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10 CFR 52.98
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U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
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Vogtle Electric Generating Plant – Unit 3

License Amendment Request and Exemption Request: Remove Combined License
Appendix C and Exemption from Tier 1 and Tier 2* Requirements (LAR 23-001)

Pursuant to 10 CFR 52.98(c) and in accordance with 10 CFR 50.90 and 10 CFR 50.12, Southern Nuclear Operating Company (SNC) requests an amendment to the combined license (COL) for Vogtle Electric Generating Plant (VEGP) Unit 3 (License Number NPF-91) and an exemption from specific associated regulations. The requested amendment proposes to remove COL Appendix C, Inspections, Tests, Analyses, and Acceptance Criteria, in its entirety and the requested exemption proposes to exempt VEGP Unit 3 from 10 CFR Part 52, Appendix D, Tier 1 and Tier 2* requirements.

These changes were previously discussed with the NRC Staff at a public presubmittal conference call on December xx, 2022 (ADAMS Accession Number MLxxx).

Enclosure 1 provides the description, technical evaluation, regulatory evaluation (including the Significant Hazards Consideration Determination) and environmental considerations for the proposed changes.

Enclosure 2 provides the background and supporting basis for the requested exemption.

Enclosure 3 identifies the requested changes and provides markups depicting the requested changes to the VEGP Unit 3 licensing basis documents.

This letter contains no regulatory commitments. This letter has been reviewed and determined not to contain security-related information.

SNC requests NRC staff review and approval of this LAR no later than 12 months from acceptance. Delayed approval of this license amendment subjects the plant personnel and the NRC Staff to additional regulatory burden. SNC expects to implement the proposed amendment within 30 days of approval of the LAR.

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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.

If you have any questions, please contact Amy Chamberlain at (205) 992-6361.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the
##th of January 2023.

Respectfully submitted,

C. A. Gayheart
Director, Regulatory Affairs
Southern Nuclear Operating Company

CAG/kgl/sm

Enclosure 1: License Amendment Request
Enclosure 2: Exemption Request

DRAFT

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Document Services RTYPE: VND.LI.L00
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DRAFT

ENCLOSURE 1

License Amendment Request: Remove Combined License Appendix C

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- 1. Combined License (COL) Mark-ups for License Amendment Request

1. SUMMARY DESCRIPTION

The proposed change would revise the Combined License (COL) for Vogtle Electric Generating Plant (VEGP) Unit 3 by removing the entire Appendix C for facility operating license NPF-91.

2. DETAILED DESCRIPTION

2.1 System Design and Operation

Appendix C to the COL (titled Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC)) provides not only the specific inspections, tests, analyses, and acceptance criteria (ITAAC) tables, but also includes definitions, general provisions, figure legends, acronyms and abbreviations, system based design descriptions for numerous systems, several non-system based design descriptions, and other tables and figures supporting the design descriptions.

2.2 Current Requirements

10 CFR Part 52, Appendix D, Section I, defines *Tier 1* as the portion of the design-related information contained in the generic design control document (DCD) that is approved and certified by Appendix D and identifies that the Tier 1 information includes:

1. Definitions and general provisions;
2. Design descriptions;
3. Inspections, tests, analyses, and acceptance criteria (ITAAC);
4. Significant site parameters; and
5. Significant interface requirements.

The definition of Tier 1 also indicates that the design descriptions, interface requirements, and site parameters are derived from Tier 2 information.

Section X.A.2 of Appendix D to 10 CFR Part 52 requires that the licensee maintain a Tier 1 document that reflects generic and plant-specific changes made to the Tier 1 information.

The COL for VEGP Unit 3 includes Appendix C, which also contains the information required to be maintained in the Tier 1 plant-specific document, and License Conditions 2.D.(2)(d) and 2.D.(3)(b) which reference the ITAAC information in Appendix C.

2.3 Reason for Proposed Change

With much of the Tier 1 information being maintained in both the Tier 1 document and in Appendix C to the COL, when a change is needed, a change to the COL information is required to be processed as a license amendment pursuant to 52.98 and 50.90, and a change to the plant-specific Tier 1 document is required to be

processed as an exemption from the generic Tier 1 information pursuant to 52.7 and 50.12. This represents a duplication of effort by both the licensee to develop information under both sets of regulatory processes and by the NRC Staff to review and approve the change to the information under both sets of regulatory processes. Under either set of the processes, the goal is the same, to confirm that with the change an acceptable level of safety is maintained.

