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ND-14-1165

10 CFR §§ 50.12, 50.90, 52.3, 52.7, 52.63,
and 10 CFR Part 52, Appendix. D, § VIII

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

In re:

Vogtle Electric Generating Plant Unit 3
Docket 52-025
Combined License Number NPF-91

Vogtle Electric Generating Plant Unit 4
Docket 52-026
Combined License Number NPF-92

Request for Exemption and License Amendment regarding
Changes to Tier 2* Information (LAR 14-008)

Ladies and Gentlemen:

In accordance with 10 CFR §§ 52.7, 50.12, 52.98, and 50.90, Southern Nuclear Operating Company ("Southern Nuclear" or "Licensee"), the licensee for Vogtle Electric Generating Plant ("VEGP") Units 3 and 4, requests an amendment to Combined License ("COL") Numbers NPF-91 and NPF-92 to apply the existing departure evaluation process for Tier 2 changes to Tier 2* changes. Accordingly, Southern Nuclear requests an exemption from certain change requirements in 10 CFR Part 52, Appendix D, to allow changes to Tier 2* information without a license amendment, in certain limited situations, by expanding the coverage of the existing Tier 2 departure evaluation process.

This request arises from Southern Nuclear's two years' experience with the change control processes outlined in 10 CFR Part 52, Appendix D. As the first Part 52 licensee, Southern Nuclear has identified an approach to alleviate some of the administrative burdens for both the NRC and the Licensee for certain Tier 2* changes. Southern Nuclear's approach would also address issues discussed in the NRC's *Part 52 Implementation Self-Assessment Review Report* (July 2013) (ADAMS Accession No. ML13196A403).

As explained in the attached exemption and amendment request, Southern Nuclear's proposal is to obtain an amendment to COL Numbers NPF-91 and NPF-92 that allows the existing Tier 2 departure evaluation process in 10 CFR Part 52, Appendix D, Section VIII.B.5, to be applied to changes to Tier 2* information. Section VIII.B.5 allows changes to Tier 2 information without prior NRC approval where those changes would not have "more than a minimal" impact to safety. Southern Nuclear's proposal would allow changes to Tier 2* information without prior NRC approval where those changes would not have "more than a minimal" impact to safety.

To implement this amendment, Southern Nuclear requests an exemption from the Tier 2* change control process found in 10 CFR Part 52, Appendix D.

Historically, Southern Nuclear has submitted exemption and license amendment requests in separate documents following templates based on guidance in NEI 06-02. In the interests of brevity and readability, Southern Nuclear is combining the exemption and amendment requests in a single document, Enclosure 1, and in a more suitable format. Proposed mark-ups to the license are at Enclosure 2.

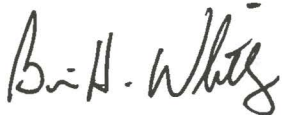
Southern Nuclear requests this exemption and license amendment by December 5, 2014, and would implement the amendment within forty-five days of issuance. This exemption and license amendment is not tied to any particular construction activity; however, any delay in the issuance would also delay the benefits.

This letter and its enclosures contain no regulatory commitments. In accordance with 10 CFR 50.91, SNC is notifying the State of Georgia by transmitting a copy of this letter and its enclosures to the designated State Official. Should you have any questions, please contact Brian Meadors at (205) 992-7331.

Mr. Brian H. Whitley states that: he is the Regulatory Affairs Director of Southern Nuclear Operating Company; he is authorized to execute this oath on behalf of Southern Nuclear Operating Company; and to the best of his knowledge and belief, the facts set forth in this letter are true.

Respectfully submitted,

SOUTHERN NUCLEAR OPERATING COMPANY



B. H. Whitley

Sworn to and subscribed before me this 7th day of August, 2014

Notary Public: Kristin Marie Seibert

My commission expires: August 16, 2016



BHW/CBM/kms

Enclosure 1: Exemption and License Amendment Request for Changes to Tier 2* Information
(LAR 14-008)

Enclosure 2: Proposed License Mark-ups supporting Enclosure 1

cc:

Southern Nuclear Operating Company / Georgia Power Company

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Southern Nuclear Operating Company

ND-14-1165

Enclosure 1

**Vogtle Electric Generating Plant Unit 3
Docket 52-025
Combined License Number NPF-91**

**Vogtle Electric Generating Plant Unit 4
Docket 52-026
Combined License Number NPF-92**

**Request for Exemption and License Amendment regarding
Changes to Tier 2* Information (LAR-14-008)**

(15 pages, including this cover page)

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1.0 Executive Summary

Under current regulations, the NRC must approve any change to Tier 2* information, even if the change results in no more than a minimal impact to safety or improves safety. Southern Nuclear proposes a site-specific permanent exemption and license amendment that would apply the existing Tier 2 departure evaluation process to proposed Tier 2* changes. Prior NRC approval would only be required for changes to Tier 2* that did not meet the existing departure evaluation process for Tier 2 information.

