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SUBJECT: Forwards notice of enforcement discretion request re
refueling outage frequency surveillances.Affected TS page
encl.

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January 30, 1998

U. S. Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555

Subject: Oconee Nuclear Station
Docket Nos. 50-269, -270, -287
Notice of Enforcement Discretion (NOED) Request
Refueling Outage Frequency Surveillances

Section 4 of the Oconee Technical Specifications lists required surveillances for structures, systems, and components. Technical Specification 4.0.2 defines the maximum allowable interval between surveillances. When the site was originally licensed, certain surveillances were required annually. However, when the site transitioned from annual to 18 month cycles, the word "annual" was replaced with "refueling outage". Oconee has interpreted the wording "refueling outage" to relate to a frequency requirement for these surveillances, consistent with the original basis of the Technical Specifications.

Oconee has not in the past interpreted a refueling outage frequency as requiring that the surveillances be performed at no other times than during a refueling outage. As such, the site's practice has been to perform certain surveillances based on a refueling outage frequency at other times than during a refueling outage.

As a result of forced outages during 1997, certain surveillances for Oconee Unit 2 that can only be performed during a refueling outage will exceed the maximum frequency of 22 months 15 days prior to the start of the Unit 2 refueling outage. On January 15, 1997, Duke submitted a Technical Specification change to justify an extension of these surveillances to support the scheduled refueling outage date of March 13, 1998. The site also has been evaluating the performance of other surveillances on line to assure that the required refueling outage frequency is not exceeded. In discussions with NRR on January 29, 1998, the licensee was informed that the staff's interpretation of

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Oconee's Technical Specifications is that any surveillance with a refueling outage frequency must be performed only during a literal refueling outage. Thus, any surveillances performed in past forced outages or planned shutdowns would not satisfy the requirements of Technical Specifications. Oconee immediately began to evaluate the impact of the staff's literal interpretation of the Technical Specifications with respect to past surveillances done at times other than during a refueling outage.

Although most surveillances have been performed during a refueling outage, Oconee has identified some surveillances on Oconee Units 2 and 3 that have been performed at times other than during a refueling outage. Thus, use of the staff's literal interpretation of Oconee's surveillance specifications would result in Units 2 and 3 not meeting the maximum frequency of 22 months 15 days. Oconee has confirmed that this situation applies to the EFW flow instruments on Unit 2, LPI flow instruments on Units 2 and 3, BWST level instruments on Units 2 and 3, and high range radiation monitors on Unit 2. Additional surveillances on Unit 2 will also become past due over the next two weeks since they were last performed during a forced outage on Unit 2 in early 1997.

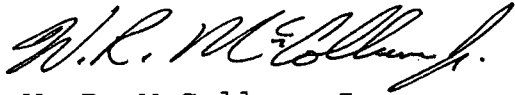
It should be emphasized that all required surveillances have been performed within the last 22 months 15 days on all three units. However, as stated previously, some surveillances have been performed at times other than during a refueling outage. By the staff's literal interpretation of Oconee's Technical Specifications, Units 2 and 3 are operating with surveillances not in literal compliance with the Technical Specifications and entry into Technical Specification 3.0 is required. Technical Specification 3.0 will require both Units 2 and 3 to be in hot shutdown within 12 hours. Based on discussions with NRR regarding literal interpretation of the refueling outage surveillances, Oconee entered the appropriate Technical Specifications on Oconee Units 2 and 3 at 1245 hours on January 30, 1998. Unless enforcement discretion is granted, both units will need to be in hot shutdown by 0045 hours on January 31, 1998.

Thus, Oconee requests prompt support from the staff to avoid an unnecessary shutdown of Oconee Units 2 and 3. Oconee Unit 1 is in an outage at this time. Oconee requests enforcement discretion to apply to all three units and that restart of Oconee Unit 1 will not be impacted by the timing of the proposed license amendment to resolve this literal compliance issue. Oconee will be working through the weekend to prepare a license amendment to resolve this

literal compliance issue and will submit the proposed
Technical Specifications to the staff on February 2, 1998.

Please address any questions to J. E. Burchfield, Jr. at
(864-884-3292).