Additionally, VEGP Unit 3 has completed the requirements in the tables that provide the specific ITAAC identified in both Tier 1 and in the COL Appendix C and thus, as identified in 10 CFR Part 52, Appendix D, Section IX.A.3, the ITAAC tables no longer constitute regulatory requirements. Thus, the specific tables of ITAAC in COL Appendix C may be removed. Since the COL Appendix C ITAAC tables no longer reflect requirements for VEGP Unit 3, this portion of the requested amendment is an administrative change.

Along with completion of the ITAAC, the notifications required by License Conditions 2.D.(2)(d) and 2.D.(3)(b) have also been completed as required. As such, these completed License Conditions are now moot.

The rest of the COL Appendix C (beyond the specific ITAAC tables) is a duplication of the plant-specific Tier 1 information required to be maintained as discussed above, and thus, the removal of the remaining information in COL Appendix C, does not change any requirements for VEGP Units 3, and can also be considered an administrative change.

Note that Enclosure 2 requests an exemption from the Tier 1 information document requirements. The discussion and justification for the exemption would also apply to deletion of Appendix C to the COL.

2.4 Description of Proposed Change

The proposed change would modify the COL for VEGP Unit 3 to remove the entire Appendix C, and revise COL Section 2.D.(2), Section 2.D.(3), and Section 2.D.(8) to remove references to Appendix C.

Markups showing these changes are provided in Attachment 1.

3. TECHNICAL EVALUATION

On August 3, 2022, the NRC issued the 10 CFR 50.103(g) letter to VEGP Unit 3 [ADAMS Accession No. ML20290A284], recognizing that the Acceptance Criteria identified in the COL had been satisfied. As identified in 10 CFR Part 52, Appendix D, Section IX.A.3, "After the Commission has made the finding required by 10 CFR 52.103(g), the ITAAC do not, by virtue of their inclusion within the DCD, constitute regulatory requirements either for licensees or for renewal of the license; except for specific ITAAC, which are the subject of a § 52.103(a) hearing, their expiration will occur upon final Commission action in such a proceeding." Thus, since there are no specific ITAAC which are the subject of a § 52.103(a) hearing, the specific tables

included in the COL identified as ITAAC are no longer requirements for VEGP Unit 3 and their removal is an administrative change.

The AP1000 DCD contains both Tier 1 and Tier 2 information as noted and defined in Appendix D to 10 CFR Part 52. Appendix D certifies the Tier 1 information and approves the Tier 2 information and also identifies that the Tier 1 design descriptions, interface requirements, and site parameters are derived from Tier 2 information. The NRC Staff then included the Tier 1 information and a few COL-specific ITAAC tables in the COL as Appendix C. The COL-specific ITAAC tables of the COL Appendix C that do not have the AP1000 DCD as their source are those in Sections C.3.8.#, E.3.8.5.1.1, and E.3.9.#, which consist only of ITAAC tables. Thus, these COL-specific sections are completely addressed above as no longer constituting requirements and their removal is an administrative change.

The remaining portion of the COL Appendix C constitutes a duplication of the plant-specific Tier 1 information required to be maintained by 10 CFR Part 52, Appendix D, Section X.A.2, and thus, the removal of the remaining information in COL Appendix C, does not change any requirements, and its deletion can also be considered an administrative change. The above identified Section X.A.2 requires:

“An applicant or licensee who references this appendix shall maintain the plant-specific DCD to accurately reflect both generic changes to the generic DCD and plant-specific departures made under Section VIII of this appendix throughout the period of application and for the term of the license (including any period of renewal).”