2.0 Background

The NRC issued the first Part 52 licenses to Southern Nuclear's Vogtle Units 3 and 4 in February 2012. Changes to the licensing bases for those licenses are governed, in part, by 10 CFR 52, Appendix D, Section VIII.B. This portion of the regulations specifies the change process for Tier 2* information and requires NRC approval for all changes to Tier 2* information.

Southern Nuclear acknowledges that the Commission employed a Tier 2* designation to capture certain significant AP1000 design information existing in Tier 2 that the Commission did not want changed without prior approval (see 71 Fed. Reg. 4474 (Jan. 27, 2006)). But experience has shown that not all changes to Tier 2* information have an impact on the safety significant nature of the information. Rather, because Tier 2* information derives from Tier 2, some documents designated as Tier 2* contain information more appropriately designated as Tier 2, e.g., background information. Thus, it has been Southern Nuclear's experience that the Tier 2* change control process encompasses changes that may have never been intended to require NRC approval. Accordingly, Southern Nuclear proposes a site-specific exemption and amendment allowing changes to Tier 2* information, without prior NRC approval, if the changes have no more than a minimal impact to safety.

The proposed exemption and amendment accomplish this goal by expanding the scope of the existing departure evaluation process in 10 CFR 52, Appendix D, VIII.B.5, for Tier 2 changes to apply to Tier 2* changes. The proposed exemption and amendment also address issues discussed in the NRC's *Part 52 Implementation Self-Assessment Review Report* (July 2013) (ADAMS Accession No. ML13196A403).

Based on the utility of the proposed departure evaluation process, it is possible that this exemption and amendment will be requested by other AP1000 licensees. Further, it is reasonable to expect that there will be future rulemaking reforming the Tier 2* change control processes. This exemption and amendment could also act as a pilot to evaluate the need for and benefit of such a rulemaking.

3.0 Exemption Request/License Amendment

10 CFR Part 52, Appendix D, Section VIII.B.6.a, provides that "an applicant who references this appendix may not depart from Tier 2* information, which is designated with italicized text or brackets and an asterisk in the DCD, without NRC approval. The departure will not be considered a resolved issue, within the meaning of Section VI of this appendix and 10 CFR 52.63(a)(5)."

Pursuant to 10 CFR 52.63(b)(1), Southern Nuclear requests an exemption from the Tier 2* change process in 10 CFR Part 52, Appendix D, Section VIII.B.6, for Vogtle 3 and 4. Southern Nuclear also requests a license amendment pursuant to 10 CFR 50.90 that would impose a new license condition providing an alternative change process for Tier 2* information, *i.e.*, the existing change control process applicable to Tier 2 changes.

3.1 The new departure evaluation process would be the same as existing procedures governing Tier 2 information

In general, current regulations allow Tier 2 information to be changed if a departure evaluation determines that the change only results in a “minimal increase” in the frequency or severity of an adverse event. Regulations governing Tier 2 changes are at 10 CFR Part 52, Appendix D, Section VIII.B.5, and have the departure evaluation method used to determine if Tier 2 changes require prior NRC approval. Southern Nuclear proposes to use this same departure evaluation process for Tier 2* changes.

3.2 Proposed license condition

To effect this proposal, the following would be added as a license condition:

License Condition for SNC Vogtle, Units 3 and 4,
License Numbers NPF-91 and NPF-92

10 CFR 52, Appendix D, Section II.F., shall be treated as if the following additions and deletions (shown in blue underline and ~~red strikethrough~~) were made:

F. Tier 2* means the portion of the Tier 2 information, designated as such in the generic DCD, which is subject to the change process in Section VIII.B.56 of this appendix. ~~This designation expires for some Tier 2* information under paragraph VIII.B.6.~~

10 CFR 52, Appendix D, Section VIII, shall be treated as if VIII.B.6 were deleted entirely and the following additions and deletions (shown in blue underline and ~~red strikethrough~~) were made to the remainder of VIII.B:

VIII. Processes for Changes and Departures

[...]

