

**NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 52-029 and 52-030; NRC-2008-0558]**

**Duke Energy Florida, LLC**

**Levy Nuclear Plant, Units 1 and 2**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Termination of licenses.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is terminating the Levy Nuclear Plant (LNP) Units 1 and 2 Combined Licenses (COLs) designated as NPF-99 and NPF-100 and their included licenses to manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material. By letter dated January 25, 2018, Duke Energy Florida, LLC (Duke) requested that the NRC terminate the LNP COLs. Construction was not initiated for LNP Units 1 and 2, and nuclear materials were never procured or possessed under these licenses. Consequently, the LNP site is approved for unrestricted use.

**DATES:** The termination was issued on April 26, 2018.

**ADDRESSES:** Please refer to Docket ID **NRC-2008-0558** when contacting the NRC about the availability of information regarding this document. You may obtain 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-2008-0558**. Address questions about NRC dockets to Jennifer Borges telephone: 301-287-9127; e-mail: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@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](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **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:** Brian Hughes, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6582; e-mail: [Brian.Hughes@nrc.gov](mailto:Brian.Hughes@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The NRC issued COLs NPF-99 and NPF-100 to Duke for LNP Units 1 and 2 on October 26, 2016 (ADAMS Accession No. ML16176A200). Since issuance of the licenses, Duke has not begun construction or procured nuclear materials for use on the site. In Duke's letter dated November 6, 2017 (ADAMS Accession No. ML17313A290), Duke informed the NRC that it no longer plans to move forward with building LNP Units 1 and 2 and would consequently submit an application for termination of the licenses. By subsequent letter dated January 25, 2018 (ADAMS Accession No. ML18029A117), Duke requested termination of LNP COLs NPF-99 and NPF-100 and their included title 10 of the *Code of Federal Regulations* (10 CFR) parts 30, 40, and 70 licenses for LNP Units 1 and 2.

### **II. License Termination**

Termination of COLs issued under 10 CFR part 52 is controlled by 10 CFR 52.110, "Termination of license." As discussed in "Current NRC Staff Views on Applying the 1987 Policy Statement on Deferred Plants" (ADAMS Accession No. ML18065B257), the NRC staff does not apply the requirements for termination in 10 CFR 52.110 to plants that have not begun operation. Regardless, the staff finds that Duke's license termination application dated January 25, 2018, demonstrates that the criteria of 10 CFR 52.110 are met. Requirements for termination of the included licenses under sections 30.36, 40.42, and 70.38 of 10 CFR include the submission of NRC Form 314 or

equivalent information. The staff finds that Duke met these requirements through the information provided as part of its January 25, 2018, submission.

Further, as there was no construction on the LNP site and nuclear materials have never been procured or possessed under these licenses, there is no need for a site radiation survey to be conducted under 10 CFR parts 30, 40, or 70. With no radiological contamination associated with the licenses, the LNP site may be released for unrestricted use pursuant to 10 CFR 20.1402.

### **III. Environmental Review**

Duke seeks to terminate the LNP Units 1 and 2 COLs for which construction never commenced and nuclear material was never procured or brought onsite. Terminating a COL is a licensing action that would ordinarily require an environmental assessment under 10 CFR 51.21, unless a categorical exclusion in 10 CFR 51.22(c) applies and no special circumstances under 10 CFR 51.22(b) exist. Actions listed in 10 CFR 51.22(c) were previously found by the Commission to be part of a category of actions that “does not individually or cumulatively have a significant effect on the human environment.”

The categorical exclusion identified in 51.22(c)(20) includes:

Decommissioning of sites where licensed operations have been limited to the use of –

- (i) Small quantities of short-lived radioactive materials;
- (ii) Radioactive materials in sealed sources, provided there is no evidence of leakage of radioactive material from these sealed sources; or
- (iii) Radioactive materials in such a manner that a decommissioning plan is not required by 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1) and the NRC has determined that the facility meets the radiological criteria

for unrestricted use in 10 CFR 20.1402 without further remediation or analysis.

This categorical exclusion captures decommissioning activities at sites where contamination from radioactive material is determined to be nominal. In the case of LNP Units 1 and 2, no associated radiological contamination exists because construction never commenced and nuclear material was never procured or brought on site. As a result, a decommissioning plan for this site is not required by 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1), and the site meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis. Further, no special circumstances under 10 CFR 51.22(b) apply. The factors listed in 10 CFR 51.22(c)(20) are consistent with the circumstances here because there is no environmental impact associated with the LNP COLs, which is even less than the nominal impacts anticipated by the categorical exclusion. Therefore, application of the categorical exclusion to the termination of the LNP COLs is warranted. Consequently, in accordance with 10 CFR 51.21, an environmental assessment is not required for the termination of COLs NPF-99 and NPF-100 and their included 10 CFR parts 30, 40, and 70 licenses.

#### **IV. Conclusion**

As discussed above, the Commission has determined that the LNP COL termination request meets the categorical exclusion criteria set forth in 10 CFR 51.22(c)(20) and that the unrestricted use criteria pursuant to 10 CFR 20.1402 are met. The Commission grants Duke's request to terminate the COLs designated as NPF-99 and NPF-100 and their included 10 CFR parts 30, 40, and 70 licenses for LNP

Units 1 and 2. This license termination was effective upon Duke's receipt of NRC's termination letter, dated April 26, 2018 (ADAMS Accession No. ML18107A111).

Dated at Rockville, Maryland, this 26<sup>th</sup> day of April, 2018.

For the Nuclear Regulatory Commission.

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