

October 23, 2001

IA-01-043

Mr. David William Lurty
HOME ADDRESS DELETED
UNDER 10 CFR 2.790

SUBJECT: NOTICE OF VIOLATION
(NRC Office of Investigation Report No. 1-2000-033)

Dear Mr. Lurty:

This letter refers to an investigation initiated by the NRC's Office of Investigations (OI) on September 27, 2000, at the Peach Bottom Atomic Power Station (PBAPS) and the Limerick Generating Station (LGS). The investigation was initiated to determine if two former Exelon Infrastructure Services (EIS) maintenance technicians fabricated siren testing maintenance records and performed deficient siren tests on the offsite emergency preparedness response sirens, and intentionally installed jumper wires in the siren boxes disabling important system functions. The investigation was initiated after Exelon identified the issue and reported it to the NRC.

Based on the evidence developed during its investigation, OI substantiated that you deliberately falsified siren maintenance records to reflect that required activities had been performed, when, in fact, they had not been performed. OI also substantiated that you installed jumper wires in siren boxes to bypass failure detection circuitry. These conclusions were noted in a factual summary of the OI report that was sent to you in a letter dated August 15, 2001.

In our letter to you dated August 15, 2001, we provided you the opportunity to address the OI findings and the apparent violation before we made our final enforcement decision by either attending a predecisional enforcement conference or by providing a written response. On October 2, 2001, a predecisional enforcement conference was conducted with you in the Region I office (King of Prussia, PA) to discuss the apparent violation, its significance, root causes, and your corrective actions. At the conference, you admitted that you had deliberately falsified siren maintenance records to reflect that required activities had been performed, when, in fact, they had not been performed. You also admitted that you had installed jumper wires in siren boxes to bypass failure detection circuitry.

After considering the information developed during the investigation and the information that you provided during the conference, the NRC has concluded that you were in violation of the NRC's rule prohibiting deliberate misconduct, 10 CFR 50.5(a)(1). This rule prohibits any contractor of any licensee from engaging in deliberate misconduct that causes a licensee to be in violation of any NRC regulation. Specifically, you deliberately submitted information to

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Exelon that you knew to be inaccurate (i.e., "Siren Report - Routine Maintenance Checklist" records), which placed Exelon in violation of 10 CFR 50.9. 10 CFR 50.9 requires information that is maintained by a licensee to be complete and accurate in all material respects. These records were material to the NRC because emergency preparedness sirens are required by NRC regulations to notify the public of needed actions for emergencies at nuclear power plants. Additionally, you deliberately installed jumper wires in siren boxes to bypass failure detection circuitry, which would demonstrate that the sirens were working properly, even if they were not. This deliberate act placed Exelon in violation of 10 CFR 50.47(b)(5), which requires means to provide early notification to the populace within the plume exposure pathway of the Emergency Planning Zones surrounding LGS and PBAPS. The ability to provide early notification to the populace was compromised because the jumpers prevented detection of inoperable sirens, which would have delayed or possibly precluded alerting certain areas of the local populace.

Given the deliberate nature of your actions, these violations of 10 CFR 50.5(a)(1) were categorized collectively in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 as a Severity Level III problem. The NRC considered issuing you an Order to preclude your involvement in NRC-licensed activities for a specific period. However, the NRC has decided not to issue you an Order, in part, because: (1) the safety consequences of your deliberate actions were low because Exelon had over 95% siren coverage of the population in the vicinity of LGS and PBAPS; (2) Exelon took significant disciplinary action; and (3) you admitted that your actions were deliberate. However, although you indicated to the NRC that you do not intend to pursue employment involving NRC-regulated activities, you should be aware that any similar conduct on your part in the future may subject you to further enforcement action. A violation of 10 CFR 50.5 may also lead to criminal prosecution.

