

Signed at Washington, DC, this 7th day of September 2004.

**Ivan L. Strasfeld,**

*Director, Office of Exemption Determinations, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. 04-20538 Filed 9-10-04; 8:45 am]

BILLING CODE 4510-29-P

## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for Computer and Information Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

*Name:* Advisory Committee for Computer and Information Science and Engineering—(1115).

*Date and Time:* October 22, 2004; 8 a.m. to 3:30 p.m.

*Place:* National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230.

*Type of Meeting:* Open.

*Contact Person:* Gwen Barber-Blount, Office of the Assistant Director, Directorate for Computer and Information Science and Engineering, National Science Foundation, 4201 Wilson Blvd., Suite 1105, Arlington, VA 22230. Telephone: (703) 292-8900.

*Minutes:* May be obtained from the contact person listed above.

*Purpose of Meeting:* To advise NSF on the impact of its policies, programs and activities on the CISE community. To provide advice to the Assistant Director/CISE on issues related to long-range planning, and to form ad hoc subcommittees to carry out needed studies and tasks.

*Agenda:* Report from the Assistant Director; discussion of education, diversity, workforce issues in IT; cyberinfrastructure; long-range funding outlook and proposal success rates.

Dated: September 7, 2004.

**Susanne Bolton,**

*Committee Management Officer.*

[FR Doc. 04-20562 Filed 9-3-04; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 72-25]

### Foster Wheeler Environmental Corporation; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding a Proposed Exemption

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the

provisions of 10 CFR 72.102(f)(1) to Foster Wheeler Environmental Corporation (FWENC or applicant). The requested exemption would allow FWENC to use a probabilistic approach along with considerations of risk to establish the design earthquake (DE) ground motion levels at the Idaho Spent Fuel (ISF) Facility, instead of the deterministic methodology of 10 CFR 100, Appendix A. FWENC submitted the exemption request as part of its November 19, 2001, license application for the ISF Facility, an independent spent fuel storage installation (ISFSI) to be located at the Idaho National Engineering and Environmental Laboratory (INEEL).

#### Environmental Assessment (EA)

*Identification of Proposed Action:* The applicant requested an exemption from the requirement in 10 CFR 72.102(f)(1) which states that, "The design earthquake (DE) for use in the design of structures must be determined as follows: (1) For sites that have been evaluated under the criteria of Appendix A of 10 CFR Part 100, the DE must be equivalent to the safe shutdown earthquake (SSE) for a nuclear power plant." The regulation at 10 CFR 72.102(b) requires that, for sites west of the Rocky Mountains, such as the ISF Facility site, seismicity must be evaluated using the techniques of 10 CFR Part 100, Appendix A. The requested exemption would allow the applicant to calculate the DE for the proposed facility using an alternate method.

The proposed action before the Commission is whether to grant this exemption pursuant to 10 CFR 72.7.

*Need for the Proposed Action:* The applicant has requested a license to construct and operate the ISF Facility, as described in its license application, dated November 19, 2001, on behalf of the Department of Energy (DOE). FWENC will be the license holder for the ISF Facility, which would be the second NRC-licensed ISFSI at the INEEL. The proposed facility will be adjacent to the existing ISFSI for the TMI-2 fuel debris, and close to the DOE facilities currently storing the spent fuel to be moved to the ISF Facility. The ISF Facility represents an additional milestone in the 1995 settlement agreement among DOE, the U.S. Navy, and the State of Idaho regarding the disposition of spent nuclear fuel at INEEL.

The exemption would allow the applicant to use risk-informed methods including a probabilistic seismic hazards analysis (PSHA) to define the design earthquake for the ISF Facility.

This DE is a critical assumption for the design of the facility structures, systems, and components (SSCs) important to safety. These SSCs must be designed to withstand the effects of natural phenomena, including earthquakes, without impairing their capability to perform their safety functions. For sites west of the Rocky Mountains, including the ISF Facility site, 10 CFR 72.102(b) requires that seismicity be evaluated using techniques set forth in Appendix A of 10 CFR Part 100 for nuclear power plants. In applying that appendix, the applicant would be required to define the DE as the most significant earthquake postulated to occur at that site, irrespective of its frequency, or the estimated time the facility would be operational. This would result in unwarranted conservatism in the design and construction of the facility, placing an unnecessary burden on the applicant, increasing overall project costs and delaying implementation of this phase of the settlement agreement between DOE and the State of Idaho.

The NRC staff has evaluated the proposed exemption in its preliminary safety evaluation report (SER) for the ISF Facility, dated July 29, 2004. In the SER, the staff concludes that there are sufficient technical and regulatory bases to grant an exemption to 10 CFR 72.102(f) at the time a license is issued for the ISF Facility. These bases are that: (i) The probability and risk-informed analyses performed by the applicant demonstrate that the SSCs important to safety will maintain their capability to protect public health and safety, even considering earthquake ground motions more severe than the proposed DE; (ii) the applicant's exemption request is similar to previous exemption requests found acceptable by the NRC staff for the TMI-2 ISFSI and the Private Fuel Storage Facility; and (iii) the applicant's methods and analyses are consistent with the probabilistic approach and corresponding design earthquake values allowed under the recently added regulations in 10 CFR 72.103, as described in the associated regulatory guidance in NRC Regulatory Guide 3.73.