B. Tier 2 information.

1. Generic changes to Tier 2 information are governed by the requirements in 10 CFR 52.63(a)(1).

2. Generic changes to Tier 2 information are applicable to all applicants or licensees who reference this appendix, except those for which the change has been rendered technically irrelevant by action taken under paragraphs B.3, B.4, [or B.5](#), ~~or B.6~~ of this section.

3. The Commission may not require new requirements on Tier 2 information by plant-specific order while this appendix is in effect under 10 CFR 52.55 or 52.61, unless:

a. A modification is necessary to secure compliance with the Commission's regulations applicable and in effect at the time this appendix was approved, as set forth in Section V of this appendix, or to ensure adequate protection of the public health and safety or the common defense and security; and

b. Special circumstances as defined in 10 CFR 50.12(a) are present.

4. An applicant or licensee who references this appendix may request an exemption from Tier 2 information. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a). The Commission will deny a request for an exemption from Tier 2 if it finds that the design change will result in a significant decrease in the level of safety otherwise provided by the design. The grant of an exemption to an applicant must be subject to litigation in the same manner as other issues material to the license hearing. The grant of an exemption to a licensee must be subject to an opportunity for a hearing in the same manner as license amendments.

5.a. An applicant or licensee who references this appendix may depart from Tier 2 [or Tier 2*](#) information, without prior NRC approval, unless the proposed departure involves a change to or departure from Tier 1 information, ~~Tier 2* information, or~~ the TS, or requires a license amendment under paragraphs B.5.b or B.5.c of this section. When evaluating the proposed departure, an applicant or licensee shall consider all matters described in the plant-specific DCD.

b. A proposed departure from Tier 2 [or Tier 2*](#), other than one affecting resolution of a severe accident issue identified in the plant-specific DCD or one affecting information required by 10 CFR 52.47(a)(28) to address 10 CFR 50.150, requires a license amendment if it would:

(1) Result in more than a minimal increase in the frequency of occurrence of an accident previously evaluated in the plant-specific DCD;

(2) Result in more than a minimal increase in the likelihood of occurrence of a malfunction of a structure, system, or component (SSC) important to safety and previously evaluated in the plant-specific DCD;

- (3) Result in more than a minimal increase in the consequences of an accident previously evaluated in the plant-specific DCD;
 - (4) Result in more than a minimal increase in the consequences of a malfunction of an SSC important to safety previously evaluated in the plant-specific DCD;
 - (5) Create a possibility for an accident of a different type than any evaluated previously in the plant-specific DCD;
 - (6) Create a possibility for a malfunction of an SSC important to safety with a different result than any evaluated previously in the plant-specific DCD;
 - (7) Result in a design basis limit for a fission product barrier as described in the plant-specific DCD being exceeded or altered; or
 - (8) Result in a departure from a method of evaluation described in the plant-specific DCD used in establishing the design bases or in the safety analyses.
- c. A proposed departure from Tier 2 [or Tier 2*](#) affecting resolution of an ex-vessel severe accident design feature identified in the plant-specific DCD, requires a license amendment if:
- (1) There is a substantial increase in the probability of an ex-vessel severe accident such that a particular ex-vessel severe accident previously reviewed and determined to be not credible could become credible; or
 - (2) There is a substantial increase in the consequences to the public of a particular ex-vessel severe accident previously reviewed.
- d. If an applicant or licensee proposes to depart from the information required by 10 CFR 52.47(a)(28) to be included in the FSAR for the standard design certification, then the applicant or licensee shall consider the effect of the changed feature or capability on the original assessment required by 10 CFR 50.150(a). The applicant or licensee must also document how the modified design features and functional capabilities continue to meet the assessment requirements in 10 CFR 50.150(a)(1) in accordance with Section X of this appendix.
- e. If a departure requires a license amendment under paragraph B.5.b or B.5.c of this section, it is governed by 10 CFR 50.90.
- f. A departure from Tier 2 [or Tier 2*](#) information that is made under paragraph B.5 of this section does not require an exemption from this appendix.
- g. A party to an adjudicatory proceeding for either the issuance, amendment, or renewal of a license or for operation under 10 CFR 52.103(a), who believes that

