

It should be noted that NUREG-1022, Revision 2, Section 5.1.8, "10 CFR Part 21 Reports," has been deleted because the NRC staff is currently evaluating the need for potential rulemaking associated with 10 CFR part 21 reports. The current NRC requirements and staff positions have not changed (i.e., stakeholders can use positions found in the 10 CFR Part 21 FRN and NUREG-1022, Revision 2, while the NRC determines the course of action associated with 10 CFR Part 21).

NUREG-1022, Revision 3, will become effective July 1, 2013. The reportability of newly discovered events or conditions (whether on-going or that may have occurred within 3 years prior to discovery) on or after the effective date will be evaluated by the staff using the guidance in NUREG-1022, Revision 3.

Backfitting and Issue Finality

The NRC has determined that the Backfit Rule, 10 CFR 50.109, "Backfitting," does not apply to the issuance of the revised guidance in NUREG-1022, Revision 3. The revised guidance in NUREG-1022, Revision 3, addresses compliance with the information collection and reporting requirements in 10 CFR 50.72 and 10 CFR 50.73. The Backfit Rule does not apply to information collection and reporting requirements. Therefore, the NRC has not prepared a backfit analysis for the issuance of Revision 3 to NUREG-1022.

In addition, the NRC has determined that issuance of the revised guidance in NUREG-1022, Revision 3, is not inconsistent with any of the issue finality provisions in 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants." Those issue finality provisions do not apply to information collection and reporting obligations imposed on operators of nuclear power plants. In addition, the issue finality provisions in 10 CFR Part 52 do not apply to prospective applicants. As of the issuance of this revised guidance, there are no holders of combined licenses under 10 CFR part 52 that are currently protected by 10 CFR Part 52 issue finality provisions relevant to operation (i.e., the period after the Commission has made the finding under 10 CFR 52.103(g)). Therefore, the NRC is not precluded from issuing NUREG-1022, Revision 3, by any of the 10 CFR Part 52 issue finality provisions.

Regulatory Analysis

The NRC performs regulatory analyses to support many NRC actions that affect nuclear power reactor and nonpower reactor licensees. The regulatory analysis process is intended to be an

integral part of the NRC's decisionmaking that systematically provides complete disclosure of the relevant information supporting a regulatory decision. The NUREG/BR-0058, Revision 4, "Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission," issued September 2004 (ADAMS Accession No. ML042820192) sets forth the NRC's policy for the preparation and the contents of regulatory analyses. As discussed in Section 2.2 of NUREG/BR-0058, Revision 4, mechanisms used by the NRC staff to establish or communicate generic requirements, guidance, requests, or staff positions that would affect a change in the use of resources by its licensees should include an accompanying regulatory analysis. Some changes found in NUREG-1022, Revision 3, can be construed as offering new positions or possibly affecting licensee resources. As a result, the staff determined that it should perform a regulatory analysis in order to provide complete disclosure of the relevant information supporting decisions associated with changes found in NUREG-1022, Revision 3. The final regulatory analysis can be found in ADAMS under Accession No. ML12216A186. Some of the comments contained within the fourteen comment submissions were comments pertaining to the Draft Regulatory Analysis (ADAMS Accession No. ML11116A168) that was issued along with the Draft NUREG-1022, Revision 3. A summary of the major/key comments and how the NRC addressed those comments in the final version of the regulatory analysis, is as follows:

- The draft regulatory analysis is inadequate in that no discussion on the deletion of 10 CFR part 21 guidance was presented. Upon further review, the NRC disagrees. A regulatory analysis on removal of 10 CFR Part 21 discussions is not required since, as indicated in this **Federal Register** notice, the current NRC requirements and staff positions have not changed.

- The draft regulatory analysis is inadequate in that there are no specific discussions on changes associated with (1) "Events or Conditions That Could Have Prevented Fulfillment of a Safety Function" [50.72(b)(3)(v) and 50.73(a)(2)(v)]—Impact of Technical Specification on reportability, and (2) Reporting of Historical Events under 10 CFR 50.72(a)(1)(ii). The regulatory analysis provides neither any analysis to justify the changes nor does it attempt to assess the potential impact(s) of the changes. Upon further review, the NRC disagrees. The NRC does not consider the positions found in NUREG-1022,

Revision 3 to be changes in staff position.

- The draft regulatory analysis on "Events or Conditions That Could Have Prevented Fulfillment of a Safety Function" [50.72(b)(3)(v) and 50.73(a)(2)(v)]—Systems within scope, is inadequate in that the regulatory analysis underestimates the impact of the change on plant resources. Upon further review, the NRC agrees. The impact to stakeholders should now be minimal as the final NUREG-1022, Revision 3 position is revised to be consistent with the positions found in the **Federal Register** Notice associated with the rule, Regulatory Issue Summary 2001-14, and current guidance found in NUREG-1022, Revision 2. The regulatory analysis provides a complete disclosure of the relevant information supporting decisions associated with changes found in NUREG-1022, Revision 3.

Dated at Rockville, Maryland, this 5th day of February 2013.

For the Nuclear Regulatory Commission.

Ho K. Nieh,

Director, Division of Inspections and Regional Support, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-305; NRC-2013-0028]

Kewaunee Power Station; Application for Amendment to Facility Operating License

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; withdrawal.

ADDRESSES: Please refer to Docket ID NRC-2013-0028 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0028. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; email: Carol.Gallagher@nrc.gov.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search,

select "ADAMS Public Documents" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Karl Feintuch, Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301-415-3079; email: karl.feintuch@nrc.gov.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has granted the request of Dominion Energy Kewaunee, LLC (DEK, the licensee) to withdraw its July 30, 2012, application (ADAMS Accession No. ML12219A070) for proposed amendment to Renewed Facility Operating License No. DPR-43, for the Kewaunee Power Station (KPS), located in Wisconsin, Kewaunee County.

The proposed amendment would have revised the facility technical specifications pertaining to steam generator tube inspections and reporting as described in Technical Specification Task Force (TSTF)-510, Revision 2, "Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection."

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 16, 2012 (77 FR 63349). However, by letter dated November 27, 2012, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated July 30, 2012, and the licensee's letter dated November 27, 2012, which withdrew the application for license amendment (ADAMS Accession No. ML123380137).

Dated at Rockville, Maryland, this 31st day of January 2013.

For the Nuclear Regulatory Commission.

Karl D. Feintuch,

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

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NUCLEAR REGULATORY COMMISSION

Request To Amend a License To Export Radioactive Waste

Pursuant to 10 CFR 110.70 (b) "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission (NRC) has received the following request for an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link <http://www.nrc.gov/reading-rm.html> at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within

thirty days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). Information about filing electronically is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. To ensure timely electronic filing, at least 5 (five) days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty (30) days after publication of this notice in the **Federal Register** to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications

The information concerning this export license amendment application follows.