

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Rescission of Office of Federal Procurement Policy; Policy Letters 77-2, 78-2, 78-3, 78-4, 79-1, 79-2, 80-3, 80-6, 80-8, 81-1, 81-2, 82-1, 83-1, 83-2, 83-3, 84-1, 85-1, 89-1, 91-2, 91-4, 92-5, and 95-1

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Rescission of Office of Federal Procurement Policy (OFPP) Policy Letters 77-2, 78-2, 78-3, 78-4, 79-1, 79-2, 80-3, 80-6, 80-8, 81-1, 81-2, 82-1, 83-1, 83-2, 83-3, 84-1, 85-1, 89-1, 91-2, 91-4, 92-5, and 95-1.

SUMMARY: Notice is hereby given that the Office of Federal Procurement Policy (OFPP) is rescinding the following OFPP Policy Letters: 77-2, Section 502(c) of Pub. L. 95-89; 78-2, Preventing "Wage Busting" for Professionals: Procedures for Evaluating Contractor Proposals for Service Contracts; 78-3, Requests for Disclosure of Contractor-Supplied Information Obtained in the Course of a Procurement; 78-4, Field Contract Support Cross-Servicing Program; 79-1, Implementation of Section 15(k) of the Small Business Act, as amended: Office of Small and Disadvantaged Business Utilization; 79-2, Boards of Contract Appeals: Position Allocation Pursuant to Public Law 95-563; 80-3, Regulatory Guidance on Pub. L. 95-563, the Contract Disputes Act of 1978; 80-6, Regulatory Guidance on Section 221 of Public Law 95-507; 80-8, Establishment of Procurement Data Reporting Requirements to Comply with Public Law 96-39 (as amended by Transmittal Memoranda Nos. 1, 2, and 3); 81-1, Procurement Procedures, Advance Procurement Planning, and Review of End-of-Year Purchases; 81-2, Policy Guidance for the Labor Surplus Area Programs; 82-1, Policy Guidance Concerning Government-wide Debarment, Suspension, and Ineligibility; 83-1, Withholding of Funds from Construction Contract Progress Payments; 83-2, Publicizing the Development of Procurement Policies and Regulations; 83-3, Procurement of Architect-Engineer Services; 84-1, Federally Funded Research and Development Centers; 85-1, Federal Acquisition Regulations System; 89-1, Conflict of Interest Policies Applicable to Consultants; 91-2, Service Contracting; 91-4, Use of Irrevocable Letters of Credit; 92-5, Past

Performance Information; and 95-1, Subcontracting Plans for Companies Supplying Commercial Items.

EFFECTIVE DATE: March 30, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Gerich, Office of Federal Procurement Policy, 202-395-3501.

SUPPLEMENTARY INFORMATION: OFPP issued a notice of proposed rescission of these 22 Policy Letters that was published in the **Federal Register** on September 15, 1999 (64 FR 50108). No comments were received in response to the notice of proposed rescission.

As indicated in the Supplementary Information section of that notice, the rescission of these 22 Policy Letters reflects OFPP's conclusion that the Federal Acquisition Regulation (FAR), as written, contains the current policy. Any policy embodied in the Policy Letters rescinded by this notice that is not reflected in the current FAR has been either superseded by subsequent statutory changes or is otherwise no longer necessary. Accordingly, OFPP Policy Letters 77-2, 78-2, 78-3, 78-4, 79-1, 79-2, 80-3, 80-6, 80-8, 81-1, 81-2, 82-1, 83-1, 83-2, 83-3, 84-1, 85-1, 89-1, 91-2, 91-4, 92-5, and 95-1 are hereby rescinded. No substantive FAR change is required by this action.

Eleven OFPP Policy Letters remain in effect. Copies of those Policy Letters can be obtained at the ARNet world wide website, <http://www.arnet.gov/Library/OFPP/PolicyLetters>.

Deidre A. Lee,
Administrator.

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Proposed Collection; Comments Request

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent to burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial

resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection of: National Endowment for the Arts: Panelist Profile Form. A copy of the current information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 30, 2000. The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility; and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond.

ADDRESSES: A.B. Spellman, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Room 516, Washington, DC 20506-0001, telephone (202) 682-5421 (this is not a toll-free number), fax (202) 682-5049.

Murray Welsh,

Director, Administrative Services, National Endowment for the Arts.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-269, 50-270, and 50-287]

Duke Energy Corporation (Oconee Nuclear Station, Units 1, 2, and 3); Exemption

I

The Duke Energy Corporation (Duke/ the licensee) is the holder of Facility Operating License Nos. DPR-38, DPR-47, and DPR-55, that authorize operation of the Oconee Nuclear Station, Units 1, 2, and 3 (Oconee), respectively. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory

Commission (the Commission) now or hereafter in effect.