You are not required to respond to the enclosed Notice at this time unless the description therein does not accurately reflect your position or if you choose to provide additional information. In that case, you should follow the instructions specified in the enclosed Notice. However, should you seek employment related to NRC-regulated activities in the future, you must respond to the enclosed Notice at that time, following the specified instructions, including a statement of your commitment to compliance with regulatory requirements and a basis as to why the NRC should have confidence that you will comply with applicable NRC requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Mr. David William Lurty

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Please feel free to contact Mr. Richard Conte of my staff if you have any questions. Mr. Conte can be contacted at 610-337-5183.

Sincerely,

/RA/ James T. Wiggins Acting For

Hubert J. Miller
Regional Administrator

Enclosures: 1) Notice of Violation
2) Letter and Notice of Violation to Exelon

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Region I Docket Room (with concurrences)

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| DATE | 10/09 /01 | | 10/16/01 | | 10/11/01 | | 10/10/01 | | 10/15/01 | |

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| OFFICE | RI/ORA | | RI/DRP | | HQ/OE | | RI/RA | | | |
| NAME | Bfewell (JBF) | | Rblough (BEH for) | | FCongel (RJU for) * | | Hmiller (JTW for) | | | |
| DATE | 10/15/01 | | 10/15/01 | | 10/18/01 | | 10/23/01 | | | |

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* Concurrence by J. Luehman via e-mail from P. Prescott.

NOTICE OF VIOLATION

Mr. David William Lurty
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790(a)]

IA-01-043

During an investigation conducted by the NRC Office of Investigations, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violations are listed below:

10 CFR 50.5(a)(1) states, in part, that any employee of a contractor of any licensee who knowingly provides to any licensee, any components, equipment, material, or other goods or services that relate to a licensee's activities in this part may not engage in deliberate misconduct that causes a licensee to be in violation of any rule or regulation.

- A. 10 CFR 50.54(q) states in part, that a licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in 10 CFR 50.47(b).

10 CFR 50.47(b)(5) states, in part, that means to provide early notification to the populace within the plume exposure pathway Emergency Planning Zone have been established.

Contrary to the above, from November 1999 to September 2000, you knowingly installed approximately ten jumper wires in LGS and PBAPS siren boxes to specifically bypass failure detection circuitry, thereby demonstrating that the siren was working properly, even if it was not. As a result, the means to provide early notification to the populace within the plume exposure pathway Emergency Planning Zone for at least fourteen sirens was compromised because the jumpers prevented detection of inoperable sirens, which would have delayed or possibly precluded route alerting of the local populace.

- B. 10 CFR CFR 50.9 requires in part, that information required by the Commission's regulations, orders or license conditions to be maintained by a licensee shall be complete and accurate in all material respects.

Exelon's Nuclear Emergency Plan describes the philosophy, organization, facilities, and equipment necessary to ensure preparedness for emergencies at PBAPS and LGS. Section 5.2.14 describes the Public Alert/Notification System, which is a siren system that is maintained and tested regularly by Exelon to ensure its operability.

Common Emergency Preparedness Administrative Procedure EP-C-7, "The Maintenance and Testing of the Offsite Alert and Notification (Siren) Systems," Rev. 3, requires, in part, that routine maintenance and corrective maintenance shall be performed by the service provider on LGS and PBAPS siren systems at the direction of the Manager-EP. Corrective maintenance shall be generated by the results of daily siren and county controller polls, and failures that are indicated by full scale tests. The records of routine testing shall be maintained by the site Nuclear Records Management Systems.

Contrary to the above, from April/May 2000 until October 2000, you knowingly engaged in deliberate misconduct that caused Exelon to violate 10 CFR 50.9. Specifically, records of routine maintenance and testing performed on sirens in various locations surrounding LGS and PBAPS were not complete and accurate in all material respects in that you falsified numerous Siren Report - Routine Maintenance Checklist" records indicating that you had completed all of the routine maintenance steps, when, in fact, you had not.

