

72.122(h)(1) and 72.122(l) of Title 10 of the *Code of Federal Regulations* (10 CFR). This guidance applies to license and CoC applications for the storage of HBF for periods greater than 20 years. This guidance supplements the guidance given in NUREG-1927 "Standard Review Plan for Renewal of Spent Fuel Dry Cask Storage System Licenses and Certificates of Compliance" on aging management for the interior of the cask.

#### Proposed Action

By this action, the NRC is requesting public comments on draft SFST-ISG-24. This SFST-ISG proposes certain revisions to NRC guidance on implementation of the requirements in 10 CFR part 72. The NRC will make a final determination regarding issuance of SFST-ISG-24 after it considers any public comments received in response to this request.

#### Backfitting and Issue Finality

This draft ISG, if finalized, would provide guidance to the staff for reviewing an application for an independent spent fuel storage Installation, and an application for a certificate of compliance, either of which involve storage of high-burn-up spent fuel from a nuclear power plant, with respect to compliance with 10 CFR 72.122(h)(1) and 10 CFR 72.122(l).

Issuance of this draft ISG, if finalized, would not constitute backfitting as defined in the backfitting provisions in 10 CFR 72.62 which are applicable to ISFSIs and certificates of compliance. Issuance of the draft ISG, if finalized, would also not constitute backfitting under 10 CFR 50.109, or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The staff's position is based upon the following considerations.

- The draft ISG positions do not constitute backfitting, inasmuch as the ISG is internal guidance directed at the NRC staff with respect to their regulatory responsibilities
- Backfitting and issue finality—with limited exceptions not applicable here—do not protect current or future applicants
  - The NRC staff has no intention to impose the draft ISG positions on existing ESP, DCR, and COL applicants where the staff has resolved the applicant's conformance with RG 1.221 as of the effective date of this guidance
  - The NRC staff has no intention to impose the draft ISG positions on current licensees or the four current design certifications (10 CFR Part 52, Appendices A through D) either now or in the future

Each of these considerations is discussed in more detail below.

1. The draft ISG positions, if finalized, do not constitute backfitting, inasmuch as the ISG is internal guidance to NRC staff.

The ISG provides interim guidance to the staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of Part 52.

2. Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under Part 52. This is because neither the Backfit Rule nor the issue finality provisions under Part 52—with certain exclusions discussed below—were intended to apply to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a Part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in the draft ISG section (if finalized) in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the draft ISG section (if finalized) in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision. The draft ISG addresses newly-adopted or revised regulations whose backfitting and issue finality considerations have already been addressed

3. The NRC staff has no intention to impose the draft ISG positions on existing early site permit, design certificate and combined license applicants where the staff has resolved the applicant's conformance with RG 1.221 as of the effective date of this guidance.

Notwithstanding the NRC's general principle, articulated in Item 2 above, that Backfitting and Issue Finality do not protect applicants, the draft ISG is not backfitting because the NRC does not intend to impose the draft ISG positions on existing ESP, DCR, and

COL applicants where the staff has resolved the applicant's conformance with RG 1.221 as of the effective date of this guidance.

4. The NRC staff has no intention to impose the draft ISG positions on existing licensees and regulatory approvals, either now or in the future.

The staff does not intend to impose or apply the positions described in the draft ISG section to existing (already issued) licenses and regulatory approvals—including the four existing design certifications in 10 CFR part 52, Appendices A through D. Hence, the issuance of a final ISG—even if considered guidance which is within the purview of the issue finality provisions in Part 52—need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the staff seeks to impose a position in the ISG on holders of already issued holders of licenses in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must, as applicable, make the showing as set forth in the Backfit Rule, or address the criteria for avoiding issue finality as described applicable issue finality provision.

Dated at Rockville, Maryland, this 25th day of June, 2013.

For the Nuclear Regulatory Commission.

**Mark D. Lombard,**

*Director, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2013-15982 Filed 7-2-13; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 72-1004, 72-40, 50-269, 50-270, and 50-287; NRC-2013-0135]

### **Duke Energy Carolinas, LLC, Oconee Nuclear Station Units 1, 2, and 3; Independent Spent Fuel Storage Installation; Environmental Assessment and Finding of No Significant Impact**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental assessment and finding of no significant impact; issuance.

**SUMMARY:** The NRC is issuing an environmental assessment (EA) and a finding of no significant impact (FONSI) for an exemption request submitted by Duke Energy Carolinas, LLC, on August 13, 2012 for the Oconee Nuclear Station Independent Spent Fuel Storage Facility (ISFSI).

