



FEMA

February 20, 2019

Michael Scott
Director, Division of Preparedness and Response
Office of Nuclear Security and Incident Response
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

SUBJECT: Proposed Commission Paper Language for the Pilgrim Nuclear Power Station
Emergency Plan Decommissioning Exemption Request

Dear Mr. Scott:

This is in response to your memorandum of December 20, 2018, notifying the Federal Emergency Management Agency (FEMA) of the transmittal of a copy of the draft SECY paper entitled "*Request by the Entergy Nuclear Operations, Incorporated, for Exemptions from Certain Emergency Planning Requirements for Pilgrim Nuclear Power Station*" for FEMA's review and comment. We appreciate the opportunity to ask questions, seek clarification, comment, and consult with the Nuclear Regulatory Commission (NRC) prior to the Commissioners' review and approval of the requested exemption.

Specifically, we appreciate the NRC's response to FEMA Region I's request for information regarding the difference in timing between the 10-hour threshold value approved back in 2016 for Vermont Yankee and that proposed by Entergy for Pilgrim. We understand that the time period to meet the 10-hour threshold is based on site-specific reactor analysis and assumptions. Moreover, the NRC's Office of Nuclear Reactor Regulations / Division of Safety Systems (NRR/DSS), will provide a separate overall safety evaluation report for the requested exemptions prior to forwarding the proposed SECY paper to the Commission. FEMA requests an opportunity to view that separate safety evaluation once it is prepared.

Based upon analysis from recent decommissioning efforts, the FEMA regional program representatives anticipate over time a significant reduction in preparedness and response capabilities at both the state and local level resulting from this Pilgrim Nuclear Power Station (PNPS) decommissioning exemption. Specifically, there may be some budget reallocation required to address state and local funding gaps (namely salaries, training, and equipment) resulting in an overarching degradation of the Commonwealth's ability to plan for, examine, and validate the whole community's ability to build, sustain and deliver necessary capabilities to achieve the National Preparedness Goal of a secure and resilient Nation.

To assist the NRC with this exemption process, FEMA Headquarters provides the following statements for inclusion in the proposed commission papers:

As nuclear power plants decommission and the nature of the risk changes, capabilities that state and local governments need to maintain offsite in order to protect the health and safety of the public will be affected. Given the risk implications both onsite and offsite during decommissioning, it is imperative that FEMA and the NRC consult with one another when the topic of risk is under consideration. However, FEMA also recognizes the authority of state and local governments to determine, reduce, and manage the risk to public health and safety and the required associated capabilities needed to protect their communities. State and local authorities are ultimately the decision authority over what constitutes an appropriate risk reduction strategy to all hazards within their jurisdictions. One approach may be for all offsite emergency preparedness and response resources and licensing requirements to remain in place until all the spent nuclear fuel is placed into dry cask storage. As described in NRC's Regulatory Improvements for Power Reactors Transitioning to Decommissioning: Regulatory Basis Document issued on November 20, 2017 (ADAMS ML17215A010), several public stakeholders raised similar concerns. For example, on pages 44 and 45, NRC noted that "[s]everal stakeholders generally opposed the relaxation of EP requirements until the spent fuel is removed from the SFP" or "[s]everal stakeholders expressed concern that local jurisdictions will face increased burden associated with emergency response and preparedness if staffing, insurance, qualifications, and training requirements are reduced. These stakeholders requested that EP funding be maintained at current levels."

The Pilgrim exemption, if issued, will create a transitional environment for offsite emergency preparedness programs and associated planning for radiological hazards. FEMA will continue to support offsite response organizations (OROs) as they adjust their plans, sustain capabilities, and manage resources to the changing radiological hazard. The resources available to support FEMA stakeholders during the transition process include, but are not limited to, the National Integration Center, the Federal Radiological Preparedness Coordinating Committee, and technical assistance from FEMA's National Preparedness Headquarters and Regional Staff.