Accordingly, SNC maintains a separate plant-specific Tier 1 document that includes the generic and plant-specific departures which is updated and reported in accordance with 10 CFR Part 52, Appendix D, Section X.B. This document is required to be met as identified 10 CFR Part 52, Appendix D, Section III.B where it states in part “An applicant or licensee referencing this appendix, in accordance with Section IV of this appendix, **shall incorporate by reference and comply with the requirements of this appendix, including Tier 1, .**”

Both the regulations and the license conditions (provided in COL Appendix C) represent obligations of the licensee which are legally binding requirements that cannot be revised without prior NRC approval. As described in NRR Office Instruction, LIC-100, “Control of Licensing Bases for Operating Reactors,” the inclusion of actions or programs into the operating license, including technical specifications and license conditions, creates an obligation or regulatory requirement upon the licensee. There is no regulatory basis or need for duplication of such obligations.

Further, this duplication of obligations would seem to be inconsistent with the intent of the Paperwork Reduction Act as implemented by 5 CFR 1320, CONTROLLING PAPERWORK BURDENS ON THE PUBLIC.

The duplication of these obligations creates the need for processing departures from the Tier 1 information as both a license amendment request under 10 CFR 52.98 and as an exemption under 10 CFR 52.7. Either of these processes requires NRC review

and approval of the change prior to implementation, but the processes must be submitted in different formats and address different specific points. However, the technical adequacy of the change is reviewed by NRC in either case, and thus, need not be submitted under both processes. With the removal of COL Appendix C, future proposed changes to Tier 1 information would be addressed only as an exemption request and not require a concurrent license amendment.

10 CFR 52.98(c) requires NRC approval for any modification to, addition to, or deletion from the terms and conditions of a Combined License (COL). This request involves changes to a license condition related to the plant-specific Inspections, Tests, Analyses, and Acceptance Criteria (COL Appendix C). Therefore, this activity requires a proposed amendment to the COL.

4 REGULATORY EVALUATION

4.1 Applicable Regulatory Requirements/Criteria

The AP1000 Design Control Document (DCD) Tier 1 information is defined, considered, and controlled in accordance with 10 CFR Part 52, Appendix D, as regulation, and also considered and controlled as incorporated into the VEGP Unit 3 Combined License (COL) as Appendix C to the COL. Thus, the proposed change is consistent with the regulatory requirements.

4.2 Precedent

None.

4.3 Significant Hazards Consideration

Southern Nuclear Operating Company (SNC) is requesting an amendment to Combined License (COL) No. NPF-91 for Vogtle Electric Generating Plant (VEGP) Unit 3. The license amendment request (LAR) proposes to remove COL Appendix C in its entirety, along with the license condition incorporating it into the COL and those that refer to it. 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(c), "Issuance of amendment," as discussed below.

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

Response: No

The proposed changes do not affect accident evaluations since there are no changes to the plant, no changes to analysis of the plant, and no changes to testing of the plant. The proposed changes do not adversely affect the operation of any structures, systems, or components (SSCs) associated with an accident initiator or initiating sequence of events. The proposed changes

continue to maintain the initial conditions and operating limits assumed during normal operation, assumed by the accident analysis, and assumed in anticipated operational occurrences. Therefore, the proposed changes do not result in any increase in probability of an analyzed accident occurring.

The proposed changes do not involve a change to any mitigation sequence or the predicted radiological releases due to postulated accident conditions. Thus, the consequences of the accidents previously evaluated are not adversely affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed changes have been found to continue to provide the required functional capability of the safety systems for previously evaluated accidents and anticipated operational occurrences. The proposed revisions do not change the function of the related systems, and thus, the changes do not introduce a new failure mode, malfunction or sequence of events that could adversely affect safety or safety-related equipment.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes continue to provide the required functional capability of the safety systems for previously evaluated accidents and anticipated operational occurrences. The proposed changes do not change the function of the related systems nor significantly affect the margins provided by the systems. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested changes.

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

Based on the above, 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.

4.4 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. Therefore, it is concluded that the requested 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.

5 ENVIRONMENTAL CONSIDERATION

A review has determined that the proposed changes require an amendment to the COL. A review of the anticipated construction and operational effects of the requested amendment has determined that the requested amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9), in that:

(i) There is no significant hazards consideration.

As documented in Section 4.3, Significant Hazards Consideration, of this license amendment request, 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 evaluation 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.

