

### *No Undue Risk to Public Health and Safety*

The underlying purpose of 10 CFR 50.46 is to establish acceptance criteria for adequate ECCS performance. As previously documented in the NRC staff's review of topical reports submitted by Westinghouse Electric Company, LLC (Westinghouse), and subject to compliance with the specific conditions of approval established therein, the NRC staff finds that the applicability of these ECCS acceptance criteria to Optimized ZIRLO™ has been demonstrated by Westinghouse. Ring compression tests performed by Westinghouse on Optimized ZIRLO™ proved topical report WCAP-12610-P-A & CENPD-404-P-A, Addendum 1-A, "Optimized ZIRLO™," July 2006, ADAMS Accession No. ML062080576; the public version is WCAP-14342-A & CENPD-404-NP-A at ADAMS Accession No. ML062080569) demonstrate an acceptable retention of post-quench ductility up to 10 CFR 50.46 limits of 2,200 °F and 17 percent equivalent clad reacted (ECR). Furthermore, the NRC staff has concluded that oxidation measurements previously provided by Westinghouse ("SER Compliance with WCAP-12610-P-A & CENPD-404-P-A Addendum 1-A 'Optimized ZIRLO™,'" November 2007, non-public version at ADAMS Accession No. ML073130562, public version at ADAMS Accession No. ML073130560) illustrate that oxide thickness (and associated hydrogen pickup) for Optimized ZIRLO™ at any given burnup would be less than both zircaloy-4 and ZIRLO™. Hence, the NRC staff concludes that Optimized ZIRLO™ would be expected to maintain better post-quench ductility than ZIRLO™. This finding is further supported by an ongoing loss-of-coolant accident (LOCA) research program at Argonne National Laboratory, which has identified a strong correlation between cladding hydrogen content (due to in-service corrosion) and post-quench ductility.

In addition, the provisions of 10 CFR 50.46 require the licensee to periodically evaluate the performance of the emergency core cooling system (ECCS), using currently approved LOCA models and methods, to ensure that the fuel rods will continue to satisfy 10 CFR 50.46 acceptance criteria. Granting the exemption to allow the licensee to use Optimized ZIRLO™ fuel rods in addition to the current mix of fuel rods does not diminish this requirement of periodic evaluation of ECCS performance. Thus, the underlying purpose of the rule will continue to be

achieved for Donald C. Cook Nuclear Plant, Unit 2.

Paragraph I.A.5 of Appendix K to 10 CFR part 50 states that the rates of energy release, hydrogen concentration, and cladding oxidation from the metal-water reaction shall be calculated using the Baker-Just equation. Since the Baker-Just equation presumes the use of zircaloy clad fuel, strict application of this provision of the rule would not permit use of the equation for Optimized ZIRLO™ cladding for determining acceptable fuel performance. However, the NRC staff previously found that metal-water reaction tests performed by Westinghouse on Optimized ZIRLO™ (see Appendix B of WCAP-12610-P-A & CENPD-404-P-A, Addendum 1-A) demonstrate conservative reaction rates relative to the Baker-Just equation. Thus, the NRC staff agrees that application of Appendix K, paragraph I.A.5 is not necessary to achieve the underlying purpose of the rule in these circumstances. Since these evaluations demonstrate that the underlying purpose of the rule will be met, there will be no undue risk to the public health and safety.

### *Consistent With Common Defense and Security*

The proposed exemption would allow the use of Optimized ZIRLO™ fuel rod cladding material at CNP-2. This change to the plant configuration has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

### *Special Circumstances*

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.46 and Appendix K to 10 CFR part 50 is to establish acceptance criteria for ECCS performance. The wording of the regulations in 10 CFR 50.46 and Appendix K is not directly applicable to Optimized ZIRLO™, even though the evaluations above show that the intent of the regulation is met. Therefore, since the underlying purposes of 10 CFR 50.46 and Appendix K are achieved through the use of Optimized ZIRLO™ fuel rod cladding material, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of an exemption exist.

### **4.0 Conclusion**

Accordingly, the Commission has determined that, pursuant to 10 CFR

50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50, to allow the use of Optimized ZIRLO™ fuel rod cladding material at CNP-2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment and has published an environmental assessment for this exemption on August 23, 2012 (77 FR 51071).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 23rd day of August, 2012.

