May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would result in a reduction in the assurance of component functionality.

c. Changes to FSAR Section 13.7.4, ''Continuing Evaluations and Assessments,'' dated May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would result in a decrease in effectiveness of the evaluations and assessments.

d. The licensee shall submit a report, as specified in 10 CFR 50.4, of changes made without prior NRC approval pursuant to these provisions. The report shall identify each change and describe the basis for the conclusion that the change does not involve a decrease in effectiveness or assurance as described above. The report shall be submitted within 60 days of the date of the change.

e. Changes to FSAR Sections 13.7.2, 13.7.3, and 13.7.4 that do not meet the criteria of a through c above shall be submitted to the NRC for prior review and approval.

Pursuant to 10 CFR 51.32, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** (66 FR 32397). Accordingly, based upon the environmental assessment, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon submittal of a FSAR update pursuant to 10 CFR 50.71(e) incorporating the FSAR Sections described in the conditions above.

Dated at Rockville, Maryland, this 3rd day of August, 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No(s). 50–498 and 50–499]

STP Nuclear Operating Company, et al., South Texas Project, Units 1 and 2; Exemption

1.0 Background

STP Nuclear Operating Company, et al. (STPNOC or the licensee) is the holder of Facility Operating License Nos. NPF–76 and NPF–80, which authorize operation of the South Texas Project, Units 1 and 2 (STP or the facilities). The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The facilities consist of two pressurized-water reactors located at the licensee's site in Matagorda County, Texas.

2.0 Request/Action

Under Section 50.59 of Title 10 to the Code of Federal Regulations, Part 50, (10 CFR 50.59) requirements were established by which licensees could make changes to their facilities without prior NRC approval. For changes to the facility as described in the Final Safety Analysis Report (FSAR) (or to procedures as described in the FSAR), the licensee is to perform an evaluation of the change to determine whether certain conditions are met—if so, prior NRC approval for the change is required. The purpose of the rule is to ensure that the NRC has the opportunity to review changes of potential significance to the basis for licensing of the facility before they are implemented. The rule requires licensees to review proposed changes, and if they meet criteria that are related to accident probability or consequences, to seek prior NRC review and approval before implementing the particular change.

As discussed in a rulemaking that revised the 10 CFR 50.59 requirements published on October 4, 1999, (64 FR 53582) the rule was originally established to allow licensees the ability to make certain changes to their facilities, but also to preserve the functional requirements and information included in the FSAR on how the facilities, including its structures, systems, and components (SSCs), conform with NRC requirements for design, construction, and operation of the plant. The rule revision was intended to clarify which changes require evaluation and which changes require prior NRC approval.

By letter dated July 13, 1999, as supplemented October 14 and 22, 1999, January 26 and August 31, 2000, and January 15, 18, 23, March 19, May 8, and May 21, 2001, (hereinafter, the submittal), the licensee requested an exemption from the requirements of 10 CFR 50.59 [in particular, Paragraphs 50.59(c)(1), 50.59(c)(2) and 50.59(d)(1) of the revised rule] to perform a written evaluation for changes in special treatment requirements for low safety significant (LSS) and non-risk significant (NRS) SSCs. STPNOC further requested an exemption from the requirement to seek prior NRC approval for such changes to the extent that they fall within the listed criteria in 10 CFR 50.59.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present under 10 CFR 50.12(a)(2)(ii) when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The NRC has completed its evaluation of STPNOC's request for an exemption from the requirements of 10 CFR 50.59 [Sections 50.59(c)(1), 50.59(c)(2) and 50.59(d)(1) under the revised rule]. The NRC's evaluation is provided in a safety evaluation (SE), dated August 3, 2001, prepared in support of this exemption. The FSAR for STP includes descriptions of many of the special treatment requirements as presently applied to SSCs. As such, the proposed approach described in the licensee's submittal that revises treatment applied to SSCs based on the results of the categorization process will result in changes to the descriptions of this treatment in the FSAR. These changes to the FSAR would fall within the scope of those requiring evaluation, and possibly prior NRC review and approval, pursuant to 10 CFR 50.59. STPNOC is proposing that it would not be required to evaluate FSAR changes that result from changes in the treatment for SSCs categorized as LSS or NRS or to seek prior NRC review and approval for these changes pursuant to 10 CFR 50.59. The exemption request does not extend to changes to functional requirements for SSCs that are described in the FSAR.

In the licensee's submittal, it requested exemptions from certain special treatment and process requirements in 10 CFR 21.3; 10 CFR 50.34(b)(6)(ii); 10 CFR 50.34(b)(10); 10 CFR 50.34(b)(11); 10 CFR 50.49(b); 10 CFR 50.54(a)(3); 10 CFR 50.55a(f); 10 CFR 50.55a(g); 10 CFR 50.55a(h); 10 CFR 50.65(b); 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 1, GDC 2, GDC 4, and GDC 18; 10 CFR Part 50, Appendix B; 10 CFR 50, Appendix J, Option B, Section III.B; and 10 CFR Part 100, Appendix A, Sections VI(a)(1) and (2). These exemption requests are being made to enable STPNOC to apply certain requirements in a graded manner based upon the safety/risk significance

of the SSCs. The NRC's SE dated August 3, 2001, provides a complete description of the extent of the requested exemptions from these regulations. The regulations for which exemptions are being sought include ''special treatment'' requirements, such as qualification, inspection, testing, monitoring, and quality assurance requirements.