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

The proposed changes are unrelated to any aspect of plant construction or operation that would introduce any change to effluent types (e.g., effluents containing chemicals or biocides, sanitary system effluents, and other effluents) or affect any plant radiological or non-radiological effluent release quantities. Furthermore, the proposed changes do 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, it is concluded that the proposed amendment does not involve a significant change in the types or a significant increase in the amounts of any effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative occupational radiation exposure.

The proposed change in the requested amendment does not affect the shielding capability of, or alter any walls, floors, or other structures that provide shielding. Plant radiation zones and controls under 10 CFR 20 preclude a significant increase in occupational radiation exposure. Therefore, the proposed amendment does not involve a significant increase in individual or cumulative occupational radiation exposure.

Based on the above review of the proposed amendment, it has been determined that anticipated construction and operational effects of the proposed amendment does 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), no environmental impact statement or environmental assessment need be prepared in connection with the proposed amendment.

6 REFERENCES

None

ENCLOSURE 2

Exemption Request: Exemption from Tier 1 and Tier 2* Requirements

- 1.0 PURPOSE
- 2.0 BACKGROUND
- 3.0 TECHNICAL JUSTIFICATION OF ACCEPTABILITY
- 4.0 JUSTIFICATION OF EXEMPTION
- 5.0 RISK ASSESSMENT
- 6.0 PRECEDENT EXEMPTIONS
- 7.0 ENVIRONMENTAL CONSIDERATION
- 8.0 CONCLUSION
- 9.0 REFERENCES

ATTACHMENT:

- 2. Combined License (COL) Mark-ups for Exemption Request

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1.0 Purpose

Southern Nuclear Operating Company (the Licensee) requests a permanent exemption from the provisions of 10 CFR 52, Appendix D, to maintain, and to evaluate and document departures and further exemptions from, the plant-specific Tier 1 and Tier 2* information applicable to the Vogtle Electric Generating Plant (VEGP) Unit 3 combined license (COL).

This request for exemption provides the technical and regulatory basis to demonstrate that 10 CFR 52.63, §52.7, and §50.12 requirements are met and applies the requirements of 10 CFR 52, Appendix D, Section VIII.A.4 to allow departures from generic Tier 1 Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) information and the requirements of 10 CFR 52, Appendix D, Section VIII.B.6 to allow departures from Tier 2* information for Vogtle Electric Generating Plant (VEGP) Unit 3.

2.0 Background

The Licensee is the holder of Combined License No. NPF-91, which authorizes construction and operation of a Westinghouse Electric Company AP1000 nuclear plant named VEGP Unit 3. The proposed change would revise the VEGP Unit 3 COL to remove plant-specific Tier 1 and Tier 2* requirements.

Southern Nuclear Operating Company (SNC) notified the NRC on July 29, 2022, that all the acceptance criteria for the inspections, tests, and analyses, and acceptance criteria (ITAAC) are met [ADAMS Accession No. ML22210A090]. On August 3, 2022, the NRC issued their 10 CFR 52.103(g) finding that the acceptance criteria in the ITAAC are met [ADAMS Accession No. ML20290A284].

With construction complete and confirmed to comply with the certified design (as amended and exempted), SNC believes the applicable controls for Tier 2 information are sufficient to identify changes to the design that might impact the health and safety of the public, and thus should be submitted to the NRC for prior review and approval.

3.0 Technical Justification of Acceptability

The proposed change would revise the VEGP Unit 3 COL and licensing basis documents to remove Tier 1 and Tier 2* information requirements.

Tier 1 requirements are defined by 10 CFR Part 52, Appendix D, Section II.D, as:

“...the portion of the design-related information contained in the generic DCD that is approved and certified by this appendix (Tier 1 information). The design descriptions, interface requirements, and site parameters are derived from Tier 2 information. Tier 1 information includes:

1. Definitions and general provisions;
2. Design descriptions;
3. Inspections, tests, analyses, and acceptance criteria (ITAAC);

4. Significant site parameters; and
5. Significant interface requirements."

On August 3, 2022, the NRC issued the 10 CFR 50.103(g) letter to VEGP Unit 3, recognizing that the ITAAC had been satisfied [ADAMS Accession No. ML20290A284]. As identified in 10 CFR Part 52, Appendix D, Section IX.B.3, "After the Commission has made the finding required by 10 CFR 52.103(g), the ITAAC do not, by virtue of their inclusion within the DCD, constitute regulatory requirements either for licensees or for renewal of the license; except for specific ITAAC, which are the subject of a §52.103(a) hearing, their expiration will occur upon final Commission action in such a proceeding." No specific ITAAC are the subject of a §52.103(a) hearing. Thus, the specific tables identified in the plant-specific Tier 1 information as ITAAC are no longer requirements for VEGP Unit 3.