For the Nuclear Regulatory Commission.

**Michele Evans,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2012-22173 Filed 9-7-12; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2012-0209]**

### **Guidance on Performing a Seismic Margin Assessment**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft Japan Lessons-Learned Project Directorate guidance; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment the draft Japan Lessons-Learned Project Directorate Interim Staff Guidance (JLD-ISG), JLD-ISG-2012-04, "Guidance on Performing a Seismic Margin Assessment in response to the March 2012 Request for Information Letter." This draft JLD-ISG provides guidance on an acceptable method for licensees to carry out a Seismic Margins Analysis (SMA) method referred to in the seismic portion of a letter requiring recipients (licensees) to submit information under oath and affirmation to the NRC.

**DATES:** Comments must be filed no later than October 10, 2012. Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure

consideration only for comments received on or before this date.

**ADDRESSES:** You may access information and comment submissions related to this document, which the NRC possesses and are publically available, by searching on <http://www.regulations.gov> under Docket ID NRC-2012-0209. You may submit comments by any of the following methods:

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0209. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

- *Fax comments to:* RADB at 301-492-3446.

For additional direction on accessing information and submitting comments, see "Accessing Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Gratton, Japan Lessons-Learned Project Directorate, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1055; email: [Christopher.Gratton@nrc.gov](mailto:Christopher.Gratton@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Accessing Information and Submitting Comments**

#### *A. Accessing Information*

Please refer to Docket ID NRC-2012-0209 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 publically available by any of the following methods:

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0209.

- *NRC's Agencywide Document Access and Management System (ADAMS):* You may access publically 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 draft JLD-ISG-2012-04 is available under ADAMS Accession No. ML12222A327. The 10 CFR 50.54(f) request letter was issued in March 2012, and can be located under ADAMS Accession No. ML12053A340.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room 01-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

#### *B. Submitting Comments*

Please include Docket ID NRC-2012-0209 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publically disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS.

The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publically disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

### **II. Background Information**

Following the events at the Fukushima Dai-ichi nuclear power plant on March 11, 2011, the NRC established a senior-level agency task force referred to as the Near-Term Task Force (NTTF). The NTTF was tasked with conducting a systematic and methodical review of the NRC regulations and processes and determining if the agency should make additional improvements to those programs in light of the events at Fukushima Dai-ichi. As a result of this review, the NTTF developed a comprehensive set of recommendations, documented in SECY-11-0093, "Near-Term Report and Recommendations for Agency Actions Following the Events in Japan," dated July 12, 2011 (ADAMS Accession No. ML111861807). These recommendations were enhanced by the NRC staff following interactions with

stakeholders. Documentation of the staff's efforts is contained in SECY-11-0124, "Recommended Actions To Be Taken Without Delay From the Near-Term Task Force Report," dated September 9, 2011, (ADAMS Accession No. ML11245A158), and SECY-11-0137, "Prioritization of Recommended Actions To Be Taken in Response to Fukushima Lessons Learned," dated October 3, 2011 (ADAMS Accession No. ML11269A204).

As directed by the staff requirements memorandum (SRM) for SECY-11-0093, the NRC staff reviewed the NTTF recommendations within the context of the NRC's existing regulatory framework and considered the various regulatory vehicles available to the NRC to implement the recommendations. The staff's prioritization of the recommendations was established in SECY-11-0124 and SECY-11-0137.

In March 2012, the NRC issued Request for Information Pursuant to Section 50.54(f) of Title 10 of the Code of Federal Regulations (10 CFR), Regarding Recommendations 2.1, 2.3, and 9.3, of the Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident," hereafter called the "March 12, 2012, 50.54(f) letter." Enclosure 1 of that letter, "Recommendation 2.1: Seismic," described the actions related to seismic hazard and risk reassessments to be taken by licensees in response to the letter. Among the actions discussed in Enclosure 1 is an SMA method, which may be appropriate for some plants depending on the outcome of the hazard reassessment phase. Enclosure 1 to the 50.54(f) letter states that the SMA approach should be the NRC SMA approach (e.g.; NUREG/CR-4334, "An Approach to the Quantification of Seismic Margins in Nuclear Power Plants," issued in August 1985 (ADAMS Accession No. ML090500182), as enhanced for full-scope plants in NUREG-1407, "Procedural and Submittal Guidance for the Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities," ADAMS Accession No. ML063550238.