As noted, the purpose of the requirements in 10 CFR 50.59 is for licensees to assess proposed changes in order to identify when NRC review is needed. As part of the overall exemption review, NRC has reviewed the categorization methodologies used to determine the risk significance of SSCs. Further, NRC has reviewed the elements of the treatment processes proposed by the licensee that would be applicable to the various categories of SSCs. The specific changes to FSAR requirements resulting from use of these processes is part of the implementation process following the granting of the exemptions to the special treatment requirements of 10 CFR Parts 21, 50, and 100. Therefore, requiring an additional review of individual changes to the FSAR with respect to the exemptions from the special treatment requirements, for the purposes of deciding on the need for NRC prior approval, is unnecessary in that NRC review of the licensee's processes that will lead to those detailed FSAR changes was performed during the review of the requested exemptions. As previously noted, the scope of the exemption requested from 10 CFR 50.59 is only for changes concerning special treatment requirements for SSCs categorized as LSS or NRS. Any other changes to the facility (or procedures) as described in the FSAR, even if they relate to LSS or NRS SSCs, would not be exempted from the requirements of 10 CFR 50.59.

The NRC concluded that the intent of the underlying regulation (10 CFR 50.59) for prior NRC approval of particular changes contained in the submittal is satisfied by the review conducted for the exemptions from the special treatment requirements of 10 CFR Parts 21, 50, and 100. Thus, application of the rule to the particular instances of changes to specific special treatment as described in the FSAR is not necessary.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants, subject to the conditions described below, STPNOC the exemption from the requirements of 10 CFR 50.59(c)(1), (c)(2), and (d)(1) to the extent that they require the licensee to perform a written evaluation for changes to the STP FSAR, and to seek prior NRC approval of these changes, resulting from the exemptions granted to the requirements of 10 CFR Parts 21, 50, and 100 requested in the licensee's submittal. All other changes to the FSAR, even those associated with LSS and NRS SSCs, are not included within the scope of the exemption granted. As conditions of this exemption:

1. The licensee described the categorization, treatment, and oversight (evaluation and assessment) processes in its submittal dated July 13, 1999, as supplemented October 14 and 22, 1999, January 26 and August 31, 2000, and January 15, 18, 23, March 19, May 8 and 21, 2001. The licensee has documented these processes in a proposed FSAR submittal dated May 21, 2001, found acceptable by the staff as the regulatory basis for granting this exemption (see the NRC's SE dated August 3, 2001). The licensee shall incorporate this proposed FSAR submittal into the STP FSAR and shall implement the categorization, treatment, and oversight processes consistent with the STP FSAR descriptions.

2. The licensee shall implement a change control process that incorporates the following requirements:

a. Changes to FSAR Section 13.7.2, ''Component Categorization Process,'' dated May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would decrease the effectiveness of the process in identifying high safety significant and medium safety significant components.

b. Changes to FSAR Section 13.7.3, ''Treatment of Component Categories,'' dated May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would result in a reduction in the assurance of component functionality.

c. Changes to FSAR Section 13.7.4, ''Continuing Evaluations and Assessments,'' dated May 21, 2001, and found acceptable by the NRC as described in the NRC's SE dated August 3, 2001, may be made without prior NRC approval, unless the change would result in a decrease in effectiveness of the evaluations and assessments.

d. The licensee shall submit a report, as specified in 10 CFR 50.4, of changes made without prior NRC approval pursuant to these provisions. The report shall identify each change and describe the basis for the conclusion that the change does not involve a decrease in effectiveness or assurance as described above. The report shall be submitted within 60 days of the date of the change.

e. Changes to FSAR Sections 13.7.2, 13.7.3, and 13.7.4 that do not meet the criteria of a through c above shall be submitted to the NRC for prior review and approval.

Pursuant to 10 CFR 51.32, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** (66 FR 32397). Accordingly, based upon the environmental assessment, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon submittal of a FSAR update pursuant to 10 CFR 50.71(e) incorporating the FSAR Sections described in the conditions above.

Dated at Rockville, Maryland, this 3rd day of August, 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No(s). 50–498 and 50–499]

STP Nuclear Operating Company, et al., South Texas Project, Units 1 and 2; Exemption

1.0 Background

STP Nuclear Operating Company, et al. (STPNOC or the licensee) is the holder of Facility Operating License Nos. NPF–76 and NPF–80, which authorize operation of the South Texas Project, Units 1 and 2 (STP or the facilities). The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The facilities consist of two pressurized-water reactors located at the licensee's site in Matagorda County, Texas.

2.0 Request/Action

Under § 50.65(b) of Title 10 to the Code of Federal Regulations, part 50, (10 CFR 50.65(b)) criteria were established that defined the scope of components to be subject to the requirements of 10 CFR 50.65 (the Maintenance Rule). As defined under 10 CFR 50.65(b), the scope of the Maintenance Rule includes ''(1) Safety-related structures, systems and components that are relied upon to