

NUCLEAR REGULATORY COMMISSION

[Docket No. 72-38; NRC-2016-0111]

Duke Energy

McGuire Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

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

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment (EA) and a finding of no significant impact (FONSI) for its review and approval of the decommissioning funding plan submitted by Duke Energy Carolinas, LLC (Duke), on December 13, 2012, for the Independent Spent Fuel Storage Installation (ISFSI) at McGuire Nuclear Station (MCG) in Huntersville, North Carolina.

DATES: The EA and FONSI referenced in this document are available on June 16, 2016.

ADDRESSES: Please refer to Docket ID NRC-2016-0111 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0111. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-415-3463; e-mail: 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 obtain publicly-available documents online in the ADAMS Public Documents collection 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 e-mail to pdresource@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. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the section of this document entitled, Availability of Documents.

- **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: Richard Baum, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0018, e-mail: Richard.Baum@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction.

The NRC is considering issuance of the decommissioning funding plan (DFP) for the McGuire ISFSI. Duke submitted a DFP for NRC review and approval by letter dated December

13, 2012 (ADAMS Accession No. ML12353A033). The NRC staff has prepared a final EA (ADAMS Accession No. ML16144A261) in support of its review of Duke's DFP, in accordance with the NRC regulations in part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," which implement the National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 et seq.). Based on the EA, the NRC staff has determined that approval of the DFP for the McGuire ISFSI will not significantly affect the quality of the human environment, and, accordingly, the staff has concluded that a FONSI is appropriate. The NRC staff further finds that preparation of an environmental impact statement (EIS) is not warranted because under 10 CFR 51.22(c)(10) or 10 CFR 51.22 (c)(11) do not apply to the DFP reviews, since the categorical exclusion only apply to license amendments and the 10 CFR 72.30 DFP reviews and approvals are not license amendment..

II. Environmental Assessment.

Background:

The McGuire ISFSI is located in Huntersville, North Carolina. Duke is authorized by NRC, under License No. SFGL-11, to store spent nuclear fuel at the McGuire ISFSI.

The NRC requires its licensees to plan for the eventual decommissioning of their licensed facilities prior to license termination. On June 17, 2011, the NRC published a final rule in the *Federal Register* amending its decommissioning planning regulations (76 FR 35512). The final rule amended the NRC regulation, 10 CFR 72.30, which concerns financial assurance and decommissioning for ISFSIs. This regulation now requires each holder of, or applicant for, a license under 10 CFR Part 72 to submit, for NRC review and approval, a DFP. The purpose of the DFP is to demonstrate the licensee's financial assurance, *i.e.*, that funds will be available

to decommission the ISFSI. The NRC staff is reviewing the DFP submitted by Duke on December 13, 2012. Specifically, the NRC must determine whether Duke's DFP contains the information required by 10 CFR 72.30(b) and whether Duke has provided reasonable assurance that funds will be available to decommission the ISFSI.

Description of the Proposed Action

The proposed action is the NRC's review and approval of Duke's DFP submitted in accordance with 10 CFR 72.30(b). To approve the DFP, the NRC will evaluate whether the decommissioning cost estimate (DCE) adequately estimates the cost to conduct the required ISFSI decommissioning activities prior to license termination, including identification of the volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the license termination criteria in 10 CFR 20.1402 or 10 CFR 20.1403. NRC will also evaluate whether the aggregate dollar amount of Duke's financial instruments provide adequate financial assurance to cover the DCE and that the financial instruments meet the criteria of 10 CFR 72.30(e).

The proposed action does not require any changes to the ISFSI's licensed routine operations, maintenance activities, or monitoring programs, nor does it require any new construction or land disturbing activities. The scope of the proposed action concerns only the NRC's review and approval of Duke's DFP. The scope of the proposed action does not include, and will not result in, the review and approval of any decontamination or decommissioning activity or license termination for the ISFSI or any other part of McGuire.

Need for the Proposed Action

The proposed action provides a means for Duke to demonstrate that it will have sufficient funding to cover the costs of decommissioning the ISFSI, including the reduction of the

residual radioactivity at the ISFSI to the level specified by the applicable NRC license termination regulations concerning release of the property (10 CFR 20.1402 or 10 CFR 20.1403).