The remaining portion of the plant-specific Tier 1 information required to be maintained by the regulations in 10 CFR Part 52, Appendix D, Section X.A.1 and Section X.A.2, includes design descriptions (including descriptive information provided in non-ITAAC tables and figures), significant site parameters, significant interface requirements, and the associated definitions and general provisions. However, as noted in the Tier 1 information definition above, this Tier 1 information is "derived from Tier 2 information." Thus, removal of the Tier 1 requirements would not change the design, nor remove any design information from the licensing basis. The only impact would be to the criteria used for evaluation of changes to determine if prior NRC approval is required.

During the construction of VEGP Unit 3, it was recognized that some changes required prior NRC approval only because the information was designated as Tier 1, i.e., some of the changes required to be reviewed and approved by the NRC had no impact to the health and safety of the public, and the change would not have met the Tier 2 change evaluation criteria that would have led to prior NRC review and approval. Some of these were simply editorial or changes to correct mislabeled equipment identification, or other similar changes that do not change the meaning or substance of the safety information presented. The purpose of the Tier 1 regulations is not served by requiring prior NRC approval of an exemption for this type of change.

The above concern is supported by Commission expectations as provided in the Statements of Consideration for the initial issuance of Part 52 (54FR15372) which states:

How much flexibility § 50.12 will provide depends in large part on how much detail is present in a design certification, and just how much is present will be an issue which will have to be resolved in each certification rulemaking. The Commission does expect, however, that there will be less detail in a certification than in an application for certification, and that a rule certifying a design is likely to encompass roughly the same design features that § 50.59 prohibits changing without prior NRC approval. Moreover, the level of design detail in certifications should afford licensees an opportunity to take advantage of improvements in equipment.

The latter portion of the highlighted expectation is not consistent with the level of detail included in the AP1000 Tier 1 requirements. Further, if the expectation and intent was that the certified information would “encompass roughly the same design features that § 50.59 prohibits changing without prior NRC approval,” then the Tier 1 document is a duplication of the § 50.59 requirements and the Design Features section of the Technical Specifications, and thus, unnecessary. The level of detail included in the AP1000 Tier 1 requirements, however, goes significantly beyond the detail addressed in the Design Features section of the Technical Specifications, and well beyond the level of detail of design features that § 50.59 prohibits changing without prior NRC approval, adding significant regulatory burden to the licensee and to the NRC Staff.

Even without the Tier 1 requirements, every change would continue to be evaluated for potential impact in accordance with § 50.59 and the Tier 2 change criteria in 10 CFR 52 Appendix D and for continued compliance with the applicable regulations. Thus, safety significant changes would continue to be submitted for NRC review and approval prior to implementation.

The statements of consideration discussion of the AP1000 Design Certification Final Rule (71FR04464) included the following similar information pertinent to the appropriate change processes.

- In an earlier rulemaking (64 FR 53582; October 4, 1999), the Commission revised 10 CFR § 50.59 to incorporate new thresholds for permitting changes to a plant as described in the FSAR without NRC approval. For consistency and clarity, the Commission proposes to use these new thresholds in the proposed AP1000 DCR. Inasmuch as § 50.59 is the primary change mechanism for operating nuclear plants, the Commission believes that future plants referencing the AP1000 DCR should utilize thresholds as close to § 50.59 as is practicable and appropriate.

SNC agrees with the Commission belief “that future plants referencing the AP1000 DCR should utilize thresholds as close to § 50.59 as is practicable and appropriate,” and this is precisely the criteria that SNC requests be applied to future VEGP changes.