**ADDRESSES:** Please refer to Docket ID NRC-2013-0135 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 is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0135. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *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](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this document (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:** Jennifer Davis, Senior Project Manager, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301-287-9173; fax number: 301-287-9341; email: [BJennifer.Davis@nrc.gov](mailto:BJennifer.Davis@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The Nuclear Regulatory Commission (NRC) is considering issuance of an exemption to Duke Energy Carolinas, LLC (the applicant or the licensee) pursuant to § 72.7 of Title 10 of the *Code of Federal Regulations* (10 CFR) from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.214, and the portion of 10 CFR 72.212(b)(11) that requires compliance with the terms, conditions, and specifications of the Certificate of Compliance (CoC) only with regard to the loading of the M5 clad Babcock and Wilcox (B & W) Mark B11 and Mark

B11A fuel. The applicant submitted its exemption request by letter dated August 13, 2012 (ADAMS Accession No. ML12227A686). The applicant has previously loaded spent fuel in Transnuclear, Inc. (TN) Standardized NUHOMS® System 24PHB dry storage casks (DSC) for storage in the ISFSI at Oconee Nuclear Station under CoC No. 1004, Amendment No. 9, as authorized by the General License provisions of 10 CFR part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste." The applicant now seeks an exemption to the CoC conditions that require the general licensee to meet the requirements of the technical specifications (TS) for the NUHOMS® system to permit the loading of M5 fuel into these canisters. Specifically, the applicant is requesting an exemption from TS 12.1, "Fuel Specifications," and the associated tables listed below, which specify requirements for the spent fuel assemblies to be loaded in the 24PHB DSCs under Amendment No. 9.

- Table 1-1i, "PWR Fuel Specification for Fuel to be Stored in the Standardized NUHOMS®-24PHB DSC"
- Table 1-2n, "PWR Fuel Qualification Table for Zone 1 with 0.7 kW per Assembly, Fuel With or Without BPRAs [Burnable Poison Rod Assembly], for the NUHOMS®-24PHB DSC"
- Table 1-2o, "PWR Fuel Qualification Table for Zone 2 with 1.0 kW per Assembly, Fuel With or Without BPRAs, for the NUHOMS®-24PHB DSC"
- Table 1-2p, "PWR Fuel Qualification Table for Zone 3 with 1.3 kW per Assembly, Fuel With or Without BPRAs, for the NUHOMS®-24PHB DSC"

Specifically, the applicant is requesting an exemption from the requirement that specifies that the fuel approved for use in these casks is "zircaloy clad," which includes only Zircaloy-2 or Zircaloy-4 cladding. This requirement precludes loading B&W Mark B11 and Mark B11A fuel assemblies, which have M5 cladding, and for which the applicant requests an exemption to load at Oconee.

**II. Environmental Assessment (EA)**

*Background:* Oconee Nuclear Station is located on Lake Keowee in Oconee County, South Carolina, 8 miles north of Seneca, South Carolina. Unit 1 began commercial operation in 1973, followed by Units 2 and 3 in 1974. Since 1997, Oconee has been storing spent fuel in an

ISFSI operating under a general license as authorized by 10 CFR part 72, subpart K, "General License for Storage of Spent Fuel at Power Reactor Sites." The licensee also has a site-specific ISFSI license, which is not affected by this exemption request and associated EA.

*Identification of Proposed Action:* The CoC is the NRC approved design for each dry storage cask system. The proposed action would exempt the applicant from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.214, and the portion of 10 CFR 72.212(b)(11) that states the licensee shall comply with the terms, conditions, and specifications of the CoC with regard to permitting the loading of B&W Mark B11 and Mark B11A spent fuel assemblies for storage in the generally licensed ISFSI at Oconee. These regulations specifically require storage of spent nuclear fuel under a general license in DSCs approved under the provisions of 10 CFR part 72, and compliance with the terms and conditions set forth in the CoC for each dry spent fuel storage cask used by an ISFSI general licensee.

The TN Standardized NUHOMS® dry cask storage system CoC provides requirements, conditions and operating limits in Attachment A of the TS (ADAMS Accession No. ML062830067). The Table 1-1i of the TSs, "PWR Fuel Specification for Fuel to be Stored in the Standardized NUHOMS®-24PHB DSC" specify that the fuel cladding shall be "zircaloy-clad fuel with no known or suspected gross cladding breaches." Zircaloy is a type of zirconium alloy which includes both Zircaloy-2 and Zircaloy-4 cladding, but does not include M5 cladding. The M5 is a different type of zirconium alloy, which does not contain any tin, as Zircaloy does, but which does contain some niobium.

This exemption only considers the loading of B&W 15x15 Mark B11 and Mark B11A spent fuel assemblies at the Oconee Nuclear Station ISFSI. Amendment No. 13 to CoC 1004, which is currently under review by the Commission, would permit storage of "zirconium alloy" clad spent fuel assemblies in the 24PHB DSC, which would include both the "zircaloy clad" assemblies permitted under previous amendments, as well as the M5 clad assemblies at issue in this exemption request. The NRC was able to draw upon review work already underway in its consideration of Amendment No. 13 for CoC 1004.