an applicant or licensee who references this appendix has not complied with paragraph VIII.B.5 of this appendix when departing from Tier 2 [or Tier 2*](#) information, may petition to admit into the proceeding such a contention. In addition to compliance with the general requirements of 10 CFR 2.309, the petition must demonstrate that the departure does not comply with paragraph VIII.B.5 of this appendix. Further, the petition must demonstrate that the change bears on an asserted noncompliance with an ITAAC acceptance criterion in the case of a 10 CFR 52.103 preoperational hearing, or that the change bears directly on the amendment request in the case of a hearing on a license amendment. Any other party may file a response. If, on the basis of the petition and any response, the presiding officer determines that a sufficient showing has been made, the presiding officer shall certify the matter directly to the Commission for determination of the admissibility of the contention. The Commission may admit such a contention if it determines the petition raises a genuine issue of material fact regarding compliance with paragraph VIII.B.5 of this appendix.

4.0 Legal justification for the exemption

10 CFR 52.63(b)(1) states that the NRC may grant exemptions provided that the exemption complies with 10 CFR 52.7, which references the requirements of 10 CFR 50.12. NRC may grant exemptions provided the following conditions are met:

- 1) the exemption is authorized by law [§ 50.12(a)(1)];
- 2) the exemption will not present an undue risk to the health and safety of the public [§ 50.12(a)(1)];
- 3) the exemption is consistent with the common defense and security [§ 50.12(a)(1)];
and
- 4) special circumstances are present [§ 50.12(a)(2)].

The requested exemption from 10 CFR Part 52, Appendix D, satisfies the criteria for granting specific exemptions, as described below.

4.1 This exemption is authorized by law

The NRC has authority under 10 CFR §§ 52.63, 52.7, and 50.12 to grant exemptions from the requirements of NRC regulations. Granting the proposed exemption would not violate the Atomic Energy Act of 1954, as amended, nor any other law. Accordingly, this requested exemption is “authorized by law,” as required by 10 CFR 50.12(a)(1).

4.2 This exemption will not present an undue risk to the health and safety of the public

The proposed exemption would allow changes to Tier 2* information when those changes are determined to meet the existing departure evaluation procedures for Tier 2 information. Because the exemption would only authorize changes to Tier 2* information without NRC approval when those changes are determined to have no more than a minimal impact to safety, the exemption would not present an undue risk to the health and safety of the public.

4.3 The exemption is consistent with the common defense and security

The exemption would allow a change to be made to Tier 2* information only if it were determined that the change meets the existing departure evaluation process for Tier 2 information. The exemption would not alter the design, function, or operation of any plant equipment that is necessary to maintain a safe and secure status of the plant. The proposed exemption has no impact on plant security or safeguards procedures, systems, or equipment. Therefore, the requested exemption is consistent with the common defense and security.

4.4 Special circumstances are present

10 CFR 50.12(a)(2) lists six “special circumstances” for which an exemption may be granted. Only one of these special circumstances need be present before granting an exemption request. In this case, three of the six “special circumstances” are present, specifically 10 CFR 50.12(a)(2)(ii), (iii), and (vi).

4.4.1 Application would not serve underlying purpose of the rule

10 CFR 50.12(a)(2)(ii) defines special circumstances as when “[a]pplication 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 rule under consideration is 10 CFR Part 52, Appendix D, specifically Section VIII, the change control process. The underlying purpose of requiring prior NRC approval for changes to Tier 2* information is to reflect the potential safety significance of Tier 2* information. The NRC was specifically concerned with “certain significant information [that] only exists in Tier 2 [that] the Commission does not want [...] to be changed without prior NRC approval.” 71 Fed. Reg. at 4474. However, because Tier 2* derives from Tier 2, some documents designated as Tier 2* contain information more appropriately designated as Tier 2, e.g., background information. But to make changes to that “Tier 2-type” information, prior NRC approval is required.

Currently, compliance with 10 CFR Part 52, Appendix D, Section VIII, B.6.a., requires the licensee to obtain NRC approval for *any* change to Tier 2* information – even those having no more than a minimal impact to safety.

Because the exemption and license amendment would allow changes to Tier 2* without NRC approval only after application of the departure evaluation criteria, any safety-significant changes would continue to require prior NRC approval. Therefore application of 10 CFR 52, Appendix D, Section VIII, in the particular circumstances discussed in this request, is not necessary to achieve the underlying purpose of the rule.

