

that interpretation when it adopts a new law incorporating sections of a prior law without change, *Fitzgerald v. Department of Defense*, 80 M.S.P.R. 1, 14 (1998).

The *Graves* cases thus present the following legal issues: (1) Does 38 U.S.C. 7403(f)(2) require the agency to apply title 5 veterans' preference provisions, including but not limited to 5 U.S.C. 3305(b) and 5 CFR 332.311(a), which the Board found the agency violated in not accepting the appellant's late-filed application, *see Graves*, 114 M.S.P.R. 245, ¶¶ 12–15, in filling "hybrid" positions under 38 U.S.C. 7401(3); (2) does the legislative history for the applicable statutory provisions offer guidance regarding how those provisions should be interpreted; (3) are the Delegated Examining Operations Handbook and VetGuide "statute[s] or regulation[s]" relating to veterans' preference within the meaning of 5 U.S.C. 3330a(a)(1)(A), such that a violation of a provision in those documents would constitute a violation under VEOA; (4) does the law of the case doctrine apply to the Board's rulings in these cases; and (5) if so, is there a basis for finding that the "clearly erroneous" exception to that doctrine has been met? In addition, we note that the resolution of the above issues may affect whether the Board has jurisdiction over VEOA appeals filed by "hybrid" applicants.

Interested parties may submit amicus briefs or other comments on these issues no later than June 30, 2011. Amicus briefs must be filed with the Clerk of the Board. Briefs shall not exceed 30 pages in length. The text shall be double-spaced, except for quotations and footnotes, and the briefs shall be on 8½ by 11 inch paper with one inch margins on all four sides.

DATES: All briefs submitted in response to this notice shall be filed with the Clerk of the Board on or before June 30, 2011.

ADDRESSES: All briefs shall be captioned "*Michael B. Graves v. Department of Veterans Affairs*" and entitled "Amicus Brief." Only one copy of the brief need be submitted. Briefs must be filed with the Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Matthew Shannon, Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington,

DC 20419; (202) 653-7200; mspb@mspb.gov.

William D. Spencer,
Clerk of the Board.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369, 50-370, 50-413, and 50-414; NRC-2011-0127]

Duke Energy Carolinas, LLC; Notice of Withdrawal of Application for Amendments to Renewed Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission, NRC) has granted the request of Duke Energy Carolinas, LLC (the licensee) to withdraw its June 29, 2010, application for proposed amendments to Renewed Facility Operating License Nos. NPF-9 and NPF-17 for the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina, and for proposed amendments to Renewed Facility Operating License Nos. NPF-35 and NPF-52 for the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendment would have revised Technical Specification (TS) 3.3.1, "Reactor Trip System (RTS) Instrumentation" and TS 3.3.2, "Engineered Safety Feature Actuation System (ESFAS) Instrumentation."

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the *Federal Register* on January 25, 2011 (76 FR 4384). However, by letter dated April 12, 2011, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 29, 2010, and the licensee's letter dated April 12, 2011, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC'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 documents created or received at the NRC are available online in the NRC library at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to the Agencywide Documents Access and Management System (ADAMS) or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-

397-4209, or 301-415-4737 or by e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland, this 26th day of May 2011.

For the Nuclear Regulatory Commission.

Jon Thompson,

Project Manager, Plant Licensing Branch II-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket Number 50-302; NRC-2009-0039]

Florida Power Corporation, Crystal River Unit 3 Nuclear Generating Plant; Notice of Availability of Draft Supplement 44 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants and Public Meetings for the License Renewal of Crystal River Unit 3 Nuclear Generating Plant

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has published a draft plant-specific supplement to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS), NUREG-1437, regarding the renewal of operating license DPR-72 for an additional 20 years of operation for Crystal River Unit 3 Nuclear Generating Plant. Crystal River Unit 3 Nuclear Generating Plant is located in Crystal River, Florida, approximately 80 miles north of Tampa, Florida. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

Any interested party may submit comments on the draft supplement to the GEIS for consideration by the NRC staff. To be considered, comments on the draft supplement to the GEIS and the proposed action must be received by July 25, 2011. The NRC staff is able to ensure consideration only for comments received on or before this date.

Addresses: Please include Docket ID NRC-2009-0039 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for

submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and, therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal rulemaking Web site: Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2009-0039. Address questions about NRC dockets to Carol Gallagher at 301-492-3668 or by e-mail at Carol.Gallagher@nrc.gov.

Mail comments to: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Fax comments to: RADB at 301-492-3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail at pdr.resource@nrc.gov. The Accession Number for draft Supplement 44 to the GEIS is ML11139A153.

Federal rulemaking Web site: Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching for Docket ID NRC-2009-0039.

In addition, a copy of the draft supplement to the GEIS is available to local residents near the site at the Central Ridge Library located at 425 West Roosevelt Boulevard, Beverly Hills, Florida 34465, and at the Coastal Region Library located at 8619 West Crystal Street, Crystal River, Florida 34428.

All comments received by the NRC, including those made by Federal, State, and local agencies; Native American Tribes; or other interested persons, will

be made available electronically at the NRC's PDR in Rockville, Maryland, and through ADAMS. Comments received after the due date will be considered only if it is practical to do so.

The NRC staff will hold public meetings prior to the close of the public comment period to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. Two meetings will be held at the Plantation Inn, 9301 W. Fort Island Trl, Crystal River, FL 34429, on Tuesday, June 28, 2011. The first session will convene at 2 p.m. and will continue until 5 p.m., as necessary. The second session will convene at 7 p.m. and will continue until 10 p.m., as necessary. The meetings will be transcribed and will include: (1) A presentation of the contents of the draft plant-specific supplement to the GEIS and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No comments on the draft supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meeting or in writing. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. Daniel Doyle, the NRC Environmental Project Manager, at 1-800-368-5642, extension 3748, or by e-mail at Daniel.Doyle@nrc.gov no later than Thursday, June 23, 2011. Members of the public may also register to provide oral comments within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Doyle's attention no later than Thursday, June 23, 2011, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

For Further Information Contact: Mr. Daniel Doyle, Division of License Renewal, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Mail Stop O-11F1, Washington, DC 20555-0001. Mr. Doyle may be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 26th day of May 2011.

For the Nuclear Regulatory Commission.

David J. Wrona,

Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341; NRC-2010-0099]

Detroit Edison Company, Fermi 2; Exemption

1.0 Background

Detroit Edison Company (the licensee) is the holder of Facility Operating License No. NPF-43, which authorizes operation of Fermi 2. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of one boiling-water reactor located in Monroe County, Michigan.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR) part 73, "Physical protection of plants and materials," Section 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," published March 27, 2009, effective May 26, 2009, with a full implementation date of March 31, 2010, requires licensees to protect, with high assurance, against radiological sabotage by designing and implementing comprehensive site security programs. The amendments to 10 CFR 73.55 published on March 27, 2009 (74 FR 13926), establish and update generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11, 2001, and implemented by licensees. In addition, the amendments to 10 CFR 73.55 include additional requirements to further enhance site security based upon insights gained from implementation of the post-September 11, 2001, security orders. It is from two of these additional requirements that Fermi 2 now seeks an exemption from the implementation date. All other physical security requirements established by this recent rulemaking have already been or will be implemented by the licensee by May 31, 2011.

By letter dated November 19, 2009 (Agencywide Documents Access and