



[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

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 173 and 171 to Combined Licenses (COL), 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 changes to Tier 1 information asked for in the amendment. 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 January 13, 2020.

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 <https://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. 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 <https://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. 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 July 16, 2019 (ADAMS Accession No. ML19197A278), as supplemented by letters dated October 3, 2019 (ADAMS Accession No. ML19276G437), and December 12, 2019 (ADAMS Accession No. ML19346E598).

- **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 Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3025; e-mail: Chandu.Patel@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from paragraph B of section III, "Scope and Contents," of appendix D, "Design Certification Rule for the AP1000," to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment Nos. 173 and 171 to COLs, NPF-91 and NPF-92, respectively, to SNC. The exemption is required by paragraph A.4 of section VIII, "Processes for Changes and Departures," appendix D, to 10 CFR part 52 to allow SNC to depart from Tier 1 information. With the requested amendment, SNC proposed changes to COL Appendix C (and plant-specific DCD Tier 1) to revise Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) to incorporate design basis passive residual heat removal heat exchanger leakage to the in-containment refueling water storage tank as a radiation source.

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, 52.7, and section VIII.A.4 of appendix D to 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. ML19361A118.

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. ML19361A119 and ML19361A109, 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. ML19361A103 and ML19361A115, 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 Unit 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 July 16, 2019, as supplemented by letters dated October 3, and December 12, 2019, Southern Nuclear Operating Company requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of license amendment request 19-003, "Addition of In-Containment Refueling Water Storage Tank to Radiation Analyses."

For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML19361A118, 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;
- E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and
- F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined License, as described in the request dated July 16, 2019, as supplemented by letters dated October 3, and December 12, 2019. This exemption is related to, and necessary for the granting of License Amendment No. 173 [for Unit 3, 171 for Unit 4], which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML19361A118), 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 July 16, 2019 (ADAMS Accession No. ML19197A278), as supplemented by letters dated October 3, 2019 (ADAMS Accession No. ML19276G437), and December 12, 2019 (ADAMS Accession No. ML19346E598), 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 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 October 8, 2019 (84 FR 53777). No comments were received during the 30-day comment period.

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 exemptions and issued the amendments that SNC requested on July 16, 2019.

The exemptions and amendments were issued on January 13, 2020, as part of a combined package to SNC (ADAMS Accession No. ML19361A114).

Dated at Rockville, Maryland, this 30th day of January 2020.

For the Nuclear Regulatory Commission.

Victor E. Hall, Chief,
Vogtle Project Office,
Office of Nuclear Reactor Regulation.

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