory Commission (NRC or the Commission) Certificate of Compliance (COC) No. GDP-1 issued by the NRC pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 76 on November 26, 1996, and renewed on December 22, 2008. The

COC is set to expire on December 31, 2013. The certificate authorizes USEC to operate the Paducah Gaseous Diffusion Plant (Paducah), located near Paducah, Kentucky. The certificate also authorizes USEC to receive, and other NRC licensees to transfer to USEC, byproduct material, source material, or special nuclear material to the extent permitted under the COC.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on July 22, 2011.

#### **II**

On March 17, 2010, an incident occurred at the Paducah facility involving the spread of contamination while operators were involved in the routine activity of swapping cylinders from the enrichment cascade in the 337A feed building. USEC-Paducah management promptly initiated an investigation to review the incident.

On July 14, 2010, the NRC's Office of Investigations (OI) initiated an investigation (OI Case No. 2-2010-037) regarding activities at the Paducah facility. The purpose of the investigation was to determine whether an operator willfully violated applicable radiation protection procedures.

Based on the evidence developed during the NRC investigation, the NRC staff identified one apparent violation, as documented in the NRC's letter to USEC-Paducah dated May 18, 2011. The apparent violation involved the failure to adhere to the requirements of USEC-Paducah Procedure UE2-HP-RP1030, Rev. 4, "Conduct of Radiological Operations," which requires that personnel shall properly perform a whole body frisk when exiting from areas controlled for removable contamination, unless otherwise authorized by Health Physics. USEC-Paducah is required by Certificate GDP-1 to implement the procedure in accordance with Technical Safety Requirements 3.9.1, "Procedures Scope," which requires, in part, that written procedures shall be implemented to cover activities listed in Appendix A to Safety Analysis Report (SAR) Section 6.11. Appendix A to SAR 6.11, "Procedures," requires, in part, the licensee to implement procedures to cover radiation protection activities. In this case, an operator failed to properly use a radiation monitor before exiting the contamination control zone (CCZ), and spread contamination of high activity level to the Operations Monitoring Room, an area adjacent to the CCZ and inside the 337A feed building.

The NRC's letter of May 18, 2011, preliminarily concluded that the cause of the violation was due, in part, to the deliberate misconduct of an operator at the Paducah facility.

#### **III**

On July 22, 2011, the NRC and USEC met in an ADR session mediated by a professional mediator, which was arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. USEC-Paducah agreed that the issue described in Section II above represents a violation of Certificate GDP-1, Technical Safety Requirements 3.9.1, and USEC-Paducah Procedure UE2-HP-RP1030, in that an employee by-passed a radiation monitor and exited the CCZ. USEC-Paducah also agreed with the NRC's conclusion that the violation was due, in part, to the deliberate misconduct of the employee at the Paducah facility.

2. At the ADR session, USEC-Paducah acknowledged the seriousness associated with the procedural violation and the deliberate misconduct of its employee. The incident caused the spread of contamination and constituted a serious violation of its procedures, standards, and expectations. The potential consequences of the incident could have been more significant, because under different circumstances, contamination could have been spread to other areas of the facility, and off-site. The incident prompted USEC to conduct a thorough investigation of the event, a determination of the extent of condition, and a root cause evaluation. USEC's investigation also included a review of the circumstances that took place during the routine operational activities of swapping cylinders to the enrichment cascade that resulted in the existence of contaminated material. In addition, USEC investigated the operational and procedural aspects that established the conditions that led to the spread of contamination in the autoclave facility.

3. In response to the violation described above, USEC-Paducah implemented numerous corrective actions and enhancements to address the incident and to prevent recurrence, including but not limited to:

a. A prompt investigation into the incident, and the initiation of its

disciplinary process to address the conduct of the employee involved;

b. Decontamination and restoration of the normal CCZ boundaries in the C-337A building;

c. The placement of an entry in the Daily Operating Instructions requiring Operators to wear full anti-contamination clothing while changing cylinders in the C-337A building, pending the results of the Company's investigation;

d. Issuance of a "Required Reading" to provide uranium hexafluoride handling personnel initial information about the contamination event;

e. Issuance of a long-term order requiring Operators to check for abnormal pressure spikes before disconnecting a cylinder (to prevent a similar release of contamination);

f. The conduct of briefings about the contamination event with all HP Technicians.