Very Truly Yours,



W. R. McCollum, Jr.
Site Vice President

Attachment

xc: Mr. L. A. Reyes
Regional Administrator, Region II

Mr. M. A. Scott
Senior Resident Inspector

Mr. D. E. LaBarge
ONRR, Project Manager

Attachment
Notice of Enforcement Discretion (NOED) Request

Oconee has used Administrative Letter 95-05 to develop this request for enforcement discretion. Relevant information supporting this request for enforcement discretion is provided below.

1. Technical Specification that will be violated:

The Technical Specification that is being violated is the literal interpretation that surveillances with refueling outage frequency must be performed during a refueling outage. Duke has performed a review of past surveillances and has identified certain surveillances that would not satisfy this literal interpretation. Duke has confirmed that this situation includes, but may not be limited to, the EFW flow instruments on Unit 2, LPI flow instruments on Units 2 and 3, BWST level instruments on Units 2 and 3, and high range radiation monitors on Unit 2. Additional surveillances on Unit 2 will also become past due over the next two weeks since they were last performed during a forced outage on Unit 2 in early 1997.

The original Technical Specifications for Oconee required certain surveillances to be performed annually. Thus, the original Technical Specifications did not constrain performance of these annual surveillances to refueling outage conditions. When the site transitioned from annual to 18 month refueling cycles, the Technical Specifications replaced the word "annual" with "refueling outage". The intent of the change was to reflect the increased surveillance period and it was not intended to constrain refueling outage surveillances to refueling outage conditions. The Oconee Technical Specifications do not define "refueling outage" other than to stipulate in Specification 4.0.2 that the maximum duration for this surveillance frequency is 22 months, 15 days. Therefore, Duke is proposing a new definition that will be added to Section 1 of the Technical Specifications to clarify the intent of refueling outage surveillance frequencies. This new definition is attached and clearly explains that, from a surveillance perspective, refueling outage is synonymous with 18 months.

2. Circumstances surrounding the situation:

Oconee has not in the past interpreted a refueling outage frequency as requiring that the surveillances be performed

at no other times than during a refueling outage. As such, the site's practice has been to perform certain surveillances based on a refueling outage frequency at other times than during a refueling outage.

As a result of forced outages during 1997, certain surveillances for Oconee Unit 2 that can only be performed during a refueling outage will exceed the maximum frequency of 22 months 15 days prior to the start of the Unit 2 refueling outage. On January 15, 1997, Duke submitted a Technical Specification change to justify an extension of these surveillances to support the scheduled refueling outage date of March 13, 1998. The site also has been evaluating the performance of other surveillances at power to assure that the required refueling outage frequency is not exceeded. In discussions with NRR on January 29, 1998, the licensee was informed that the staff's interpretation of Oconee's Technical Specifications is that any surveillance with a refueling outage frequency must be performed only during a literal refueling outage. Thus, any surveillances performed at power, in past forced outages, or planned shutdowns would not satisfy the requirements of Technical Specifications. Oconee immediately began to evaluate the impact of the staff's literal interpretation of the Technical Specifications with respect to past surveillances done at times other than during a refueling outage.

On January 30, 1998, Oconee confirmed that certain surveillances have been performed at times other than during a refueling outage. These surveillances include, but may not be limited to, the EFW flow instruments on Unit 2, LPI flow instruments on Units 2 and 3, BWST level instruments on Units 2 and 3, and high range radiation monitors on Unit 2. Oconee discussed these findings with NRR on January 30, 1998. The staff agreed that developing a comprehensive list of all surveillances that may have been performed at conditions other than during a refueling outage was not warranted and that the examples already identified by Oconee were sufficient to establish the need for enforcement discretion. It should be recognized that all surveillances for all three units have been performed within the time constraints established by Technical Specifications. The only compliance issue is the fact that some surveillances with a refueling outage frequency were performed at conditions other than during a refueling outage. Prior to January 29, 1998, Oconee did not recognize the staff's literal interpretation that the refueling outage frequency established in the surveillance specifications also defined a condition at which the surveillances must be performed (i.e., during a refueling outage). This literal

interpretation is inconsistent with all the other surveillance intervals defined in Section 4.0.2 of Technical Specifications in that the other intervals are clearly tied only to time. Once notified of the staff's literal interpretation, Oconee has taken prompt actions to assure compliance with the staff's position. These actions include a review of past surveillances for the three units, entry into Technical Specification 3.0, development of this request for enforcement discretion, and development of a license amendment to clearly define the intent of refueling outage frequencies in the Technical Specifications. Based on discussions with the staff, this proposed license amendment will be submitted on February 2, 1998.