With respect to offsite radiological emergency response, as described in enclosure to the SECY paper, *NRC Historical Perspective and Staff Evaluation Considerations*, "In the highly unlikely event of a zirconium cladding fire in the SFP due to a beyond design-basis event resulting from the loss of all spent fuel cooling, sufficient time would also exist for OROs to implement protective measures, if warranted, using a Comprehensive Emergency Management Program (CEMP), "all-hazards," approach." Therefore, NRC staff concluded, consistent with previous exemption requests, that formal offsite REP plans, required under 10 CFR Part 50, are not necessary for a permanently shut down and defueled nuclear power reactor licensee once the evaluation criteria outlined in Section 5, "Evaluation of Exemptions to EP Regulations," of the NSIR Division of Preparedness and Response (DPR) Interim Staff Guidance (ISG) document NSIR/DPR-ISG-02, "Emergency Planning Exemption Requests for Decommissioning Nuclear Power Plants" (ADAMS Accession No. ML 14106A057), have been addressed. The belief expressed by the NRC staff that State and local governments surrounding a decommissioned plant which are not involved in formal radiological emergency planning would nonetheless respond expeditiously and with optimum effectiveness to an actual radiological emergency in a coordinated fashion using its CEMP is open to question.

FEMA has no data that would indicate what State and local government reactions might be in such circumstances.

Additionally the NRC notes in the enclosure to the SECY paper, *NRC Historical Perspective and Staff Evaluation Considerations* that “Entergy Nuclear Operation, Inc., would still be required to maintain an onsite emergency plan, which would provide for the notification of, and coordination with, offsite organizations, to an extent commensurate with the approved exemptions.” In another enclosure to the SECY paper, *Evaluation of Request by Entergy Generation Company, LLC for Exemptions from Certain Emergency Planning Requirements for the Pilgrim Nuclear Power Station*, the NRC staff’s evaluation for exempting protective action requirements contained in 10 CFR 50.47(b)(10) states that “Although formal offsite REP plans (in accordance with 44 CFR 350), Licensee requirements for offsite fire-fighting, emergency medical services and law enforcement responding onsite will continue to be maintained under the licensee’s fire protection plan and physical security plan in accordance with 10 CFR 50.48 and 10 CFR 73 respectively.” In the enclosure to the SECY paper, the NRC staff’s evaluation for exempting protective action requirements contained in 10 CFR 50.47(b) (10) states that “Although formal offsite REP planning (in accordance with 44 CFR 350) has typically been exempted for decommissioning sites, OROs will continue to be relied upon for firefighting, law enforcement, ambulance and medical services in support of the licensee’s (onsite) emergency plan.”

Simply put, if the exemption is granted, OROs would still be required and expected to perform activities to satisfy licensing requirements, and these same ORO’s would be evaluated by the NRC. As described in *NRC Historical Perspective and Staff Evaluation Considerations*, if the Commission approves these exemptions, the NRC would “evaluate, as part of periodic oversight activities under their respective regulatory programs, the adequacy of OROs that are identified by licensees to respond onsite in the event of an emergency, such as firefighting law enforcement and medical transportation/treatment. Agreement with these OROs to respond onsite or provide assistance in the event of an emergency will be documented in formal letters of agreement, which will be contained or referenced in the licensee’s emergency plan, physical security plan, or fire protection plan, as applicable.”

While previous exemption requests may not have required FEMA to provide the NRC with a continuous reasonable assurance finding related to offsite radiological emergency preparedness considerations mentioned above, there is nothing in existing NRC regulations or the December 7, 2015, “Memorandum of Understanding Between the Department of Homeland Security / Federal Emergency Management Agency and Nuclear Regulatory Commission Regarding Radiological Response, Planning and Preparedness” (ADAMS Accession No. ML15344A371) that would preclude the NRC from requesting FEMA to provide the NRC with evaluations and findings concerning appropriate offsite radiological emergency preparedness considerations. FEMA stands ready, consistent with this MOU, to work with NRC in this regard and to ensure that appropriate funds are provided to FEMA to accomplish this effort.

As the NRC's decommissioning rulemaking process moves forward, FEMA welcomes the opportunity to share and discuss our concerns with the draft regulatory text prior to the public comment period. For example, FEMA is most interested in discussing: a) the assumptions associated with the DBA and beyond DBA risk/mitigation assessments; and b) the assumptions associated with the EPZ determinations to include the use of the PAGs as "limits" vice guides. FEMA has conducted an initial analysis of the draft regulatory text and will forward our comments via memorandum not later than February 28, 2019.

Should you have any questions about this response, please contact Ms. Vanessa Quinn, REP Program Branch Chief or Bruce C. Foreman, Policy and Doctrine Branch Chief at 202-646-2849 and 202-646-3567 respectively.

Sincerely,

Michael S. Casey, Ph.D.
Director
Technological Hazards Division