TABLE C—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION WIA DISLOCATED WORKER ACTIVITIES STATE ALLOTMENTS—Continued

[Comparison of PY 2011 vs PY 2010]

State	PY 2010 (Pre-FY 2011 0.2% Rescission)	PY 2011	Difference	Percent difference
Wisconsin	19,934,322	17,345,523	(2,588,799)	−12.99
Wyoming	786,008	1,201,048	415,040	52.80
State Total	1,183,840,000	1,063,432,320	(120,407,680)	−10.17
American Samoa	201,066	182,437	(18,629)	−9.27
Guam	1,636,618	1,484,984	(151,634)	−9.27
Northern Marianas	605,632	549,518	(56,114)	−9.27
Palau	123,006	125,260	2,254	1.83
Virgin Islands	966,178	876,661	(89,517)	−9.27
Outlying Areas Total	3,532,500	3,218,860	(313,640)	−8.88
National Reserve	225,627,500	220,892,820	(4,734,680)	−2.10

[FR Doc. 2011–13806 Filed 6–2–11; 8:45 am]

BILLING CODE 4510–FN–P

MERIT SYSTEMS PROTECTION BOARD

[MSPB Docket Numbers SF–3330–09–0570–B–1 and SF–3330–09–0725–B–1.]

Merit Systems Protection Board (MSPB or Board) Provides Notice of Opportunity To File Amicus Briefs in the Matter of Michael B. Graves v. Department of Veterans Affairs

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: In *Graves* v. *Department of Veterans Affairs,* 114 M.S.P.R. 245 (2010), and *Graves* v. *Department of Veterans Affairs,* 114 M.S.P.R. 209 (2010), which involved appeals filed under the Veterans Employment Opportunities Act of 1998 (VEOA), the Board held that the agency's use of veterans' preference status as a "tie-breaker" in making selections for excepted service "hybrid" positions under 38 U.S.C. 7401(3), which includes the Medical Records Technician (MRT) positions at issue in these cases, was inadequate, and that the agency must comply with the competitive service veterans' preference requirements set forth in title 5 of the United States Code. The Board reasoned that although title 5 provisions such as those relating to veterans' preference rights do not apply to appointments listed under 38 U.S.C. 7401(1) (physicians, dentists, etc.) because those appointments are made "without regard to civil-service requirements," "hybrid" employees retain many title 5 rights, including the adverse action and reduction in force (RIF) rights mentioned in 38 U.S.C. 7403(f)(3). The Board noted that section 7403(f)(2) provides that "[i]n using such authority to appoint individuals to such positions, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5," and that section 7403(f)(3) provides that "the applicability of the principles of preference referred to in paragraph (2) * * * shall be resolved under the provisions of title 5 as though such individuals had been appointed under that title." Based on its reading of these two provisions, the Board concluded that title 5 competitive service veterans' preference requirements apply to appointments made to 38 U.S.C. 7401(3) positions such as MRTs. The Board also suggested in *Graves,* 114 M.S.P.R. 209, ¶¶ 12–15, that the agency violated veterans' preference requirements set forth in the Office of Personnel Management's Delegated Examining Operations Handbook and VetGuide, and that corrective action was therefore warranted.

The *Graves* cases are now before the Board on petition for review after remand. The agency has raised several arguments regarding the above findings. The agency asserts that 38 U.S.C. 7403(f)(3) does not address the appointment of individuals because its plain language refers multiple times to individuals who have already been appointed. Thus, the agency contends that the Board's decisions do not give effect to the word "appointed" in section 7403(f)(3), and under the statutory construction maxim *noscitur a sociis* (a word is defined by the company it keeps), the reference in section 7403(f)(3) to "matters relating to * * * the applicability of the principles of preference referred to in paragraph (2)" should mean matters relating to veterans' preference principles that apply to individuals who have already been appointed, like "matters relating to" adverse actions, RIFs, part-time employees, disciplinary actions, and grievance procedures. The agency also contends that the legislative history for 5 U.S.C. 7403(f)(2)–(3) indicates that a Senate committee specifically intended for the agency to apply a tie-breaker principle to "hybrid" applicants, and that Congress did not intend to require the agency to apply title 5 rights to applicants for employment. The agency further asserts that in 1984 it provided notice in the **Federal Register** that it would be implementing the "principles of preference" requirement in the statute through an internal circular that called for the use of the "tie-breaker" principle that has been in effect from 1984 through the Board's decisions in *Graves.*

We also note that while section 7403(f)(2) calls for applying "the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5," such application appears to relate to the use of "such authority," *i.e.,* the "authority" mentioned in 38 U.S.C. 7403(a), which in turn calls for appointments to be made "without regard to civil-service requirements." *See Scarnati* v. *Department of Veterans Affairs,* 344 F.3d 1246, 1248 (Fed. Cir. 2003) (under 38 U.S.C. 7403(a), title 5 provisions, including those regarding veterans' preference rights, do not apply to appointments made "without regard to civil service requirements"). Further, deference is generally given to an agency's consistent, long-standing regulatory interpretation of an ambiguous statute as long as it is reasonable, *Rosete* v. *Office of Personnel Management,* 48 F.3d 514, 518–19 (Fed. Cir. 1995), and Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt

that interpretation when it adopts a new law incorporating sections of a prior law without change, *Fitzgerald* v. *Department of Defense,* 80 M.S.P.R. 1, 14 (1998).

