

December 30, 2014

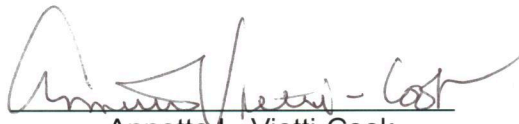
COMMISSION VOTING RECORD

DECISION ITEM: SECY-14-0118

TITLE: REQUEST BY DUKE ENERGY FLORIDA, INC., FOR  
EXEMPTIONS FROM CERTAIN EMERGENCY PLANNING  
REQUIREMENTS

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of December 30, 2014.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

A handwritten signature in black ink, appearing to read "Annette L. Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Macfarlane  
Commissioner Svinicki  
Commissioner Ostendorff  
Commissioner Baran  
Commissioner Burns  
OGC  
EDO  
PDR

VOTING SUMMARY - SECY-14-0118

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	PARTICIP	NOT COMMENTS	DATE
CHRM. MACFARLANE	X				X	11/25/14
COMR. SVINICKI	X				X	12/17/14
COMR. OSTENDORFF	X				X	12/5/14
COMR. BARAN	X				X	11/26/14
COMR. BURNS	X				X	12/10/14

**NOTATION VOTE**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: Chairman Allison M. Macfarlane  
SUBJECT: SECY-14-0118: REQUEST BY DUKE ENERGY  
FLORIDA, INC., FOR EXEMPTIONS FROM CERTAIN  
EMERGENCY PLANNING RQUIREMENTS

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached XX None \_\_\_\_\_



SIGNATURE

11/25/14

DATE

Entered on "STARS" Yes XX No \_\_\_\_\_

**Chairman Macfarlane's comments on SECY-14-0118, "Request by Duke Energy Florida, Inc. for Exemptions from Certain Emergency Planning Requirements"**

This vote considers a request from Duke Energy Florida for exemptions to the Nuclear Regulatory Commission's (NRC's) emergency preparedness (EP) requirements at Crystal River, Unit 3 after the plant has permanently shut down. For reasons set forth below, I approve the staff recommendation to approve the EP exemptions requested by Duke Energy Florida, Inc. The Commission recently considered a very similar exemption request from Dominion Energy, Kewaunee, and we expect similar requests from other shuttered power plants. Currently the only set of EP rules for nuclear power plants are those for operating plants even though the risks posed by permanently shutdown plants differ from those of operating plants.

**Staff Safety Basis for Recommendation**

The staff's basis for granting exemptions that would relieve Crystal River of many of the requirements to maintain a formal offsite radiological emergency plan is similar to the basis for their recommendation in SECY-14-0066, "Request by Dominion Energy Kewaunee, Inc. for Exemptions from Certain Emergency Planning Requirements." This case differs, however, from the Kewaunee case in that Crystal River, Unit 3, has been shut down for over 5 years. This passage of time has allowed for additional decay of fission products in the spent fuel stored in the Crystal River spent fuel pool, resulting in significantly lower risk of zirconium fire and offsite release.

The staff's recommendation rests on the licensee's site-specific analysis coupled with insights from an NRC study often cited by both the staff and licensees used to evaluate EP exemptions, NUREG-1738, "Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants."

The licensee's analysis concludes that, in cases of complete drain down of the spent fuel pool, air cooling will prevent the fuel from heating up to the lowest temperature at which incipient cladding failure may occur. The licensee's analysis also shows that at least 19.7 hours would be available, from the time fuel begins to heat up and assuming the complete loss of all cooling, to take mitigating actions to restore cooling. The time available also allows for offsite protective actions by state and local authorities under a comprehensive emergency management plan.

The staff concluded that granting the exemption request would provide: (1) an adequate basis for an acceptable state of emergency preparedness; and (2) in conjunction with arrangements made with offsite response agencies, reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at Crystal River.