4.4.2 Compliance would result in undue hardship

10 CFR 50.12(a)(2)(iii) defines special circumstances as when “[c]ompliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.” As discussed above, the purpose of the Tier 2* designation was to allow licensees flexibility in their design detail while still recognizing the potential safety-significance of certain information. The NRC’s goal was to identify only that significant information for which its approval was required if changes were made. It follows then that the NRC’s assessment of the compliance obligation for licensees related to the Tier 2* designation would be limited to those instances involving changes to significant information.

The current change control process has no mechanism whereby changes that have minimal bearing on the safety-significant nature of Tier 2* information can be made without NRC approval. Compliance imposes significant costs and delay, both to Southern Nuclear and to NRC, without a corresponding benefit.

4.4.3 It would be in the public interest to grant the exemption

10 CFR 50.12(a)(2)(vi) defines special circumstances as when “[t]here is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption.”

It would be in the public interest to reduce or eliminate the delay and expense associated with changes to Tier 2* that are not safety significant because Southern Nuclear and NRC resources will be more focused on safety-related changes.

Southern Nuclear was the first applicant to receive 10 CFR 52 licenses and begin construction under the 10 CFR 52 regulatory processes. Prior to this real world experience, the impact of changes to Tier 2* information during construction could not be entirely understood. Experience has shown that more changes are needed than were initially expected.

The following are examples of Tier 2* changes that required prior NRC approval. Under the proposed departure evaluation process, these examples would not have required prior NRC approval:

- A figure in Southern Nuclear's licensing basis showed certain beam sizes at a particular locale in the Auxiliary Building; the figure is labeled "typical," meaning that it can be applied to other locations. However, using that figure's listed beam sizes at other locations would conflict with the concrete code, ACI-349. To correct this, the figure needed to be changed to allow Southern Nuclear to use the beam sizes required by ACI-349. The change had the effect of enhancing safety. Nevertheless, prior NRC approval was required.
- One of the changes needed to the Annex Building was to move the wall between Computer Room A and Computer Room B to make the size of the rooms more equal. This proposed change has no impact to safety; it has no net change to the results of fire area boundary calculations. But NRC permission was required because the wall appears on a Tier 2* Fire Area Boundaries figure.
- There are hundreds of documents incorporated by reference (IBR'd) in the Updated Final Safety Analysis Report. Changes to these documents are considered changes to the licensing basis, and if the IBR'd document is designated as Tier 2*, prior NRC permission is required. In one document, Southern Nuclear had to get NRC permission to make a clarification that the phrase "ISV Facility" included identical facilities located both at Westinghouse and Vogtle, rather than just Westinghouse. Another change requiring NRC permission was adding two questions to a survey given to students after simulator drills.
- There are several "editorial" errors in Tier 2* information, such as typing, clerical, spelling, and consistency errors. Fixing these areas affects nothing in the physical layout of the plant nor in the design function of the plant. Safety is enhanced by these kinds of changes because electronic searches of the licensing basis become more accurate. For example, if there were a typo in an acronym, an electronic search for that acronym would not yield the portion of the licensing basis containing the typo; editorial corrections fix this problem.

5.0 Risk Assessment

A risk assessment was determined to be not applicable to address the acceptability of this request.

6.0 Precedent

NRC has long used screenings and evaluations as a regulatory tool, e.g., 10 CFR 50.59. The change process for Tier 2 information has been effective at ensuring that changes

that would result in more than a minimal impact to safety require a license amendment. Southern Nuclear proposes to use the same departure evaluation process for changes to Tier 2*. Southern Nuclear's proposal is consistent with the statement in NRC's *Principles of Good Regulation*, "Regulatory activities should be consistent with the degree of risk reduction they achieve."

7.0 Significant Hazards Consideration for LAR

The requested license amendment would amend, for Southern Nuclear's Vogtle Plants 3 and 4 only, Combined License (COL) Numbers NPF-91 (Unit 3) and NPF-92 (Unit 4), the change control process for changes to Tier 2* information.

An evaluation to determine whether or not a significant hazards consideration is involved with the proposed amendment was completed by focusing on the three standards set forth in 10 CFR 50.92, "Issuance of amendment," as discussed below:

7.1 Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment would add a license condition that establishes a departure evaluation process to determine whether site-specific changes to Tier 2* information would have more than a minimal impact to safety. Only if the change would have no more than a minimal impact to safety would Southern Nuclear be permitted to make the change without a license amendment. One consideration in the departure evaluation process is whether the change would result in any increase in the frequency of occurrence of an accident previously evaluated. Another consideration is whether the change would result in any increase in the consequences of an accident previously evaluated. Thus, the departure evaluation process itself ensures that the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. If the change would result in more than a minimal increase, then the departure evaluation process would not permit the change without NRC approval through a license amendment.