These violations have been categorized collectively as a Severity Level III problem. (Supplement VII)

You are not required to respond to this Notice at this time. However, should you seek employment related to NRC-regulated activities in the future, you must respond to the Notice at that time, following the instructions specified below, including a statement of your commitment to compliance with regulatory requirements and a basis as to why the NRC should have confidence that you will comply with applicable NRC requirements. Also, you should follow the instructions specified below if the description herein does not accurately reflect your position or if you choose to provide additional information.

If you provide a written response, it should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 475 Allendale Road, King of Prussia, PA 19406, and marked "Open by Addressee Only" within 30 days of the date of the letter transmitting this Notice. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for the violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 23rd day of October, 2001

October 23, 2001

EA-01-188 (Peach Bottom)

EA-01-189 (Limerick)

Mr. Oliver D. Kingsley, President
Exelon Nuclear
Exelon Generation Company, LLC
200 Exelon Way, KSA 3-E
Kennett Square, PA 19348

SUBJECT: NOTICE OF VIOLATION
(NRC Office of Investigations Report 1-2000-033)
(Peach Bottom Atomic Power Station / Limerick Generating Station)

Dear Mr. Kingsley:

This letter refers to an investigation initiated by the NRC's Office of Investigations (OI) on September 27, 2000, at the Peach Bottom Atomic Power Station (PBAPS) and the Limerick Generating Station (LGS). The purpose of the investigation was to determine if two former Exelon Infrastructure Services (EIS) maintenance technicians fabricated siren testing maintenance records, performed deficient siren tests on the offsite emergency preparedness response sirens, and intentionally installed jumper wires in the siren boxes disabling important system functions. The investigation was initiated after you identified the issue and reported it to the NRC.

Based on the evidence developed during its investigation, OI substantiated that two former EIS technicians deliberately falsified siren maintenance records to reflect that required activities had been performed, when, in fact, they had not been performed. OI also substantiated that one of the former EIS technicians installed jumper wires in the siren boxes to bypass failure detection circuitry. These conclusions were noted in a factual summary of the OI report that was sent to you in a letter dated August 15, 2001.

In our August 15, 2001, letter, we provided you the opportunity to address the OI findings and the apparent violations before we made our final enforcement decision by either attending a predecisional enforcement conference or by providing a written response. On October 1, 2001, a conference was conducted with Mr. J. Hagan and other members of your staff in the Region I office (King of Prussia, PA) to discuss the apparent violations, their significance, root causes, and your corrective actions. At the conference, your staff described its investigation, root cause evaluation and corrective actions. Your staff agreed that there was a failure to maintain complete and accurate maintenance and testing records as required by 10 CFR 50.9, but they contended that the requirements of 10 CFR 50.47(b)(5) and (b)(8) were met because the emergency preparedness planning standards were met. Further, your staff maintained that as a result of a population coverage analysis, the safety significance of this issue was low because more than 95% of the populace in the Emergency Planning Zones (EPZ) for LGS and PBAPS

would have been notified. The slides that Exelon used during the enforcement conference have been entered in the NRC's document system (ADAMS) and are accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> under Accession Number ML012840024.

After careful consideration of the information developed during the investigation and the information that you provided during the conference, the NRC has concluded that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice). The first violation involved creation of inaccurate and incomplete records by two former EIS contractors. Specifically, both individuals falsified a number of "Siren Report - Routine Maintenance Checklist" records indicating that they had completed all of the maintenance steps, when in fact they had not. The second violation involved deficiencies with providing early notification to the populace surrounding PBAPS and LGS in the event of an emergency. Specifically, siren failure detection circuitry in 10 of 97 sirens surrounding PBAPS and 4 of 165 sirens surrounding LGS were intentionally bypassed by installing jumpers. As a result, a false indication was provided that the sirens were working properly when, in fact, they were not. One of the former EIS contractors admitted to installing approximately ten jumper wires in LGS and PBAPS siren boxes between November 1999 and September 2000 to specifically bypass the failure detection circuitry. Therefore, despite your contention that 10 CFR 50.47(b)(5) was met, the NRC determined that as a result of these deliberate acts, the original design of the siren system was modified. Installation of the jumpers compromised the ability to detect, for certain sirens, any malfunction of this system which is used to provide early notification to the populace surrounding PBAPS and LGS. The siren system was compromised in that the jumpers prevented detection of certain inoperable sirens, which would have delayed, or possibly precluded you from taking compensatory actions to alert certain areas of the local populace in the event of an emergency. Therefore, the NRC maintains that 50.47(b)(5) was not met.

