

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302; License No. DPR-72; NRC-2010-0096]

Duke Energy Florida, Inc.

Crystal River Nuclear Generating Plant, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Director's decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice that the Director of the Office of Nuclear Reactor Regulation (NRR) has issued a director's decision with regard to a petition dated December 9, 2009, as supplemented on January 7 and August 6, 2010, filed by Thomas Saporitio (the petitioner).

ADDRESSES: Please refer to Docket ID **NRC-2010-0096** when contacting the NRC about the availability of information regarding this document. You may access 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-2010-0096**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; 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 pdr.resource@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.

- **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: Christopher Gratton, Office of Nuclear Reactor Regulation; U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1055; e-mail: Christopher.Gratton@nrc.gov.

SUPPLEMENTARY INFORMATION:

Notice is hereby given that the Director, of NRR, has issued a director’s decision with regard to a petition dated December 5, 2009, filed by Thomas Saporito (ADAMS Accession No. ML093430702). The petition was supplemented on January 7, 2010 (ADAMS Accession No. ML100200966) and consolidated with an additional August 6, 2010, petition (ADAMS Accession No. ML102220032). The petition concerns the operation of the Crystal River Nuclear Generating Plant, Unit 3 (CR-3).

In the December 5, 2009, petition, the petitioner raised concerns about the delamination (*i.e.*, the separation of the different layers) of the CR-3 containment that occurred during the fall

2009 refueling outage. The petitioner considers this condition to be potentially unsafe and to be in violation of Federal regulations. In the petition, a number of references to the condition of the CR-3 containment were cited that the petitioner believes prohibit operation of the facility.

The petition requested that CR-3 perform the following actions, as summarized below:

1. Physically remove the outer 25 centimeters (10 inches) of concrete surrounding the CR-3 containment building.
2. Test samples of the concrete removed from the CR-3 containment building for composition and compare the test results to a sample of concrete from a similarly designed facility.
3. Keep the CR-3 in cold shutdown mode until such time as the licensee can demonstrate full compliance with its NRC operating license for CR-3 within the safety margins delineated in the licensee's final safety analysis report (FSAR) and within the CR-3 site-specific technical specifications.
4. Provide the public with an opportunity to intervene at a public hearing before the NRC's Atomic Safety and Licensing Board to challenge any certification made by the licensee to the NRC that it has reestablished full regulatory compliance.

The petition of December 5, 2009, provided the following basis for CR-3 remaining in cold shutdown, as summarized below:

1. The licensee has not determined the root cause of the separation.
2. No method of non-destructive or destructive testing is sufficient to satisfy the FSAR requirements.
3. The removal of the top 10 inches of concrete of the entire containment outer wall would allow for proper visual inspection.

4. The removal of the top 10 inches of concrete of the entire containment outer wall would ensure the best adhesion of the new concrete pour to the existing inner wall.
5. The licensee's FSAR requires that the CR-3 containment building be comprised of a monolithic concrete perimeter wall. The only way the licensee can fully achieve compliance with its FSAR is to remove 10 inches of concrete from the entire outer wall for proper visual inspect and repair activities.

On January 7, 2010, the petitioner participated in a teleconference with the staff's petition review board. The meeting gave the petitioner an opportunity to provide additional information and to clarify issues raised in the petition. The information provided during this teleconference was considered a supplement to the December 9, 2009, petition.

On August 6, 2010, the petitioner sent in an additional petition related to the original December 5, 2009, petition; however, it was not accepted for review under Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR) process. By letter dated September 3, 2010 (ADAMS Accession No. ML102290577), the NRC informed the petitioner that the August 6, 2010, petition would be considered a supplement to the December 5, 2009, petition.

The NRC sent a copy of the proposed director's decision to the petitioner and to Duke Energy Florida, Inc., for comment on January 24, 2014. The staff did not receive any comments on the proposed director's decision.

The Director of NRR has determined that the request, to require CR-3 to remain in cold shutdown mode, is moot and no action will be taken. The reasons for this decision are explained in the director's decision 14-03, pursuant to 10 CFR 2.206, the complete text of which is available in ADAMS under Accession No. ML14097A185.

The NRC will take no action on the request to require CR-3 to remain in cold shutdown because on February 20, 2013 (ADAMS Accession No. ML13056A005), the licensee provided the certification required by 10 CFR 50.82(a)(1)(i) and (ii) to the NRC staff that CR-3 had permanently ceased power operations and that all fuel had been permanently removed from the reactor vessel. Upon docketing of these two certifications, the licensee's 10 CFR Part 50 license no longer authorized operation of the CR-3 reactor or emplacement or retention of fuel into the reactor vessel. Accordingly, the licensee is prohibited by regulation from restarting CR-3 or loading fuel into the reactor vessel. Because the licensee is no longer authorized to operate the reactor, CR-3 may not enter a mode of operation that requires the containment to be in an operable condition.

A copy of the director's decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the director's decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 6th day of May 2014.

For the Nuclear Regulatory Commission.

/RA/

Jennifer L. Uhle, Deputy Director,
Office of Nuclear Reactor Regulation.