In my vote on SECY-14-0066, I argued that some offsite emergency preparedness was appropriate from a defense-in-depth perspective given the remaining possibility – albeit very low probability – of a zirconium fire. I also noted that in the proposed rulemaking presented to the Commission in 2000 (see SECY 00-0145, "Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning"), the staff recommended a graduated approach to relaxing emergency

preparedness requirements. This approach maintained that if a spent fuel pool fire that could result in an offsite dose exceeding the Environmental Protection Agency's Protective Action Guides was possible, it was prudent to require a licensee to maintain the capability to classify events up to and including the general emergency level. As the staff stated in SECY 00-0145, the possibility of a spent fuel fire would also necessitate licensees retaining the capability to perform dose assessments and provide protective action recommendations to offsite officials. At that time, the staff recommended an option whereby a licensee could conduct a site-specific analysis to demonstrate that the spent fuel had cooled sufficiently such that the possibility of a zirconium fire no longer existed. In applying this graduated approach (described in SECY 00-0145) to Crystal River, I find that there is no risk of an offsite dose exceeding the EPA PAGs. Therefore, I believe it is appropriate in this situation to approve the licensee's exemption request.

I continue to believe that as a plant goes through the decommissioning process, it is most appropriate to take a graduated approach to EP, similar to the recommendation in SECY 00-0145 that recognizes the continued potential for offsite releases is required in approving exemptions to emergency planning requirements for decommissioning plants. The proposed rulemaking in SECY-00-0145 was set aside to address the events of September 11, 2001 at a time when no plants were transitioning to decommissioning. Now, however, several plants are actively undergoing decommissioning and more may follow. Rather than continuing to regulate decommissioning by exemption on a case-by-case basis with no opportunity for public comment, we should pick up where we left off with a decommissioning rulemaking. This rulemaking is both timely and needed and obtaining a wide range of views on decommissioning issues would benefit the Commission's decision-making on the final rule.

### **Transition to Decommissioning Rulemaking**

As the staff noted in SECY-14-0118, the NRC has previously granted similar exemptions from EP requirements for 12 permanently shut down and defueled power reactor licensees. This record reveals that for decommissioning facilities, EP exemptions are the norm. While our regulatory framework does allow for our licensees to seek exemptions from our rules, in keeping with good regulatory practices we should not regulate by exemption. Our current practice of regulating decommissioning facilities by exemption is inconsistent with the Commission's prior statements regarding its exemption authority. The Commission previously addressed the use of exemptions in the Statements of Consideration for the 1985 revision to 10 CFR 50.12 which states:

The Commission's exemption authority is exercised consistent with the Administrative Procedure Act's requirements for informal rulemaking, i.e. the regulatory policy for a particular rule is developed through the rulemaking process without expecting a need for large numbers of exemptions. Therefore, the Commission will exercise its discretion to limit exemptions in any particular area if the "exceptions" to the rule threaten to erode the rule itself. The Commission is also aware that exemptions can serve as warning signals that a particular rule may need to be revised and can serve as a supplement to

traditional evaluation mechanisms in identifying areas in need of revision.  
[50FR50765]

I conclude that the continued, routine need for exemptions by licensees transitioning to decommissioning reflects a gap in our regulatory structure. Indeed, the NRC had started down the road of developing regulations to provide a clearer regulatory framework for plants transitioning to decommissioning, and the staff had proposed a rulemaking plan in SECY-00-0145. Given the current suite of plants transitioning to decommissioning, and the uncertain future we face today, I believe that now is the time to resume efforts on the rulemaking that the agency had begun in SECY 00-0145. I believe that the staff should address the gap in our regulatory structure as a Commission-directed rulemaking.