The facilities consist of pressurized water reactors located on Duke's Oconee site in Seneca, Oconee County, South Carolina.

II

The proposed action is in accordance with the licensee's application for exemption contained in a submittal dated September 15, 1999, and is needed to allow the use of Framatome Cogema Fuels (FCF) "M5" advanced alloy as a fuel rod cladding material. This exemption is necessary since the chemical composition of M5 differs from the Zircaloy and ZIRLO cladding material specified in 10 CFR 50.44, 10 CFR 50.46, and Appendix K of 10 CFR Part 50. These regulations contain acceptance and analytical criteria regarding the light water nuclear reactor system performance during and following a postulated loss-of-coolant accident (LOCA). These regulations assume the use of only two types of fuel cladding material, Zircaloy and ZIRLO. However, the licensee has requested use of FCF M5 advanced alloy for fuel rod cladding at Oconee. The M5 alloy is a proprietary zirconium-based alloy comprised of primarily zirconium (~99 percent) and niobium (~1 percent). The elimination of tin has resulted in superior corrosion resistance and reduced irradiation-induced growth relative to both standard Zircaloy (1.7 percent tin) and low-tin Zircaloy (1.2 percent tin). The addition of niobium increases ductility, which is desirable to avoid brittle failures. Since the chemical composition of the M5 alloy differs from the specifications for Zircaloy or ZIRLO, a plant specific exemption is required to allow the use of the M5 alloy as a fuel cladding material at Oconee.

III

Section 50.12 of Title 10 of the Code of Federal Regulations, "Specific Exemptions," states, among other items, that the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present where application of the regulation in the particular circumstances would not serve the underlying purpose of the rule

or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of 10 CFR 50.46 is to ensure that facilities have adequate acceptance criteria for emergency core cooling systems (ECCS). In its topical report BAW-10227-P, "Evaluation of Advanced Cladding and Structural Material (M5) in PWR Reactor Fuel," FCF demonstrated that the ECCS acceptance criteria applied to reactors fueled with Zircaloy clad fuel are also applicable to reactors fueled with M5 fuel rod cladding. The topical report (which was approved by the staff on February 4, 2000) also showed that the M5 fuel cladding was capable of satisfying this design and acceptance criteria. Therefore, the underlying purpose of 10 CFR 50.46 is achieved through the use of M5 as a fuel rod cladding material.

The underlying purposes of 10 CFR 50.44 and Appendix K to 10 CFR Part 50, paragraph I.A.5, are to ensure that the cladding oxidation and hydrogen generation are appropriately limited during a LOCA and conservatively accounted for in the ECCS evaluation model. Specifically, Appendix K requires that the Baker-Just equation (which assumes zirconium as the cladding material) be used in the ECCS evaluation model to determine the rate of energy release, hydrogen generation, and cladding oxidation from the metal/water reaction. In their topical report, FCF demonstrated that the Baker-Just model is conservative in all post-LOCA scenarios with respect to the use of M5 advanced alloy as a fuel rod cladding material. Therefore, the underlying purposes of 10 CFR 50.44 and 10 CFR Part 50 Appendix K, paragraph I.A.5 are achieved through the use of M5 as a fuel rod cladding material.

Because there are properties of M5 that differ from the specifications for Zircaloy or ZIRLO, which are referenced in the regulations, the staff has determined that an exemption would be required to allow the use of M5 as a fuel rod cladding material. The proposed action would not exempt the licensee from complying with the acceptance and analytical criteria of 10 CFR 50.44, 10 CFR 50.46 and Appendix K to 10 CFR Part 50 applicable to the cladding. The exemption would only allow the application of the criteria set forth in these regulations to the M5 cladding material.

Since the acceptance and analytical criteria set forth in the applicable regulations would continue to be applicable to the M5 fuel cladding, the staff has concluded that the proposed exemption is authorized by law, does not present an undue risk to the public

health and safety, and is consistent with the common defense and security.

Further, since the underlying purposes of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR Part 50, Appendix K are achieved through the use of the M5 advanced alloy as a fuel rod cladding material, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of exemptions to 10 CFR 50.44, 10 CFR 50.46, and 10 CFR Part 50, Appendix K exist. Therefore, the staff concludes that the proposed exemption to 10 CFR 50.44, 10 CFR 50.46, and Appendix K of 10 CFR Part 50 related to the fuel cladding material for Oconee Nuclear Station Units 1, 2, and 3 is acceptable.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants Duke an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and Appendix K of 10 CFR Part 50, related to the fuel cladding material for the Oconee Nuclear Station, Units 1, 2, and 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant effect on the quality of the human environment (65 FR 15659).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 23rd day of March 2000.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-305]

Wisconsin Public Service Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License DPR-43; Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License DPR-43 issued to Wisconsin Public Service