The proposed amendment does not modify the design, construction, or operation of any plant structures, systems, or components (SSC), nor does it change any procedures or method of control for any SSCs. Because the proposed amendment does not change the design, construction, or operation of any SSCs, it does not adversely affect any design function as described in the Updated Final Safety Analysis Report.

Therefore, the proposed amendment does not affect the probability of an accident previously evaluated. Similarly, because the proposed amendment does not alter the design or operation of the nuclear plant or any plant SSCs, the proposed amendment does not represent a change to the radiological effects of an accident, and therefore, does not involve an increase in the consequences of an accident previously evaluated.

7.2 Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment would add a license condition that establishes a departure evaluation process allowing site-specific changes to Tier 2* information when the changes have no more than a minimal impact to safety. One consideration in the proposed departure evaluation process is whether the change would create a possibility for an accident of a different type than any evaluated previously. If it would, then the change would not be permitted without NRC approval.

The proposed amendment is not a modification, addition to, or removal of any plant SSCs. Furthermore, the proposed amendment is not a change to procedures or method of control of the nuclear plant or any plant SSCs. The only impact of this activity is the addition of a new departure evaluation process.

Because the proposed amendment only adds a new departure evaluation process and does not change the design, construction, or operation of the nuclear plant or any plant operations, the amendment does not create the possibility of a new or different kind of accident from an accident previously evaluated.

7.3 Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment would add a license condition that establishes a departure evaluation process allowing site-specific changes to Tier 2* information when the changes have no more than a minimal impact to safety.

The proposed amendment is not a modification, addition to, or removal of any plant SSCs. Furthermore, the proposed amendment is not a change to procedures or method of control of the nuclear plant or any plant SSCs. The only impact of this activity is the addition of a new departure evaluation process.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

7.4 Significant Hazards Consideration Conclusions

Based on the considerations discussed above, (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The above evaluations demonstrate that the requested changes can be accommodated without an increase in the probability or consequences of an accident previously evaluated, without creating the possibility of a new or different kind of accident from any accident previously evaluated, and without a significant reduction in a margin of safety.

Having arrived at negative declarations with regard to the criteria of 10 CFR 50.92, this assessment determined that the requested change does not involve a Significant Hazards Consideration.

8.0 Environmental Considerations for LAR

The proposed amendment would add a license condition that establishes a departure evaluation process allowing site-specific changes to Tier 2* information when the changes have no more than a minimal impact to safety.

A review has determined the proposed license condition requires an amendment to the COLs; however, a review of the anticipated construction and operational effects of the proposed amendment has determined it meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9), in that:

8.1 There is no significant hazards consideration.

As documented above, an evaluation was completed to determine whether or not a significant hazards consideration is involved by focusing on the three standards set forth in 10 CFR 50.92, "Issuance of amendment." The Significant Hazards Consideration determined that (1) the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated; (2) the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) the proposed amendment does not involve a significant reduction in a margin of safety. Therefore, it is concluded that the proposed amendment does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of "no significant hazards consideration" is justified.

8.2 There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

The proposed exemption only adds a departure evaluation process to the change controls for Tier 2* information; there is no physical change to the plant itself. Hence, the exemption does not affect any effluent release path or diminish the functionality of any design or operational features that are credited with controlling the release of effluents during plant operation.

Therefore, the proposed exemption does not involve a significant change in the types or a significant increase in the amounts of any effluents that may be released offsite.

8.3 There is no significant increase in individual or cumulative occupational radiation exposure.

The proposed addition of a departure evaluation process for Tier 2* changes makes no physical change to the plant itself, nor does it affect how the plant is designed, constructed, or operated. Plant radiation zones (addressed in Section 12.3 of the Updated Final Safety Analysis Report) are not affected, and controls

established under 10 CFR 20 to preclude a significant increase in occupational radiation exposure are not affected. Therefore, the proposed amendment does not involve a significant increase in individual or cumulative occupational radiation exposure.