This rulemaking should address the issues discussed in SECY 00-0145 as well as exploring the advisability of formal approval of licensee Post-Shutdown Decommissioning Activities Reports (PSDARs). I have noted that the NRC receives and reviews licensee PSDARs. However, these reports are not formally approved by the staff. Given the topics addressed in the PSDARs and the potential for them to address safety-significant issues, staff should evaluate whether the NRC currently has the appropriate regulatory involvement in reviewing a facility's PSDAR (i.e., whether the NRC should more formally review and approve the PSDAR). This evaluation should include an assessment of the appropriate weighing of input from the state and local governments and affected Native American tribes concerning the decommissioning plan.

I have heard from our staff that they need to prioritize the current plants transitioning to decommissioning. I agree. However, I also recognize that staff has an ongoing effort to develop the lessons to be learned from the plants currently transitioning from operating to decommissioning. As the regulatory basis for the rulemaking would largely consider these lessons learned, I would submit that the staff has already begun work on the regulatory basis for the rulemaking. Further, I note that the NRC must have this rulemaking completed before the next wave of operating plants begins to decommission.

As the timing of this next wave is uncertain and driven by conditions out of the NRC's control, I believe that the staff should move expeditiously to complete the decommissioning rulemaking to ensure that the NRC is agile and prepared no matter what the future brings. By codifying the Commission's expectations for decommissioning facilities in areas such as emergency preparedness, we would provide certainty for decommissioning plants. Such an approach would support the Openness, Efficiency, Clarity, and Reliability Principles of Good Regulation.

I recognize that a rulemaking affecting emergency planning will require significant staff coordination with the Federal Emergency Management Agency, as well as State and Local officials. I am confident, given the staff's currently strong relationship with FEMA in a number of technical and policy areas, that this is achievable. I encourage staff to engage the Commission, if needed, to make these interactions as timely and effective as possible.

**Conclusion**

1. Based on my review of this request, and considering the substantial amount of time that has passed since de-fueling the reactor, I approve the staff recommendation to issue the emergency preparedness exemptions requested by Duke Energy Florida, Inc. for Crystal River, Unit 3.
2. The staff should resume the rulemaking addressing the transition to decommissioning, and for budgeting purposes consider this to be a Commission-directed rulemaking. This rulemaking should address the issues discussed in SECY 00-0145 (including a graduated approach to EP), as well as exploring the advisability of the NRC having a more formal role in approving licensee PSDARs. Additionally, this rulemaking should account for the lessons learned from the plants that have already (or are currently) going through the decommissioning process.
3. The staff paper scheduled to be delivered to the Commission in January should provide a rulemaking plan for the rulemaking discussed above, rather than options debating whether to proceed with a rulemaking. The staff's rulemaking plan should indicate that a final rule would be effective no later than June, 2020.

 01/25/14

Allison M. Macfarlane

Date

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER SVINICKI  
SUBJECT: SECY-14-0118: REQUEST BY DUKE ENERGY  
FLORIDA, INC., FOR EXEMPTIONS FROM CERTAIN  
EMERGENCY PLANNING REQUIREMENTS

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_ Attached XX None \_\_\_

  
\_\_\_\_\_  
SIGNATURE

12/17/14  
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DATE

Entered on "STARS" Yes  No \_\_\_\_\_



**Commissioner Svinicki's Comments on SECY-14-0118  
Request by Duke Energy Florida, Inc., for Exemptions  
From Certain Emergency Planning Requirements**

I approve the staff's recommendation to grant Duke Energy Florida, Inc.'s request for exemptions from certain emergency planning requirements of Part 50, "Domestic Licensing of Production and Utilization Facilities," of Title 10 of the Code of Federal Regulations, to eliminate the requirements for formal offsite radiological emergency plans at the Crystal River Unit 3 site but to maintain certain onsite capabilities to communicate and coordinate with offsite response authorities. Based on its assessment, the NRC staff concludes that these exemptions, if granted, would not present an undue risk to the public health and safety and would be consistent with the common defense and security and further concludes that special circumstances are present weighing in favor of granting the exemptions. The staff's evaluation is thorough and complete and, based on my review of it, I agree that granting the exemption request will continue to result in the existence of an adequate basis for an acceptable state of emergency preparedness.