g. The conduct of a Stand Down with all Operations crews to discuss the contamination event;

h. The operators involved in the incident were required to take Radworker Refresher training;

i. Issuance of a second "Required Reading" to provide an update to the immediate Required Reading about: (a) the contamination event; and (b) the reasons for the issuance of the long-term order described above;

j. Issuance of a second long-term order requiring Area Control Room Operators to verify the feed valve on the empty cylinder is closed before opening the feed valve on the full cylinder when swapping feed cylinders that have emptied;

k. Clarification of management's expectation that supervisors document in the Company's Corrective Action Program when an unexpected pressure spike occurs;

l. The conduct of briefings of all plant personnel by management in each Organization about this contamination event, including reinforcement of the potential consequences of failing to comply with radiological protection requirements;

m. USEC revised procedure CP4-CO-CN2045a to require Area Control Room operators to ensure the feed valve on the empty cylinder is closed before opening the feed valve on the full cylinder. The revision also included a note explaining the significance of the valve sequencing from a potential contamination perspective. USEC also revised CP4-CO-CN2045a to require the vaporizer operators to check for abnormal pressure spikes before disconnecting a cylinder;

n. The General Manager and Plant Manager conducted "all hands" meetings to communicate a zero tolerance for willfully violating or bypassing safety requirements;

o. USEC reviewed and evaluated all reported cylinder change pressure spikes for the nine-month period ending December 31, 2010, focusing on operating parameters of the autoclaves involved, including a discussion of valving operations supporting the cylinder change. The review found one similar pressure spike, but the cause was a plugged feed header in C-333, not a valving error. Personnel used enhanced HP monitoring when this cylinder was disconnected and no release of radioactive particulates or contamination occurred;

p. USEC completed an effectiveness review of the above corrective actions on February 3, 2011, which concluded that the corrective actions were effective.

4. In addition to the actions completed by USEC as discussed above, USEC agreed to additional corrective actions and enhancements, as fully delineated in Section V of this Confirmatory Order.

5. At the ADR session, the NRC and USEC agreed that the above elements will be incorporated into a Confirmatory Order. The resulting Confirmatory Order will be considered by the NRC for any assessment of USEC-Paducah, as appropriate.

6. USEC-Paducah agrees to waive its hearing rights for the issues documented in the Confirmatory Order.

7. In consideration of the corrective actions and commitments delineated in Section III.3 and Section V, the NRC agrees to not issue a Notice of Violation, and refrain from proposing a civil penalty for all matters discussed in the NRC's letter to USEC of May 18, 2011 (EA-11-056). This completes the Agency's enforcement action with respect to USEC-Paducah regarding all matters discussed in the NRC's letter to USEC of May 18, 2011.

8. This agreement is binding upon successors and assigns of USEC.

On August 11, 2011, USEC consented to issuance of this Order with the commitments, as described in Section V below. USEC further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

#### IV

Since USEC has completed the actions as delineated in Section III.3, and agreed to take the actions as set forth in Section V, the NRC has

concluded that its concerns can be resolved through issuance of this Order.

I find that USEC's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that USEC's commitments be confirmed by this Order. Based on the above and USEC's consent, this Order is immediately effective upon issuance.

#### V

Accordingly, pursuant to Sections 104b, 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 Part 76, *it is hereby ordered, effective immediately, that Certificate No. GDP-1 be modified as follows:*

a. USEC will use multiple site-wide communication tools (e.g., "All Hands" meetings and written communications) to emphasize safety culture to employees and contractors at Paducah and the importance of using human error prevention tools, the need to comply with job rules, regulations, and procedures, and the potential consequences when compliance does not occur. The first of these communications will occur within 60 days of the issuance of the Confirmatory Order.

b. Within four months of the issuance of the Confirmatory Order, USEC will develop and begin implementation of a required training program at Paducah that describes the requirements of 10 CFR 76.9, Completeness and Accuracy of Information, and 10 CFR 76.10, Deliberate Misconduct, to all employees. This training is to include the potential consequences individuals may experience for willful violations of 10 CFR 76.10.

c. Within six months of the issuance of the Confirmatory Order, USEC will enhance new employee orientation and General Employee Training at Paducah to ensure that personnel clearly understand that deliberate acts of non-compliance with regulations or procedures will not be tolerated and could result in a significant disciplinary action up to and including termination.

d. USEC will expand the independent, Safety Conscious Work Environment assessment, required by Confirmatory Order EA-06-140, Section V.III, dated August 13, 2009, to include an assessment of the safety culture components of decision making and work practices. Particular attention shall be focused on the effectiveness of corrective actions associated with the

March 17, 2010 incident in the areas of: (1) training; (2) the use of error prevention methods; and (3) procedural adherence. The effectiveness review shall, at a minimum, include direct observation of facility staff, and shall include the benchmarking of other nuclear industry facilities in the area of error prevention.

e. Within three months of USEC's receipt of the report of the Safety Conscious Work Environment assessment, USEC shall brief the NRC on the results of the assessment and any planned corrective actions arising out of the assessment. During this briefing, USEC shall also provide the NRC with the results of its efforts to identify appropriate metrics to measure site safety culture.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by USEC of good cause.