8.4 Environmental Conclusions

Based on the above review of the proposed amendment, it has been determined that anticipated construction and operational effects of the proposed amendment do not involve (i) a significant hazards consideration, (ii) a significant change in the types or significant increase in the amounts of any effluents that may be released offsite, or (iii) a significant increase in the individual or cumulative occupational radiation exposure. Accordingly, the proposed amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), an environmental impact statement or environmental assessment of the proposed amendment is not required.

9.0 Overall Conclusion

For the foregoing reasons, Southern Nuclear asks that the NRC issue a permanent exemption and amendment implementing the license condition set forth at Enclosure 2.

Southern Nuclear Operating Company

ND-14-1165

Enclosure 2

**Vogtle Electric Generating Plant Unit 3
Docket 52-025
Combined License Number NPF-91**

**Vogtle Electric Generating Plant Unit 4
Docket 52-026
Combined License Number NPF-92**

**Mark-ups for
Request for Exemption and License Amendment regarding
Changes to Tier 2* Information (LAR-14-008)**

**Page 4 of each COL would be replaced by the following
Pages 4-1, 4-2, 4-3, and 4-4**

(5 pages, including this cover page)

D. The license is subject to, and SNC shall comply with, the conditions specified and incorporated below:

(1) Changes ~~during Construction~~ and Departures

- (a) SNC may request use of a preliminary amendment request (PAR) process, for license amendments, at any time before a Commission finding under 10 CFR 52.103(g). To use the PAR process, SNC shall submit a written request to the Office of New Reactors (NRO) in accordance with COL-ISG-025, "Changes during Construction under Part 52."
- (b) Before NRO's issuance of a written PAR notification, SNC shall submit the license amendment request (LAR). Thereafter, NRO will issue a written PAR notification, setting forth whether SNC may proceed in accordance with the PAR, LAR, and COL-ISG-025. If SNC elects to proceed and the LAR is subsequently denied, SNC shall return the facility to its current licensing basis.
- (c) 10 CFR 52, Appendix D, Section II.F., shall be treated as if the following additions and deletions (shown in blue underline and ~~red strikethrough~~) were made:

F. Tier 2* means the portion of the Tier 2 information, designated as such in the generic DCD, which is subject to the change process in Section VIII.B.~~5.6~~ of this appendix. ~~This designation expires for some Tier 2* information under paragraph VIII.B.6.~~

- (d) 10 CFR 52, Appendix D, Section VIII, shall be treated as if VIII.B.6 were deleted entirely and the following additions and deletions (shown in blue underline and ~~red strikethrough~~) were made to the remainder of VIII.B:

VIII. Processes for Changes and Departures

[....]

B. Tier 2 information.

1. Generic changes to Tier 2 information are governed by the requirements in 10 CFR 52.63(a)(1).

2. Generic changes to Tier 2 information are applicable to all applicants or licensees who reference this appendix, except those for which the change has been rendered technically irrelevant by action taken under paragraphs B.3, B.4, or B.5, ~~or B.6~~ of this section.

3. The Commission may not require new requirements on Tier 2 information by plant-specific order while this appendix is in effect under 10 CFR 52.55 or 52.61, unless:

a. A modification is necessary to secure compliance with the Commission's regulations applicable and in effect at the time this appendix was approved, as set forth in Section V of this appendix, or to ensure adequate protection of the public health and safety or the common defense and security; and

b. Special circumstances as defined in 10 CFR 50.12(a) are present.

4. An applicant or licensee who references this appendix may request an exemption from Tier 2 information. The Commission may grant such a request only if it determines that the exemption will comply with the requirements of 10 CFR 50.12(a). The Commission will deny a request for an exemption from Tier 2 if it finds that the design change will result in a significant decrease in the level of safety otherwise provided by the design. The grant of an exemption to an applicant must be subject to litigation in the same manner as other issues material to the license hearing. The grant of an exemption to a licensee must be subject to an opportunity for a hearing in the same manner as license amendments.