In its Staff Requirements Memorandum dated August 7, 2014, the Commission directed the staff to report to the Commission in January 2015 its views on the need for an integrated rulemaking for decommissioning and, as appropriate, to provide the potential schedule and resources required for completion of such a rulemaking. I am aware that in the time since the issuance of that direction, as the staff has prepared its report, the staff has preliminarily identified areas where decommissioning rulemaking could be beneficial, primarily from the standpoint of greater efficiency in agency processing of regulatory actions related to future nuclear power plant decommissioning. In light of this, I am given to understand that the staff's January report to the Commission may recommend proceeding to rulemaking activities.

In spite of that, the Commission cannot conduct an informed deliberation – at this time – regarding the specific provisions of such a proposed rulemaking and/or its timetable. Although I may well support a rulemaking if that is the recommended outcome of the staff's analysis, detailed direction on this matter is premature in advance of the staff's presentation of any competing agency priorities or other relevant considerations, in its January report. To be informed of such matters prior to deciding on a specific course of action is why the Commission orders such reports to be developed. We should respect the views of our own expert staff by awaiting their detailed input prior to deciding it is not relevant to the course we will set. And in no case should staff experts be diverted from processing current, pending regulatory actions for ongoing decommissioning amendment/exemption requests to develop a rulemaking plan or regulatory analysis/basis, prior to processing the current set of pending licensing actions to completion.

  
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Kristine L. Svinicki                      12/17/14

**NOTATION VOTE**

**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: Commissioner Ostendorff  
SUBJECT: SECY-14-0118: REQUEST BY DUKE ENERGY  
FLORIDA, INC., FOR EXEMPTIONS FROM CERTAIN  
EMERGENCY PLANNING REQUIREMENTS

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached XX None \_\_\_\_\_

  
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12/5/14  
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DATE

Entered on "STARS" Yes X No \_\_\_\_\_

**Commissioner Ostendorff's Comments on SECY-14-0118, "Request by Duke Energy Florida, Inc. for Exemptions from Certain Emergency Planning Requirements"**

I commend the staff for its thorough technical analysis of the Emergency Planning (EP) exemptions requested by Duke Energy Florida, Inc..

The NRC has a comprehensive regulatory program for both operating reactors and for reactors performing decommissioning activities. However, only limited regulations and guidance exist that specifically address the transition of a reactor from an operating to a decommissioning status. Specifically, there are no explicit regulatory provisions distinguishing EP requirements for a power reactor that has been permanently shut down from those for an operating power reactor, despite the significant differences in overall plant risk. Accordingly, the NRC's existing regulatory framework provides appropriate means for licensees to amend their programs commensurate with the reduction of the hazards at a permanently shutdown facility.

As stated in the SECY paper, with the significant reduction in radiological risk for a power reactor undergoing decommissioning, the NRC has historically approved exemptions to EP and security requirements based on site-specific evaluations and the objectives of the regulations. Most recently, the Commission approved the Dominion Energy Kewaunee exemption for request for EP in SRM-SECY-14-0066. For the same reasons, and based on the staff's thorough analysis of EP at Crystal River, I approve the staff's recommendation to grant Duke Energy Florida's requested exemptions from certain EP requirements of 10 CFR 50.47(b) and Appendix E to 10 CFR Part 50.

In SRM-SECY-14-0066, dated August 7, 2014, the Commission tasked the staff to report to the Commission in January 2015 its views on the need for an integrated rulemaking for decommissioning based on the lessons learned from the most recent plant closures. This SRM also directed the staff to provide the potential schedule and resources required for completion of such a rulemaking. I am inclined to support an integrated rulemaking to leverage the lessons learned from the plants currently transitioning to decommissioning and to provide a more efficient and predictable regulatory framework for decommissioning. That said, the Commission should allow the staff to provide the paper, which I understand is in concurrence, prior to rendering a formal decision on decommissioning rulemaking. It would be premature to direct the schedule and scope of such a rulemaking without considering the staff's input that will be provided next month.