*Environmental Impacts of the Proposed Action:* The NRC staff previously evaluated the environmental impacts resulting from the construction, operation and decommissioning of the ISF Facility, and determined that such impacts would be acceptably small. The staff's conclusions are documented in the "Environmental Impact Statement for the Proposed Idaho Spent Fuel Facility at the Idaho National Engineering and Environmental Laboratory in Butte County, Idaho (Final Report), NUREG-1773," issued in

January 2004. In that environmental impact statement (EIS), and in the preliminary SER, the staff considered the design earthquake for the site based on the applicant's methods, and concluded that earthquake events would not result in unacceptable consequences or significant radiation releases from the proposed ISF Facility. Therefore, the staff finds that the proposed exemption, involving the use of an acceptable analytical method, will not have any significant environmental impact.

*Alternative to the Proposed Action:*

As an alternative to the proposed action, the staff considered denial of the proposed exemption (*i.e.*, the "no-action" alternative). Denial of the exemption request would require the applicant to perform additional analyses and possibly revise the design of the ISF Facility, but these changes would not affect the conclusions of the EIS. Neither the proposed action nor the alternative to the proposed action will have a significant environmental impact. Therefore, the environmental impacts of the proposed action and the alternative action are similar.

*Agencies and Persons Consulted:* On August 2, 2004, Mr. Doug Walker, Senior Health Physicist with the State of Idaho INEEL Oversight Program, was contacted regarding the environmental assessment for the proposed exemption and had no comments. The NRC staff previously evaluated the environmental impacts of the ISF Facility in the final EIS issued in January 2004 and has determined that additional consultation under Section 7 of the Endangered Species Act is not required for this specific exemption which involves the use of an alternative analytical method and will not affect listed species or critical habitat. The NRC staff has similarly determined that the proposed exemption is not a type of activity having the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

**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 EA, the Commission finds that the proposed action of granting the exemption from 10 CFR 72.102(f), so that FWENC may employ alternative methods for determining the design earthquake for the ISF Facility, will not significantly impact the quality of the human environment. Accordingly, the Commission has determined that a Finding of No Significant Impact is

appropriate, and that an environmental impact statement for the proposed exemption is not necessary.

For further details with respect to this exemption request, see the FWENC license application for the ISF Facility, and the accompanying Safety Analysis Report, dated November 19, 2001. The request for exemption was docketed under 10 CFR Part 72, Docket No. 72-25. These documents are available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD, or from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS). These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. If there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail at [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 2nd day of September, 2004.

For the Nuclear Regulatory Commission.

**James R. Hall,**

*Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 04-20590 Filed 9-10-04; 8:45 am]

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**NUCLEAR REGULATORY COMMISSION**

[Docket No. 72-25]

**Foster Wheeler Environmental Corporation; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding a Proposed Exemption**

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the provisions of 10 CFR 72.30(c) to Foster Wheeler Environmental Corporation (FWENC or applicant). The requested exemption would allow FWENC to rely on the Statement of Intent from the Department of Energy (DOE) to satisfy the requirements for financial assurance for decommissioning of the Idaho Spent Fuel (ISF) Facility. FWENC submitted the exemption request on April 2, 2003, in support of its November 19, 2001, license application for the ISF Facility, an independent spent fuel storage installation (ISFSI) to be located at the

Idaho National Engineering and Environmental Laboratory (INEEL).

**Environmental Assessment (EA)**

*Identification of Proposed Action:* The applicant requested an exemption from the requirement in 10 CFR 72.30(c) which states that financial assurance for decommissioning must be provided by one or more of the following methods, including: (1) Prepayment; (2) a surety method, insurance, or other guarantee method; (3) an external sinking fund; or (4) in the case of Federal, State, or local government licensees, a statement of intent containing a cost estimate for decommissioning, and indicating that funds for decommissioning will be obtained when necessary. FWENC, a private entity, will be the licensee for the ISF Facility, and the provisions of 10 CFR 72.30(c)(4) do not explicitly allow such a non-government entity to meet the decommissioning financial assurance requirements through reliance on a statement of intent. The requested exemption would allow the applicant to rely on the statement of intent provided by DOE for decommissioning funding assurance. DOE has contracted with FWENC for the licensing, construction, and operation of the ISF Facility, which will repackage and store spent fuel possessed by DOE, in partial fulfillment of the 1995 settlement agreement among DOE, the U.S. Navy, and the State of Idaho.

The proposed action before the Commission is whether to grant this exemption pursuant to 10 CFR 72.7.

*Need for the Proposed Action:* The applicant has requested a license to construct and operate the ISF Facility, as described in its license application, dated November 19, 2001, on behalf of the Department of Energy (DOE). FWENC will be the license holder for the ISF Facility, which would be the second NRC-licensed ISFSI at the INEEL. The proposed facility will be adjacent to the existing ISFSI for the TMI-2 fuel debris, and close to the DOE facilities currently storing the spent fuel to be moved to the ISF Facility. The ISF Facility represents an additional milestone in the 1995 settlement agreement among DOE, the U.S. Navy, and the State of Idaho regarding the disposition of spent nuclear fuel at INEEL.

The exemption would allow the applicant to rely on DOE's statement of intent to provide decommissioning funding for the ISF Facility when needed, instead of using one or more of the other methods specified in 10 CFR 72.30(c). These other methods would require the applicant to contribute substantial funds into one of these other