The safety significance of the violations was low because you estimated that you maintained over 95% siren coverage of the population in the vicinity of LGS and PBAPS. Therefore, these violations would normally be categorized at Severity Level IV. However, because the violations were caused by the willful actions of contractor employees, these violations have been categorized collectively in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 as a Severity Level III problem.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$55,000 is considered for a Severity Level III violation or problem. Because the Severity Level III problem was deliberate, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. In this case, the NRC decided that credit for *Identification* is warranted because you identified the misconduct and informed the NRC. Credit for *Corrective Action* is also warranted because your corrective actions were considered prompt and comprehensive and included testing and corrective maintenance to restore sirens to a fully operable condition, performing a root cause evaluation, and terminating the employment of both contract technicians.

Mr. Oliver D. Kingsley

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Therefore, to encourage prompt identification and corrective actions of problems that existed, I have been authorized, after consultation with the Director, Office of Enforcement, to not propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

You are not required to respond to this letter because the NRC has sufficient information on the docket concerning this issue, including details in a combined NRC inspection report dated August 30, 2001 (50-277/01-012; 50-278/01-012 and 50-352/01-013; 50-353/01-013), and your slides from the conference. These slides, as well as your presentation, provided your immediate and long term corrective actions to prevent recurrence of the violation. Your immediate corrective actions were described above, while your long term corrective actions included, but were not limited to: (1) the development of a training program and procedure for contract owners; (2) the strengthening of licensee procedures and terms for contracts; (3) the development of guidelines for monitoring contracts; (4) the development of a Siren Program Manual; and (5) the correction of performance indicator data submitted to the NRC. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Sincerely,

/RA/ James T. Wiggins Acting For

Hubert J. Miller
Regional Administrator

Enclosure: As Stated

Docket Nos. 50-277, 50-278; 50-352, 50-353
License Nos. DPR-44, DPR-56; NPF-39, NPF-85

Mr. Oliver D. Kingsley

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cc w/encl:

J. J. Hagan, Senior Vice President, Exelon Generation Company, LLC

W. Bohlke, Senior Vice President - Nuclear Services

J. Cotton, Senior Vice President - Operations Support

J. Skolds, Chief Operating Officer

G. Hunger, Chairman, Nuclear Review Board

M. Gallagher, Director - Licensing, Exelon Generation Company, LLC

J. Benjamin, Vice President - Licensing and Regulatory Affairs

W. Levis, Vice President - Limerick Generating Station

R. C. Braun, Plant Manager, Limerick Generating Station

K. Gallogly, Manager, Experience Assessment

Chief - Division of Nuclear Safety

Secretary, Nuclear Committee of the Board

E. Cullen, Vice President, General Counsel

Correspondence Control Desk

Commonwealth of Pennsylvania

J. Doering, Vice President, Peach Bottom Atomic Power Station

G. Johnston, Plant Manager, Peach Bottom Atomic Power Station

P. Chabot, Director, Nuclear Oversight

A. F. Kirby, III, External Operations - Delmarva Power & Light Co.

A. A. Winter, Manager, Experience Assessment

J. W. Durham, Sr., Senior Vice President and General Counsel

H. C. Kresge, Manager, External Operations, Connectiv

N. J. Sproul, Manager, Financial Control & Co-Owner Affairs, Connectiv

R. McLean, Power Plant Siting, Nuclear Evaluations

D. Levin, Acting Secretary of Harford County Council

R. Ochs, Maryland Safe Energy Coalition

J. H. Walter, Chief Engineer, Public Service Commission of Maryland

Mr. & Mrs. Dennis Hiebert, Peach Bottom Alliance

Mr. & Mrs. Kip Adams

State of Maryland

TMI - Alert (TMIA)