As noted in the statements of consideration for the 1999 revisions to 10 CFR 50.59 (64FR53582), “The intent of the § 50.59 process is to permit licensees to make changes to the facility, provided the changes maintain acceptable levels of safety as documented in the SAR. The process was thus structured around the licensing approach of design basis events (anticipated operational occurrences and accidents), safety-related mitigation systems, and consequence calculations for the design basis accidents.” However, the design certification rulemakings have gone beyond this process to “maintain acceptable levels of safety as documented in the SAR” without any apparent significant benefits. On the contrary, as noted above, the additional requirements have, on several occasions, led to expenditure of licensee and NRC Staff resources with little or no impact on the safety of the plant or the public. Further, the additional requirements have, on several occasions, led to expenditure of licensee and NRC Staff resources when the change could have been sufficiently addressed by considering the impact in accordance with the “50.59-like”

process included in Appendix D to 10 CFR Part 52, again with little or no impact on the safety of the plant or the public. The continued expenditure of these significant additional resources without a corresponding significant increase in safety are not warranted and should be eliminated as identified in this exemption request.

The Part 52 predecessor to Appendix D was original approval of the AP600 as Appendix C. The statements of consideration discussion of the AP600 Design Certification Final Rule (at 64FR72002) included the following information pertinent to the Tier 1 designation. This same information was included in the statements of consideration discussion of the AP1000 Design Certification Final Rule (at 70FR20062).

- The Tier 1 design descriptions serve as design commitments for the lifetime of a facility referencing the design certification.
- [S]ubsequent modifications to the facility must comply with the design descriptions in the plant-specific DCD unless changes are made in accordance with the change process in Section VIII of this appendix.
- The Tier 1 interface requirements are the most significant of the interface requirements for systems that are wholly or partially outside the scope of the standard design, which were submitted in response to 10 CFR 52.47(a)(1)(vii) and must be met by the site-specific design features of a facility that references this appendix.
- The Tier 1 site parameters are the most significant site parameters, which were submitted in response to 10 CFR 52.47(a)(1)(iii). An application that references this appendix must demonstrate that the site parameters (both Tier 1 and Tier 2) are met at the proposed site (refer to III.D of this SOC).

Each of these points is considered below.

- The Tier 1 design descriptions serve as design commitments for the lifetime of a facility referencing the design certification.
The Tier 1 design descriptions are based on the more detailed Tier 2 design descriptions which also serve as design commitments for the lifetime of a facility. Thus, these design commitments are not removed by the proposed exemption from the Tier 1 requirements.
- [S]ubsequent modifications to the facility must comply with the design descriptions in the plant-specific DCD unless changes are made in accordance with the change process in Section VIII of this appendix.

Subsequent modifications to the facility must still comply with the design descriptions in the plant-specific DCD unless changes are made in accordance with the change process in Section VIII applicable for the more detailed Tier 2 design descriptions. Thus, the review requirements for subsequent modifications are not removed by the proposed exemption from the Tier 1 requirements.

- The Tier 1 interface requirements are the most significant of the interface requirements for systems that are wholly or partially outside the scope of the

standard design, which were submitted in response to 10 CFR 52.47(a)(1)(vii) and must be met by the site-specific design features of a facility that references this appendix.

The Tier 1 interface requirements were addressed during the COL application review and shown to be met by the site-specific design features of the facility in the safety analysis report which incorporates the plant-specific and more detailed Tier 2 design descriptions. Thus, the interface requirements and their relationship to the site-specific design features of the facility are not removed by the proposed exemption from the Tier 1 requirements.

- The Tier 1 site parameters are the most significant site parameters, which were submitted in response to 10 CFR 52.47(a)(1)(iii). An application that references this appendix must demonstrate that the site parameters (both Tier 1 and Tier 2) are met at the proposed site (refer to III.D of this SOC).

The Tier 1 site parameters were addressed during the COL application review and shown to be met by the facility site in the safety analysis report which incorporates the plant-specific and more detailed Tier 2 design descriptions. Thus, the site parameters and their relationship to the facility site are not removed by the proposed exemption from the Tier 1 requirements.