3. The safety basis for the request, including an evaluation of the safety significance:

All required surveillances have been performed within the time constraints required by the Technical Specifications. In fact, some surveillances have been performed during forced outages in 1997 subsequent to the last refueling outage on Units 2 and 3. Thus, the time since the last surveillance is actually less than if the site had used the staff's literal interpretation of the refueling outage frequency. If anything, non-compliance with the literal interpretation has resulted in a safety enhancement in that some surveillances have been performed more recently than if the staff's interpretation had been followed.

4. The basis for the licensee's conclusion that the noncompliance will not be of potential detriment to the public health and safety and that neither an unreviewed safety question nor a significant hazard consideration is involved.

As stated previously, all required surveillances have been performed within the time constraints required by the Technical Specifications. Thus, this compliance issue does not create any concerns regarding the capability of any structures, systems, or components to perform their intended safety functions. There is not a technical basis for requiring surveillances to only be performed during outages where fuel is being moved. Therefore, the surveillances performed at times other than during a refueling outage satisfy the intent of the Technical Specifications from an operability perspective. If anything, non-compliance with the literal interpretation has resulted in a safety enhancement in that some surveillances have been performed more recently than if the staff's interpretation had been

followed. As a result, this compliance issue does not involve an unreviewed safety question or a significant hazards consideration.

5. The basis for the licensee's conclusion that the compliance will not involve adverse consequences to the environment.

No environmental impact analysis is necessary since this request does not involve a significant hazards consideration, a significant change in the types/amounts of effluents that may be released offsite, or a significant increase in the individual/cumulative occupational radiation exposure.

6. Any proposed compensatory measure(s).

The site is not proposing any compensatory measures associated with this request for enforcement discretion. The non-compliance issue does not create any safety concerns that warrant compensatory measures as may be the case in other cases of enforcement discretion.

7. The justification for the duration of the noncompliance.

Oconee will be working through the weekend to develop a proposed Technical Specification change to clearly define the refueling outage surveillance frequency. Based on discussions with NRR, a proposed license amendment will be submitted to the staff on February 2, 1998. Duke requests that enforcement discretion be granted for all three Oconee units until the license amendment is issued which alters the definition of refueling outage in the Technical Specifications.

8. A statement that the request has been approved by the Plant Operations Review Committee.

On January 30, 1998, the Plant Operations Review Committee reviewed and approved this request for enforcement discretion.

9. The request must specifically address how one of the NOED criteria for appropriate plant conditions is satisfied.

Duke believes that this request satisfies the NOED criteria in that this request for enforcement discretion is necessary to avoid an undesirable shutdown. Compliance with the staff's interpretation of refueling outage frequency will require Oconee Units 2 and 3 to shut down and enter a

refueling outage in order to satisfy the surveillance requirements. As previously described, there is no safety significance associated with this compliance issue and requiring a shutdown of two units does not minimize potential safety consequences or operational risk. Thus, it is Duke's position that this literal noncompliance issue fully conforms to the NOED criteria that have been issued by the staff.

10. If a follow-up license amendment is required, the NOED request must include marked-up Technical Specification pages showing the proposed Technical Specification changes. The actual license amendment request must follow within 48 hours.

The marked-up Technical Specification pages are attached to the submittal. In addition, based on discussions with the staff, Duke will submit the proposed Technical Specification changes on February 2, 1998.

11. A statement that prior adoption of approved line-item improvements to the TS or the ITS would not have obviated the need for the NOED request.

Oconee has custom Technical Specifications and is in the process of converting to Improved Technical Specifications (ITS). The ITS submittal was made on October 28, 1997, satisfying a commitment from Duke to make the submittal by October 31, 1997. Thus, Oconee has taken the initiative to improve its specifications and take advantage of the industry operating experience associated with ITS. The ITS submittal corrects the interpretation issue associated with refueling outage frequencies by clearly defining these frequencies as 18 months.