This draft JLD-ISG, "Guidance on Performing a Seismic Margin Assessment in Response to the March 2012, Request for Information Letter," (ADAMS Accession No. ML12222A327) describes the enhancements to the NRC SMA method described in NUREG/CR-4334 needed to meet the objectives of the March 12, 2012, 50.54(f) letter. It presents staff positions on enhancements to the major elements of the NRC SMA and updates references to allow for use of recent advances in

methods and guidance. These guidance documents include the American Society of Mechanical Engineers/American Nuclear Society, "Standard for Level 1/Large Early Release Frequency Probabilistic Risk Assessment for Nuclear Power Plant Applications," Standard ASME/ANS RA-Sa-2009, 2009 (hereafter called the ASME/ANS PRA standard) and the Screening, Prioritization, and Implementation document (SPID) currently under development by the Nuclear Energy Institute (with NRC staff input) for NRC endorsement.

Licensees may propose other methods for satisfying these requirements. The NRC staff will review such methods and determine their acceptability on a case-by-case basis.

This guidance, at this time, is only intended to be used for an SMA conducted in response to the 50.54(f) letter, and not for other purposes.

The NRC ISG DC/COL-ISG-020, "Seismic Margin Analysis for New Reactors Based on Probabilistic Risk Assessment" (ADAMS Accession No. ML100491233), remains the NRC's current guidance for application to new reactors. The contents of this draft JLD-ISG have no implications for NRC ISG DC/COL-ISG-020, the ASME/ANS PRA standard, or any other document.

The draft JLD-ISG is not a substitute for the requirements in the March 12, 2012, 50.54(f) letter and compliance with the draft JLD-ISG is not required. This draft JLD-ISG is being issued in draft form for public comment to involve the public in developing the regulatory positions.

#### Proposed Action

By this action, the NRC is requesting public comments on draft JLD-ISG-2012-04. This draft JLD-ISG proposes guidance related to requirements contained in the seismic portion of the March 12, 2012, 50.54(f) letter. The NRC staff will make a final determination regarding issuance of the JLD-ISG after it considers any public comments received in response to this request.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 4th day of September, 2012.

**David L. Skeen,**

*Director, Japan Lessons-Learned Project Directorate, Office of Nuclear Reactor Regulation.*

[FR Doc. 2012-22174 Filed 9-7-12; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request Copies Available From:* U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

#### Extension:

Rule 17Ad-15, OMB Control No. 3235-0409, SEC File No. 270-360.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in the following rule: Rule 17a-10 (17 CFR 240.17Ad-15) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17Ad-15 requires approximately 477 transfer agents to establish written standards for accepting and rejecting guarantees of securities transfers from eligible guarantor institutions. Transfer agents are also required to establish procedures to ensure that those standards are used by the transfer agent to determine whether to accept or reject guarantees from eligible guarantor institutions. Transfer agents must maintain, for a period of three years following the date of a rejection of transfer, a record of all transfers rejected, along with the reason for the rejection, identification of the guarantor, and whether the guarantor failed to meet the transfer agent's guarantee standard. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule.

There are approximately 477 registered transfer agents. The staff estimates that every transfer agent will spend about 40 hours annually to comply with Rule 17Ad-15. The total annual burden for all transfer agents is 23,480 hours (477 times 40). The average cost per hour is approximately \$50. Therefore, the total cost of compliance for all transfer agents is \$1,174,000 (23,480 times \$50).

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

Background documentation for this information collection may be viewed at

the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted within 30 days of this notice.

Dated: September 4, 2012.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-22143 Filed 9-7-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

#### Extension:

Regulation S-P, SEC File No. 270-480, OMB Control No. 3235-0537.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval of extension of the previously approved collection of information provided for in the privacy notice and opt out notice provisions of Regulation S-P—Privacy of Consumer Financial Information (17 CFR part 248) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act"). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The privacy notice and opt out notice provisions of Regulation S-P (the "Rule") implement the privacy notice and opt out notice requirements of Title V of the Gramm-Leach-Bliley Act ("GLBA"), which include the requirement that at the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship, a financial institution