Mr. Oliver D. Kingsley

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Enforcement Coordinators RII, RIII, RIV

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CGratton, PM, NRR

JBoska, PM, NRR (Backup)

HMiller, RA

JWiggins, DRA

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GMatakas, RI

MShanbaky, DRP

ABurritt, DRP - Senior Resident Inspector

Region I Docket Room (with concurrences)

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RJunod, DRP

AMcMurtray, DRP - NRC Resident Inspector

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| DATE | 10/ 09/01 | | 10/16/01 | | 10/11/01 | | 10/10/01 | | 10/12/01 | |
| OFFICE | RI/DRS | | RI/ORA | | HQ/OE | | RI/RA | | | |
| NAME | Wlanning (WDL) | | Bfewell (JBF) | | FCongel (RJu for) * | | Hmiller (JTW for) | | | |
| DATE | 10/15/01 | | 10/15/01 | | 10/18/01 | | 10/23/01 | | | |

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* Concurrence by J. Luehman via e-mail from P. Prescott

NOTICE OF VIOLATION

Exelon Generation Company, LLC
Peach Bottom Units 2 and 3

Docket No. 50-277; 50-278
License No. DPR-44, DPR-56
EA-01-188

Limerick Units 1 and 2

Docket No. 50-352, 50-353
License No. NPF-39, NPF-85
EA-01-189

During an investigation conducted by the NRC Office of Investigations, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violations are listed below:

- A. 10 CFR 50.9 states, in part, that information required by the Commission's regulations, orders or license conditions to be maintained by a licensee shall be complete and accurate in all material respects.

10 CFR 50.54(q) states, in part, that a licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in 10 CFR 50.47(b).

Exelon's Nuclear Emergency Plan describes the philosophy, organization, facilities, and equipment necessary to ensure preparedness for emergencies at PBAPS and LGS. Section 5.2.14 describes the Public Alert/Notification System as a siren system that is maintained and tested regularly by Exelon to ensure its operability.

Common Emergency Preparedness Administrative Procedure EP-C-7, "The Maintenance and Testing of the Offsite Alert and Notification (Siren) Systems," Rev. 3, requires, in part, that routine maintenance and corrective maintenance shall be performed by the service provider on LGS and PBAPS siren systems at the direction of the Manager-EP; corrective maintenance shall be generated by the results of daily siren and county controller polls and failures that are indicated by full scale tests; and the records of routine testing shall be maintained by the site Nuclear Records Management Systems.

Contrary to the above, records of routine maintenance and testing performed on sirens in various locations surrounding LGS and PBAPS were not complete and accurate in all material respects. Specifically, from April/May 2000 until October 2000, two former Exelon Infrastructure Services (EIS) contractors falsified numerous "Siren Report - Routine Maintenance Checklist" records indicating that they had completed all of the routine maintenance steps, when, in fact, they had not.

- B. 10 CFR 50.47(b)(5) states, in part, that means to provide early notification to the populace within the plume exposure pathway Emergency Planning Zone have been established.

Contrary to the above, for an undetermined period of time prior to October 2000, 10 of 97 sirens surrounding PBAPS and 4 of 165 sirens surrounding LGS contained jumpers that bypassed failure detection circuitry, thereby demonstrating that those sirens were working properly when, in fact, they were not. Therefore, the means to provide early notification to the populace within the plume exposure pathway Emergency Planning Zone would have been compromised because the jumpers prevented detection of sirens that were not working properly, which would have delayed or possibly precluded alerting certain portions of the local populace.

These violations have been categorized collectively as a Severity Level III problem. (Supplement VIII)

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in a combined NRC inspection report dated August 30, 2001, (50-277/01-012; 50-278/01-012 and 50-352/01-013; 50-353/01-013), and Exelon slides used during the October 1, 2001, predecisional enforcement conference. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 23rd day of October, 2001