



[7590-01-P]

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-025 and 52-026; NRC-2008-0252]

Southern Nuclear Operating Company, Inc.,

Vogtle Electric Generating Plant, Units 3 and 4;

Changes to Tier 2\* Departure Evaluation Process

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption and combined license amendment; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption for prior NRC approval of any departure from Tier 2\* information or any departure from Tier 2 information that involves a change to or departure from Tier 2\* information, provided that specified criteria are not met, and is issuing License Amendment Nos. 142 and 141 to Combined Licenses (COLs) NPF-91 and NPF-92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (collectively SNC); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the imposition of License Condition 2.D.13 asked for in the amendment request. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

**DATES:** The exemption and amendment were issued on September 20, 2018.

**ADDRESSES:** Please refer to Docket ID **NRC-2008-0252** 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-2008-0252**. Address questions about NRC Docket IDs in Regulations.gov 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 "[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. The request for the amendment and exemption was submitted by letter dated December 21, 2017, and available in ADAMS under Accession No. ML17355A416.

- **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:** Chandu Patel, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3025; e-mail: [Chandu.Patel@nrc.gov](mailto:Chandu.Patel@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Introduction**

The NRC is granting an exemption from paragraphs B.5.a, B.6.b, and B.6.c of section VIII, "Processes for Changes and Departures," of Appendix D, of Part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment No. to COLs, NPF-91 and NPF-92, to SNC. With the requested amendment, SNC sought proposed License Condition 2.D.13 and proposed changes that would revise the Updated Final Safety Analysis Report Tier 2 information.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in Sections 50.12 and 52.7 of 10 CFR Part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML18207A262.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COLs NPF-91 and NPF-92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML18235A031 and ML18235032, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF-91 and NPF-92 are available in ADAMS under Accession Nos. ML18235A033 and ML18235A035,

respectively. A summary of the amendment documents is provided in Section III of this document.

## **II. Exemption**

Reproduced below is the exemption document issued to VEGP Units 3 and 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated December 21, 2017, as supplemented by letters dated April 6, May 11, June 18, August 3, August 10, and September 13, 2018, SNC requested from the Commission an exemption from the requirements of 10 CFR Part 52, Appendix D, "Design Certification Rule for the AP1000 Design," Section VIII, "Processes for Changes and Departures," paragraphs VIII.B.5.a, VIII.B.6.b, and VIII.B.6.c, for prior NRC approval of any departure from Tier 2\* information or any departure from Tier 2 information that involves a change to or departure from Tier 2\* information, provided that specified criteria are not met. SNC specified the criteria in a new license condition in license amendment request (LAR) 17-037, "Changes to the Tier 2\* Departure Evaluation Process," which SNC submitted together with the exemption request. The proposed license condition would allow SNC to apply the change process for Tier 2 information in 10 CFR Part 52, Appendix D, Section VIII.B.5, to a proposed departure from Tier 2\* information in the UFSAR (which includes the plant-specific design certification document (DCD)), provided the criteria in the new condition are not met. For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation, which can be found at ADAMS Accession No. ML18207A262, the Commission finds that:

- A. the exemption is authorized by law;
- B. the exemption presents no undue risk to public health and safety;
- C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

2. Accordingly, SNC is granted an exemption from the requirements to obtain prior NRC approval for any departure from Tier 2\* information and an exemption from the requirement to obtain prior NRC approval for any departure from Tier 2 information that involves a change to or departure from Tier 2\* information, as described in the licensee's request dated December 21, 2017, as supplemented by letters dated April 6, May 11, June 18, August 3, August 10, and September 13, 2018, provided that each of the criteria in License Condition 2.D.(13)(a) is not met for each such departure. These exemptions are related to, and necessary for the granting of License Amendment No. 142, which is being issued concurrently with this exemption.

3. As explained in Section 6.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML18207A262), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

### **III. License Amendment Request**

By letter dated December 21, 2017 (ADAMS Accession No. ML17355A416), SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs NPF-91 and NPF-92. The proposed amendment is described in Section I of this *Federal Register* notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has

made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the *Federal Register* on February 13, 2018 (83 FR 6234). Public comments were received during the 30-day comment period. The staff's responses to the comments appear in Section 5.0 of the Safety Evaluation.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

#### **IV. Conclusion**

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that SNC requested on September 20, 2018. The exemption and amendment were issued on September 20, 2018, as part of a combined package to the licensee (ADAMS Accession No. ML18235A029).

Dated at Rockville, Maryland, this 25<sup>th</sup> day of October 2018.

For the Nuclear Regulatory Commission.

**Jennifer L. Dixon-Herrity,**  
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[FR Doc. 2018-23627 Filed: 10/29/2018 8:45 am; Publication Date: 10/30/2018]