**NOTATION VOTE**


**RESPONSE SHEET**

TO: Annette Vietti-Cook, Secretary  
FROM: Commissioner Baran  
SUBJECT: SECY-14-0118: REQUEST BY DUKE ENERGY  
FLORIDA, INC., FOR EXEMPTIONS FROM CERTAIN  
EMERGENCY PLANNING REQUIREMENTS

Approved X Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached X None \_\_\_\_\_

  
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11/26/14  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes ✓ No \_\_\_\_\_

## **Commissioner Baran's Comments on SECY-14-0118, "Request By Duke Energy Florida, Inc., For Exemptions From Certain Emergency Planning Requirements"**

### **Introduction**

Although the risk profile of a permanently shut down reactor entering decommissioning is very different than that of an operating reactor, NRC currently does not have regulations specifically tailored for permanently shut down reactors. Because of this gap in NRC's regulatory framework, licensees with reactors transitioning to decommissioning routinely have sought exemptions to many of the regulations applicable to operating reactors. Regulating by exemption has a number of drawbacks when compared to having explicit regulations applicable to decommissioning plants. The exemption approach is not as efficient, does not provide for public comment, does not provide regulatory certainty, and does not benefit from the thoughtful examination of an appropriate overall regulatory framework for decommissioning plants that a rulemaking would provide.

### **Crystal River Unit 3 Exemption Request**

Under our current regulatory structure, Duke Energy Florida seeks exemptions from a range of NRC emergency preparedness requirements at Crystal River Unit 3. The NRC staff reviewed Duke Energy Florida's request and recommended that the exemptions be granted because:

- (1) an offsite radiological release will not exceed the EPA [Protective Action Guidelines] at the site boundary for a [design basis accident] and (2) in the unlikely event of a beyond [design basis accident] resulting in a loss of all [spent fuel pool] cooling, there is sufficient time to initiate appropriate mitigating actions; and if a release is projected to occur, there is sufficient time for offsite agencies to take protective actions using a [comprehensive emergency management plan] to protect the health and safety of the public.

According to the staff paper, the main risks at a decommissioning power reactor are a large earthquake and cask-drop events. These events potentially could initiate a zirconium fire in the spent fuel pool if they result in a substantial loss of water in the spent fuel pool. The staff explains that this is "the only postulated scenario at a decommissioning power reactor that, while highly unlikely, might result in a significant offsite release."

Granting the exemption request as the NRC staff recommends is a significant decision. After careful review of the specific circumstances at Crystal River Unit 3, I agree with the NRC staff's conclusions that granting the exemption request, as provided in the staff's paper and its enclosures, would maintain an adequate basis for an acceptable state of emergency preparedness. I am persuaded by several factors. The Crystal River Unit 3 spent fuel pool contains fuel last irradiated over five years ago (on September 26, 2009, when the reactor permanently ceased operation). As a result, the spent fuel has decayed in the spent fuel pool and cooled significantly. This dramatically reduces the likelihood of a zirconium fire and subsequent offsite release. According to the NRC staff's analysis, in the worst case scenario of no water or air cooling of the spent fuel, it would still take more than 19.7 hours for the temperature of the fuel rods to increase enough for a zirconium fire to start.<sup>1</sup> This would provide

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<sup>1</sup> The 19.7 hour calculation is based on the status of the spent fuel as of September 26, 2013. With more than a year of additional decay since that time, it would now take even longer for the temperature of the spent fuel to increase enough to initiate a zirconium fire.