The *Graves* cases thus present the following legal issues: (1) Does 38 U.S.C. 7403(f)(2) require the agency to apply title 5 veterans' preference provisions, including but not limited to 5 U.S.C. 3305(b) and 5 CFR 332.311(a), which the Board found the agency violated in not accepting the appellant's late-filed application, *see Graves,* 114 M.S.P.R. 245, ¶¶ 12–15, in filling "hybrid" positions under 38 U.S.C. 7401(3); (2) does the legislative history for the applicable statutory provisions offer guidance regarding how those provisions should be interpreted; (3) are the Delegated Examining Operations Handbook and VetGuide "statute[s] or regulation[s]" relating to veterans' preference within the meaning of 5 U.S.C. 3330a(a)(1)(A), such that a violation of a provision in those documents would constitute a violation under VEOA; (4) does the law of the case doctrine apply to the Board's rulings in these cases; and (5) if so, is there a basis for finding that the "clearly erroneous" exception to that doctrine has been met? In addition, we note that the resolution of the above issues may affect whether the Board has jurisdiction over VEOA appeals filed by "hybrid" applicants.

Interested parties may submit amicus briefs or other comments on these issues no later than June 30, 2011. Amicus briefs must be filed with the Clerk of the Board. Briefs shall not exceed 30 pages in length. The text shall be double-spaced, except for quotations and footnotes, and the briefs shall be on 8½ by 11 inch paper with one inch margins on all four sides.

DATES: All briefs submitted in response to this notice shall be filed with the Clerk of the Board on or before June 30, 2011.

ADDRESSES: All briefs shall be captioned "*Michael B. Graves* v. *Department of Veterans Affairs*" and entitled "Amicus Brief." Only one copy of the brief need be submitted. Briefs must be filed with the Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Matthew Shannon, Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653–7200; *mspb@mspb.gov.*

William D. Spencer,

Clerk of the Board.

[FR Doc. 2011–13737 Filed 6–2–11; 8:45 am]

BILLING CODE 7400–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369, 50–370, 50–413, and 50–414; NRC–2011–0127]

Duke Energy Carolinas, LLC; Notice of Withdrawal of Application for Amendments to Renewed Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission, NRC) has granted the request of Duke Energy Carolinas, LLC (the licensee) to withdraw its June 29, 2010, application for proposed amendments to Renewed Facility Operating License Nos. NPF–9 and NPF–17 for the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina, and for proposed amendments to Renewed Facility Operating License Nos. NPF–35 and NPF–52 for the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendment would have revised Technical Specification (TS) 3.3.1, "Reactor Trip System (RTS) Instrumentation" and TS 3.3.2, "Engineered Safety Feature Actuation System (ESFAS) Instrumentation."

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 25, 2011 (76 FR 4384). However, by letter dated April 12, 2011, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 29, 2010, and the licensee's letter dated April 12, 2011, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are available online in the NRC library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to the Agencywide Documents Access and Management System (ADAMS) or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 26th day of May 2011.

For the Nuclear Regulatory Commission.

Jon Thompson,

Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–13809 Filed 6–2–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Number 50–302; NRC–2009–0039]

Florida Power Corporation, Crystal River Unit 3 Nuclear Generating Plant; Notice of Availability of Draft Supplement 44 to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants and Public Meetings for the License Renewal of Crystal River Unit 3 Nuclear Generating Plant

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has published a draft plant-specific supplement to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS), NUREG–1437, regarding the renewal of operating license DPR–72 for an additional 20 years of operation for Crystal River Unit 3 Nuclear Generating Plant. Crystal River Unit 3 Nuclear Generating Plant is located in Crystal River, Florida, approximately 80 miles north of Tampa, Florida. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

Any interested party may submit comments on the draft supplement to the GEIS for consideration by the NRC staff. To be considered, comments on the draft supplement to the GEIS and the proposed action must be received by July 25, 2011. The NRC staff is able to ensure consideration only for comments received on or before this date.

Addresses: Please include Docket ID NRC–2009–0039 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for