Environmental Impacts of the Proposed Action

The NRC's approval of the DFP will not change the scope or nature of the operation of the ISFSI and will not authorize any changes to licensed operations or maintenance activities. The NRC's approval of the DFP will not result in any changes in the types, characteristics, or quantities of radiological or non-radiological effluents released into the environment from the ISFSI, or result in the creation of any solid waste. Moreover, the approval of the DFP will not authorize any construction activity or facility modification. Therefore, the NRC staff concludes that the approval of the DFP is a procedural and administrative action that will not result in any significant impact to the environment.

Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), requires federal agencies to consider the effects of their undertakings on historic properties. In accordance with the NHPA implementing regulations at 36 CFR Part 800, "Protection of Historic Properties," NRC's approval of Duke's DFP constitutes a federal undertaking. The NRC, however, has determined that the approval of the DFP is a type of undertaking that does not have the potential to cause effects on historic properties, assuming such historic properties were present, because the NRC's approval of Duke's DFP will not authorize or result in changes to licensed operations or maintenance activities, or changes in the types, characteristics, or quantities of radiological or non-radiological effluents released into the environment from the ISFSI, or result in the creation of any solid waste. Therefore, in accordance with 36 CFR 800.3(a)(1), no consultation is required under Section 106 of the NHPA.

Under Section 7 of the Endangered Species Act of 1973, prior to taking a proposed

action, a federal agency must determine whether (i) endangered and threatened species or their critical habitats are known to be in the vicinity of the proposed action and if so, whether (ii) the proposed Federal action may affect listed species or critical habitats. If the proposed action may affect listed species or critical habitats, the federal agency is required to consult with the U.S. Fish and Wildlife Service (FWS) and/or the U.S. National Marine Fisheries Service. In accordance with 50 CFR 402.13, the NRC has engaged in informal consultation with the FWS. The NRC has determined that the proposed action is not likely to adversely affect listed species or their critical habitats because the NRC's approval of Duke's DFP will not authorize or result in changes to licensed operations or maintenance activities, or changes in the types, characteristics, or quantities of radiological or non-radiological effluents released into the environment from the ISFSI, or result in the creation of any solid waste. The FWS has concurred with the NRC's determination that the proposed action is not likely to adversely affect listed species or critical habitat.

Alternative to the Proposed Action

In addition to the proposed action, the NRC evaluated the no-action alternative. The no-action alternative is to deny Duke's DFP. A denial of a DFP that meets the criteria of 10 CFR 72.30(b) does not support the regulatory intent of the 2011 rulemaking. As noted in the rulemaking EA (ADAMS Accession No. ML090500648), not promulgating the 2011 final rule would have increased the likelihood of additional legacy sites. Thus, denying Duke's DFP, which the NRC has found to meet the criteria of 10 CFR 72.30(b), will undermine the licensee's decommissioning planning. On this basis, the NRC has concluded that the no-action alternative is not a viable alternative.

Agencies and Persons Consulted

The NRC staff consulted with other agencies and parties regarding the environmental impacts of the proposed action. The NRC provided a draft of its EA to the North Carolina Department of Health and Human Services on August 10, 2015, and gave them 30 days to respond. The State never responded. The NRC also consulted with the FWS. The FWS concurred with the NRC's determination that the proposed action is not likely to adversely affect listed species or critical habitat.

III. Finding of No Significant Impact.

The NRC staff has determined that the proposed action, the review and approval of the DFP, submitted in accordance with 10 CFR 72.30(b), will not authorize or result in changes to licensed operations or maintenance activities, or changes in the types, characteristics, or quantities of radiological or non-radiological effluents released into the environment from the ISFSI, or result in the creation of any solid waste. Moreover, the approval of the DFP will not authorize any construction activity, facility modification, or any other land-disturbing activity. The NRC staff has concluded that the proposed action is a procedural and administrative action and as such, that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the NRC staff has determined not to prepare an EIS for the proposed action but will issue this FONSI. In accordance with 10 CFR 51.32(a)(4), the FONSI incorporates the EA by reference.

IV. Availability of Documents.

The following documents, related to this Notice, can be found using any of the methods provided in the following table. Instructions for accessing ADAMS were provided under the ADDRESSES section of this Notice.

Date	Document	ADAMS Accession No.
December 13, 2012	Submission of MCG decommissioning funding plan	ML12353A033
February 1, 2009	Environmental Assessment for Final Rule - Decommissioning Planning	ML090500648
May 31, 2016	NRC staff's Final EA for the approval of the decommissioning funding plan	ML16144A261

Dated at Rockville, Maryland, this 7th day of June, 2016.

For the Nuclear Regulatory Commission.

/RA/

Bernard H. White IV, Acting Branch Chief
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