a significant amount of time for the licensee to take mitigating actions, such as using fire hoses and portable pumps to inject water into the spent fuel pool to restore cooling. If the requested exemptions are granted, the license would still require the licensee to maintain the post-9/11 spent fuel pool mitigating strategies as long as spent fuel remains in the pool. This provides that the licensee would have the equipment and staff available to take appropriate mitigating actions in the event of a beyond design basis occurrence. There would also be a significant amount of time for offsite response agencies to take protective actions pursuant to their Federal Emergency Management Agency (FEMA) approved all-hazards emergency plan, commonly referred to as the comprehensive emergency management plan. According to the staff, “[t]he licensee must still maintain an ability to determine if a radiological release is occurring, and if a release is occurring or expected to occur, promptly communicate that information to offsite authorities.” In addition, the 2008 U.S. Geological Survey National Seismic Hazard Map for the central and eastern United States shows the geographic area surrounding Crystal River Unit 3 as a low seismic hazard.

Given all of these considerations, I approve the staff’s recommendation to issue the emergency preparedness exemptions requested by the licensee.

### **Decommissioning Rulemaking**

NRC previously granted similar exemptions from emergency preparedness, security, and other requirements for several permanently shut down and defueled power reactor licensees. Most recently, the Commission granted multiple emergency preparedness exemptions for the Kewaunee Power Station in Staff Requirement Memoranda (SRM) for SECY-14-0066, “Request By Dominion Energy Kewaunee, Inc. For Exemptions From Certain Emergency Planning Requirements.” This SRM directed that the NRC staff report to the Commission in January 2015 on the need for an integrated rulemaking for decommissioning based on lessons learned from the most recent operating plant closures.

In the late 1990’s, the Commission directed the staff to develop a single, integrated decommissioning rulemaking<sup>2</sup>. This effort was halted in the wake of the September 11, 2001, attacks when other rulemaking initiatives had a higher priority. But the need for a decommissioning rulemaking remains 15 years after that initial effort. The NRC staff now has the opportunity to capitalize in a timely manner on the lessons learned from recently shut down plants and the issues identified in the rulemaking plan from June 2000.

A decommissioning rulemaking clearly meets the established criteria for agency rulemaking. The criteria for pursuing rulemaking established in the December 14, 1978, Commission Policy Statement for licensing nuclear power plants, “Generic Rulemaking To Improve Nuclear Power Plant Licensing,”<sup>3</sup> are all met: 1) the issue is generic; 2) there is a likelihood of a useful, definitive rule; and 3) there is a likelihood of a stable rule. Also, if a rulemaking for decommissioning were initiated, the three value criteria listed in the Commission Policy Statement also would be met:

1. Achievement of more effective public input and improved public understanding of NRC’s analytical procedures and decision criteria in treating potential environmental and safety issues in the licensing process for nuclear power plants;

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<sup>2</sup> SECY-98-075, SECY-98-258, SECY-99-168, and SECY-00-145

<sup>3</sup> 43 FR 58377

2. Improvement of the stability and predictability of the licensing process, including the provision of orderly and clear procedures for State-Federal cooperation in treating generic licensing issues; and
3. Accomplishment of an overall savings of manpower and financial resources of the NRC, the public, the utility industry and other local, State and Federal agencies involved in the nuclear licensing process.

### **Proposal for Future Integrated Rulemaking for Decommissioning**

After reviewing the history of decommissioning oversight at the NRC, prior Commission direction following the closure of several operating plants in the 1990s, and the NRC staff briefings I have received on decommissioning, my view is that regulating by exemption for permanently shut down plants is not the right approach for the future. Regulation by exemption results in staffing and financial inefficiency for the NRC and its licensees. Further, this approach does not improve the stability and predictability of the licensing process and does not allow for effective public input or improved public understanding of the decommissioning process. There appears to be broad agreement among a range of stakeholders that a decommissioning rulemaking makes sense. The outstanding questions relate to the timing and scope of such a rulemaking.