## VI

Any person adversely affected by this Confirmatory Order, other than USEC, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or

representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. 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 documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing 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

E-Filing 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 documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, 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. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at <http://>

*ehd1.nrc.gov/EHD/*, unless excluded pursuant to an order of the Commission, or the 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, unless an NRC regulation or other law requires submission of such information. 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.

If a person (other than USEC) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by 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 Confirmatory Order should be sustained.

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 V above shall be final 20 days from the date this Confirmatory Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A request for hearing shall not stay the immediate effectiveness of this order.

Dated this 17th day of August 2011.

For the Nuclear Regulatory Commission.

**Leonard D. Wert, Jr.,**

*Deputy Regional Administrator for Operations.*

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**BILLING CODE P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2011-0194; Docket Nos. 50-335 and 50-389]

### Florida Power and Light Company; St. Lucie Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) part 50, Appendix G, Section IV.A.2, for Facility Operating License Nos. DPR-67 and NPF-16, issued to Florida Power and Light Company, et al. (the licensee, FPL), for operation of St. Lucie Nuclear Plant, Units 1 and 2, located on Hutchinson Island in St. Lucie County, Florida. Therefore, as required by 10 CFR 51.21, the NRC performed an environmental assessment. Based on the results of the environmental assessment, the NRC is issuing a finding of no significant impact.

#### Environmental Assessment

##### *Identification of the Proposed Action*

The proposed action would approve an exemption for St. Lucie Nuclear Plant, Units 1 and 2, from certain requirements of 10 CFR part 50, Appendix G, "Fracture Toughness Requirements." Specifically, the licensee requests approval of an exemption from the requirements of 10 CFR part 50, Appendix G, Section IV.A.2, "Pressure-Temperature Limits and Minimum Temperature Requirements."

The methodology developed by Combustion Engineering to calculate reactor coolant system (RCS) pressure-temperature (P-T) curves, heatup and cooldown limits and low temperature overpressure protection (LTOP) requirements is documented in topical report CE NPSD-683-A (Agencywide Documents Access and Management System (ADAMS) Accession No. ML011350387). The staff noted in its March 16, 2001 safety evaluation for this report that: "The CE [Combustion Engineering] NSSS [nuclear steam supply system] methodology does not invoke the methods in the 1995 edition of Appendix G to the Code for calculating  $K_{IM}$  factors, and instead applies FEM [finite element modeling] methods for estimating the  $K_{IM}$  factors for the RPV shell \* \* \* Except for loading inputs, the staff has determined that the  $K_{IM}$  calculation methods apply FEM modeling that is similar to that used for the determination of the  $K_{IR}$

factors. The staff has also determined that there is only a slight non-conservative difference between the P-T limits generated from the 1989 edition of Appendix G to the Code and those generated from CE NSSS methodology as documented in Evaluation No. 063-PENG-ER-096, Revision 00. The staff considers this difference to be reasonable and should be consistent with the expected improvements in P-T generation methods that have been incorporated into the 1995 edition of Appendix G to the Code. The staff therefore concludes that the CE NSSS methodology for generating P-T limits is equivalent to the current methodology in the 1995 edition of Appendix G to the Code, and is acceptable for P-T limit applications." The staff has extended this conclusion to the Section XI, Appendix G methodology of Code Editions through the 2004 Edition.

The staff has advised licensees to specify whether membrane stress intensity factors due to pressure loading,  $K_{IM}$ , are determined by obtaining a closed-form solution (per the American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G) or determined by applying finite element modeling methods (per CE NPSD-683-A, Revision 6). Stress intensity values,  $K_{IM}$ , for St. Lucie, Units 1 and 2 are calculated using the CE NSSS finite element modeling methods.

##### *The Need for the Proposed Action*

FPL is implementing the methodology documented in Topical Report CE NPSD-683-A to calculate the RCS pressure-temperature curves and LTOP limits for St. Lucie Nuclear Plant, Units 1 and 2. This methodology uses an FEM calculation that, although similar to the ASME Section XI requirements, is slightly less conservative. Section IV.A.2 of Appendix G to 10 CFR Part 50 states, "The pressure-temperature limits identified as 'ASME Appendix G limits' in Table 3 require that the limits must be at least as conservative as limits obtained by following the methods of analysis and the margins of safety of Appendix G of Section XI of the ASME Code." Therefore, the use of the methodology documented in topical report CE NPSD-683-A requires an exemption from 10 CFR part 50, Appendix G, Section IV.A.2, in order to implement that methodology with a license granted under 10 CFR part 50.

##### *Environmental Impacts of the Proposed Action*

The NRC staff has completed its environmental assessment of the proposed exemption and has concluded