5.a. An applicant or licensee who references this appendix may depart from Tier 2 or Tier 2* information, without prior NRC approval, unless the proposed departure involves a change to or departure from Tier 1 information, ~~Tier 2* information, or~~ the TS, or requires a license amendment under paragraphs B.5.b or B.5.c of this section. When evaluating the proposed departure, an applicant or licensee shall consider all matters described in the plant-specific DCD.

b. A proposed departure from Tier 2 or Tier 2*, other than one affecting resolution of a severe accident issue identified in the plant-specific DCD or one affecting information required by 10 CFR 52.47(a)(28) to address 10 CFR 50.150, requires a license amendment if it would:

(1) Result in more than a minimal increase in the frequency of occurrence of an accident previously evaluated in the plant-specific DCD;

(2) Result in more than a minimal increase in the likelihood of occurrence of a malfunction of a structure, system, or component (SSC) important to safety and previously evaluated in the plant-specific DCD;

(3) Result in more than a minimal increase in the consequences of an accident previously evaluated in the plant-specific DCD;

(4) Result in more than a minimal increase in the consequences of a malfunction of an SSC important to safety previously evaluated in the plant-specific DCD;

(5) Create a possibility for an accident of a different type than any evaluated previously in the plant-specific DCD;

(6) Create a possibility for a malfunction of an SSC important to safety with a different result than any evaluated previously in the plant-specific DCD;

(7) Result in a design basis limit for a fission product barrier as described in the plant-specific DCD being exceeded or altered; or

(8) Result in a departure from a method of evaluation described in the plant-specific DCD used in establishing the design bases or in the safety analyses.

c. A proposed departure from Tier 2 [or Tier 2*](#) affecting resolution of an ex-vessel severe accident design feature identified in the plant-specific DCD, requires a license amendment if:

(1) There is a substantial increase in the probability of an ex-vessel severe accident such that a particular ex-vessel severe accident previously reviewed and determined to be not credible could become credible; or

(2) There is a substantial increase in the consequences to the public of a particular ex-vessel severe accident previously reviewed.

d. If an applicant or licensee proposes to depart from the information required by 10 CFR 52.47(a)(28) to be included in the FSAR for the standard design certification, then the applicant or licensee shall consider the effect of the changed feature or capability on the original assessment required by 10 CFR 50.150(a). The applicant or licensee must also document how the modified design features and functional capabilities continue to meet the assessment requirements in 10 CFR 50.150(a)(1) in accordance with Section X of this appendix.

e. If a departure requires a license amendment under paragraph B.5.b or B.5.c of this section, it is governed by 10 CFR 50.90.

f. A departure from Tier 2 [or Tier 2*](#) information that is made under paragraph B.5 of this section does not require an exemption from this appendix.

g. A party to an adjudicatory proceeding for either the issuance, amendment, or renewal of a license or for operation under 10 CFR 52.103(a), who believes that an applicant or licensee who references this appendix has not complied with paragraph VIII.B.5 of this appendix when departing from Tier 2 [or Tier 2*](#) information, may petition to admit into the proceeding such a contention. In addition to compliance with the general requirements of 10 CFR 2.309, the petition must demonstrate that the departure does not comply with paragraph VIII.B.5 of this appendix. Further, the petition must demonstrate that the change bears on an asserted noncompliance with an ITAAC acceptance criterion in the case of a 10 CFR 52.103 preoperational hearing, or that the change bears

directly on the amendment request in the case of a hearing on a license amendment. Any other party may file a response. If, on the basis of the petition and any response, the presiding officer determines that a sufficient showing has been made, the presiding officer shall certify the matter directly to the Commission for determination of the admissibility of the contention. The Commission may admit such a contention if it determines the petition raises a genuine issue of material fact regarding compliance with paragraph VIII.B.5 of this appendix.

(2) Pre-operational Testing

(a) SNC shall perform the design-specific pre-operational tests identified below:

1. In-Containment Refueling Water Storage Tank (IRWST) Heatup Test (first plant test as identified in AP1000 Design Control Document (DCD), Rev. 19, Section 14.2.9.1.3 Item (h));
2. Pressurizer Surge Line Stratification Evaluation (first plant test as identified in AP1000 DCD, Rev. 19, Section 14.2.9.1.7 Item (d));
3. Reactor Vessel Internals Vibration Testing (first plant test as identified in AP1000 DCD, Rev. 19, Section 14.2.9.1.9);
4. Core Makeup Tank Heated Recirculation Tests (first three plants test as identified in AP1000 DCD, Rev. 19, Section 14.2.9.1.3 Items (k) and (w)); and
5. Automatic Depressurization System Blowdown Test (first three plants test as identified in AP1000 DCD, Rev. 19, Section 14.2.9.1.3 Item (s)).

(b) SNC shall review and evaluate the results of the tests identified in Section 2.D.(2)(a) of this license and confirm that these test results are within the range of acceptable values predicted or