*Need for the Proposed Action:* The applicant has requested this exemption in order to load B&W Mark B11 and Mark B11A fuel assemblies in TN

NUHOMS® 24PHB DSCs under CoC No. 1004 at the Oconee Nuclear Station. These fuel assemblies have M5 cladding (a zirconium alloy), but the current TSs allow only “zircaloy” clad assemblies.

Approval of the exemption request will allow the applicant to effectively manage its spent fuel inventory to meet decay heat zoning requirements throughout its scheduled loading campaigns. The applicant’s ability to load M5 clad fuel in its next scheduled loading campaign will mean that older “zircaloy clad” fuel assemblies will be available for future loadings, so that future loadings will not be restricted by the aggregate heat generated by hotter fuel and therefore contain fewer total assemblies. The proposed action enables the applicant to load the fewest possible DSCs by permitting cask loading of the hotter M5 fuel without later needing to “short load” casks due to heat load.

*Environmental Impacts of the Proposed Action:* The staff has determined that the proposed action would not endanger life or property and would not have significant impacts on the human environment. The potential impact of using the TN Standardized NUHOMS® dry cask storage system was initially evaluated in the EA for the rulemaking to add the TN Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel to the list of approved spent fuel storage casks in 10 CFR 72.214 (59 FR 28496, June 2, 1994 (Proposed Rule); 59 FR 65920, December 22, 1994 (Final Rule)).

The exemption proposed to Amendment No. 9 to CoC 1004 would permit the loading of M5 clad B&W Mark B11 and B11A fuel. The proposed action does not result in any changes to the types or amounts of any radiological effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure as a result of the proposed action. Therefore, there are no significant environmental impacts associated with the proposed action. The proposed action only affects the requirements associated with the fuel assemblies to be loaded into the 24PHB DSCs and does not affect plant effluents, or any other aspects of the environment. Therefore, there are no significant impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

*Alternative to the Proposed Action:* Because there is no significant environmental impact associated with the proposed action, alternatives with equal or greater environmental impact

were not evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the proposed action would involve loading additional DSCs due to heat load restrictions, as described in the safety evaluation report. Denial of the exemption would result in an increase in radiological exposure to workers, potential additional radioactive releases to the environment, additional opportunities for accidents, and increased cost to the licensee. Therefore, the NRC staff has determined that approving the proposed action has a lesser environmental impact than denying the proposed action.

*Agencies and Persons Consulted:* The EA associated with this exemption request was sent to Ms. Shelly Wilson of the South Carolina Department of Health and Environmental Control (SCDHEC) by email dated April 10, 2013 (ADAMS Accession No. ML13107B435). The state response was received by email dated April 11, 2013 (ADAMS Accession No. ML13107B441). The email states that SCDHEC reviewed the draft EA and has no comments. The NRC staff has determined that a consultation under Section 7 of the Endangered Species Act is not required, because the proposed action will not affect listed species or critical habitat. The NRC staff has also determined that the proposed action is not a type of activity that has the potential to impact historic properties, because the proposed action would occur within the established Oconee site boundary. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act.

### III. Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing Environmental Assessment, the Commission finds that the proposed action of granting the exemption from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.214, and the portion of 10 CFR 72.212(b)(11) that states the licensee shall comply with the terms, conditions, and specifications of the CoC limited to the loading of the 24PHB DSCs with M5 clad B&W Mark B11 and Mark B11A fuel assemblies, will not significantly impact the quality of the human environment. Accordingly, the Commission has determined that preparation of an environmental impact statement for the proposed exemption is not warranted and that a finding of no significant impact is appropriate.

Dated at Rockville, Maryland, this 19th day of June 2013.

For the Nuclear Regulatory Commission.

**W. Christopher Allen,**

*Acting Chief, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee On Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee On Reliability and PRA; Revision to Notice of Meetings

The **Federal Register** Notice for the ACRS Subcommittee Meeting on Reliability and PRA scheduled to be held on July 22, 2013, is being revised to notify the following:

The meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(4) to discuss proprietary information of the voluntary site.

The notice of this meeting was previously published in the **Federal Register** on Friday June 21, 2013 [78 FR 37596–37597].

Further information regarding these meetings can be obtained by contacting the Designated Federal Official (DFO), John Lai (Telephone 301–415–5197 or Email: [John.Lai@nrc.gov](mailto:John.Lai@nrc.gov)) between 8:15 a.m. and 5:00 p.m.

Dated: June 26, 2013.

**Antonio Dias,**

*Technical Advisor, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2013–16005 Filed 7–1–13; 8:45 am]

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## OFFICE OF PERSONNEL MANAGEMENT

### National Council on Federal Labor-Management Relations Meeting

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Council on Federal Labor-Management Relations plans to meet on Wednesday, September 18, 2013.

The meeting will start at 10:00 a.m. EDT and will be held at the U.S. Office of Personnel Management, 1900 E Street NW., Room 1350, Washington, DC 20415. Interested parties should consult the Council Web site at