Therefore, I propose that the NRC staff take the following actions:

1. Building on the work already underway in response to the SRM associated with SECY-14-0066, the staff should re-orient its efforts towards a decommissioning rulemaking.
2. The NRC staff should proceed with rulemaking to take a fresh look at decommissioning. The rulemaking should address the following issues: the appropriateness of maintaining the three existing options for decommissioning and the timeframes associated with those options; the advisability of requiring a licensee's Post-Shutdown Decommissioning Activity Report to be approved by NRC; the appropriate role of state and local governments and non-governmental stakeholders in the decommissioning process; emergency planning and the advisability of a graded approach to emergency preparedness; security and safeguards; financial assurance and insurance; staffing and training; and any other issues deemed relevant by the staff.
3. In order to have the new regulations in place by the time the next decommissioning plant is expected, the staff should complete the decommissioning rulemaking by January 1, 2019. This timeframe would allow the staff to complete its reviews of the pending exemption requests in a timely manner. The staff has said that most of this ongoing work for recently shutdown plants will be finished by October 1, 2015. By that time, the staff should be making significant progress on the development of a technical basis for the rulemaking. If the staff determines that it will not be feasible to complete the elements of the rulemaking addressing emergency planning and preparedness by January 1, 2019, because of the necessary interactions with FEMA, state, and local officials, the staff should have authority to separate those issues from the general decommissioning rulemaking and concurrently pursue a second rulemaking focused on emergency planning and preparedness. This separate rulemaking should be completed by June 1, 2020.

I believe this proposed approach will ensure the efficient use of NRC staff resources to both complete review of the pending exemption requests and an integrated decommissioning rulemaking that will fill a gap in NRC's regulatory framework.

  
Jeff Baran

11/26/14

Date



NOTATION VOTE

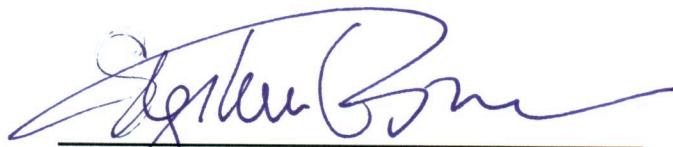
RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: Commissioner Burns  
SUBJECT: SECY-14-0118: REQUEST BY DUKE ENERGY  
FLORIDA, INC., FOR EXEMPTIONS FROM CERTAIN  
EMERGENCY PLANNING RQUIREMENTS

Approved  X  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Below \_\_\_\_\_ Attached  X  None \_\_\_\_\_



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SIGNATURE

10 December 2014

DATE

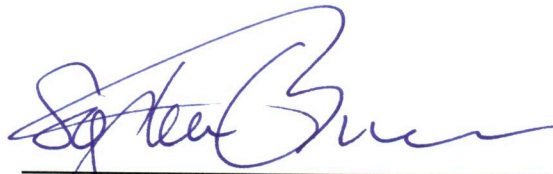
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**Commissioner Burns Comments on SECY-14-0118:  
Request by Duke Energy Florida, Inc., for Exemptions from Certain Emergency Planning  
Requirements**

I approve staff's proposal to grant Duke Energy's requested emergency planning exemptions from certain requirements of 10 CFR 50.47(b) and Appendix E to 10 CFR Part 50. Staff's recommendation aligns with the risk associated with a nuclear power plant that has permanently shut down.

From a safety and legal perspective, I recognize that the use of exemptions is one possible regulatory approach to deal with decommissioning plants. But as regulators, we must question whether this is the most efficient, transparent, and predictable way to implement our regulations as they concern decommissioning plants. To this end, I am strongly supportive of a generic rulemaking regarding decommissioning activities. I agree with Chairman Macfarlane that staff should resume the rulemaking discussed in SECY-00-0145 and incorporate lessons learned from the exemptions completed for some plants.

I understand that the staff is due to provide a paper to the Commission related to potential rulemaking in January 2015. In my view the paper need not focus on whether to proceed with rulemaking but should focus on anticipated schedule and resources for such a rulemaking. Barring compelling reasons to the contrary, the staff should set an objective of early 2019 for completion of this rulemaking.



Stephen G. Burns

10 December 2014