

For the Nuclear Regulatory Commission.

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NUCLEAR REGULATORY COMMISSION

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

Southern Nuclear Operating Company, Vogtle Electric Generating Plant, Units 3 and 4; Passive Core Cooling System (PXS) Design Changes To Address Potential Gas Intrusion

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 No. 55 to Combined Licenses (COL), NPF-91 and NPF-92. 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, Authority of Georgia, and the City of Dalton, Georgia (the licensee); 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.

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 dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@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 email 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 May 5, 2016 (ADAMS Accession No. ML16126A276).

- *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: Paul Kallan, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2809; email: Paul.Kallan@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 No. 55 to COLs, NPF-91 and NPF-92, to the licensee. 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 the licensee to depart from Tier 1 information. With the requested amendment, the licensee sought proposed changes that would revise the Updated Final Safety Analysis Report in the form of departures from the incorporated plant-specific DCD Tier 2 information. The proposed amendment also involves related changes to plant-specific Tier 1 information, with corresponding changes to the associated COL Appendix C 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 10 CFR 50.12, 10 CFR 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. ML16237A393.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee 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. ML16237A325 and ML16237A344, 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. ML16237A315 and ML16237A319, 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 Vogtle 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 May 5, 2016, the licensee requested from the Commission an exemption from the provisions of 10 CFR part 52, Appendix d, Section III.B, as part of License Amendment Request 16-004, "Passive Core Cooling System (PXS) Design Changes to Address Potential Gas Intrusion (LAR-16-004)."

For the reasons set forth in Section 3.1, "Evaluation of Exemption," of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML16237A393, 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, the licensee is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the facility COLs as described in the licensee's request dated May 5, 2016. This exemption is related to, and necessary for, the granting of License Amendment No. 55, which is being issued concurrently with this exemption.

3. As explained in Section 5.0, "Environmental Consideration," of the NRC staff's Safety Evaluation 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 May 5, 2016, the licensee 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 combined license, 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 July 19, 2016 (81 FR 46958). 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 exemption and issued the

amendment that the licensee requested on May 5, 2016.

The exemption and amendment were issued on October 4, 2016 as part of a combined package to the licensee (ADAMS Accession No. ML16237A283).

Dated at Rockville, Maryland, this 20th day of October 2016.

For the Nuclear Regulatory Commission.

Jennifer Dixon-Herrity,

Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-333; NRC-2016-0221]

Entergy Nuclear Operations, Inc.; FitzPatrick Nuclear Power Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a January 15, 2016, request from Entergy Nuclear Operations, Inc. (Entergy or the licensee), from certain regulatory requirements. The exemption would permit a certified fuel handler to approve the emergency suspension of security measures for James A. Fitzpatrick Nuclear Power Plant (JAF) during certain emergency conditions or during severe weather. The exemption will be effective after JAF has submitted the certifications that it has permanently ceased power operation and has permanently removed fuel from the reactor vessel.

ADDRESSES: Please refer to Docket ID NRC-2016-0221 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-2016-0221. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@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 email 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.

- *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:

Thomas Wengert, Office of Nuclear Reactor Regulation; U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-4037; email: Thomas.Wengert@nrc.gov.

I. Background

Entergy is the holder of Renewed Facility Operating License No. DPR-59, which authorizes operation of JAF. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect. The facility consists of a boiling-water reactor located in Oswego County, New York.

By letter dated November 18, 2015 (ADAMS Accession No. ML15322A273), Entergy submitted to the NRC, the certification, in accordance with § 50.82(a)(1)(i) of title 10 of the *Code of Federal Regulations* (10 CFR), indicating that it intended to permanently cease operations of JAF. By letter dated March 16, 2016 (ADAMS Accession No. ML16076A391), Entergy certified that it plans to permanently cease power operations at JAF on January 27, 2017.

II. Request/Action

On January 15, 2016 (ADAMS Accession No. ML16015A457), the licensee requested an exemption from § 73.55(p)(1)(i) and (ii), pursuant to § 73.5, "Specific exemptions." Section 73.55(p)(1)(i) and (ii) require, in part, that the suspension of security measures during certain emergency conditions or during severe weather be approved by a licensed senior operator. The exemption request relates solely to the licensing requirements specified in the regulations directing suspension of security measures in accordance with § 73.55(p)(1)(i)-(ii), and would expand on the requirement for a licensed senior operator to provide this approval. The exemption would allow the suspension of security measures during certain emergency conditions or during severe weather by a certified fuel handler