Because the NRC has also identified in Appendix D to 10 CFR Part 52 that some Tier 2 information (designated as Tier 2*) must also be reviewed by NRC prior to implementing changes to that information, the above discussions regarding prior approval of Tier 1 information would also be generally applicable to Tier 2* information.

Similar to the above Tier 1 discussion, the statements of consideration discussion of the AP600 and AP1000 Design Certification Final Rules included the following information pertinent to the Tier 2* designation.

- Certain Tier 2 information has been designated in the generic DCD with brackets and italicized text as “Tier 2**” information and, as discussed in greater detail in the section-by-section explanation for paragraph VIII.B, a plant-specific departure from Tier 2* information requires prior NRC approval.

The Tier 2* design description information also continue to serve as design commitments for the lifetime of a facility. Thus, the Tier 2* design commitments are not removed by the proposed exemption from the Tier 2* requirements but would continue to be treated as Tier 2 design commitments.

Thus, as noted above, approval of the proposed exemptions from the Tier 1 and Tier 2* requirements would not remove design information from the licensing basis, and subsequent changes to the facility design would continue to maintain acceptable levels of safety through evaluations in accordance with the “50.59-like” criteria provided in Section VIII of Appendix D to 10 CFR Part 52.

4.0 Justification of Exemption

10 CFR Part 52, Appendix D, Sections VIII.A.4 and VIII.B.6 and 10 CFR 52.63(b)(1) govern the issuance of exemptions from elements of the design information for

AP1000 nuclear power plants. Since SNC is requesting to eliminate the Tier 1 and Tier 2* requirements, an exemption from 10 CFR Part 52, Appendix D, is needed.

10 CFR Part 52, Appendix D, and 10 CFR 50.12, §52.7, and §52.63 state that the NRC may grant exemptions from the requirements of the regulations provided six 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)]; 4) special circumstances are present [§50.12(a)(2)]; 5) the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption [§52.63(b)(1)]; and 6) the changes do not result in a significant decrease in the level of safety [Part 52, App. D, VIII.A.4].

The requested exemption satisfies the criteria for granting specific exemptions, as described below.

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. Specifically, 10 CFR 50.12 and §52.7 state that the NRC may grant exemptions from the requirements of 10 CFR Part 52 upon a proper showing. No law exists that would preclude the changes covered by this exemption request. Additionally, granting of the proposed exemption does not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations.

Accordingly, this requested exemption is "authorized by law," as required by 10 CFR 50.12(a)(1).

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

The proposed exemption from the requirements of 10 CFR 52 Appendix D would allow elements of the VEGP Unit 3 design to depart from the AP1000 Tier 1 and Tier 2* plant-specific design information based on criteria consistent with the rest of the commercial operating fleet of nuclear power plants. The VEGP Unit 3 safety analysis report (incorporating the plant-specific DCD) will continue to reflect the approved licensing basis for VEGP Unit 3 and will maintain a consistent level of detail with that which is currently provided elsewhere in Tier 1 and Tier 2* designated portions of the DCD. Therefore, the affected VEGP Unit 3 plant-specific DCD will continue to serve its required purpose.

Approval of the proposed exemptions from the Tier 1 and Tier 2* requirements would maintain the detailed design information within the licensing basis, and subsequent changes to the facility design would continue to maintain acceptable levels of safety through evaluations in accordance with the "50.59-like" criteria provided in Section VIII of Appendix D to 10 CFR Part 52.

Therefore, the requested exemption from 10 CFR 52 Appendix D would not present an undue risk to the health and safety of the public.

3. The exemption is consistent with the common defense and security

The requested exemption from the requirements of 10 CFR 52, Appendix D, would allow the licensee to depart from elements of the VEGP Unit 3 Tier 1 and Tier 2* plant-specific DCD design information. The proposed exemption does not alter the design, function, or operation of any structures or 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.

Therefore, the requested exemption is consistent with the common defense and security.

4. Special circumstances are present

10 CFR 50.12(a)(2) lists six “special circumstances” for which an exemption may be granted. Pursuant to the regulation, it is necessary for one of these special circumstances to be present in order for the NRC to consider granting an exemption request. The requested exemption meets the special circumstances of 10 CFR 50.12(a)(2)(ii). That subsection defines special circumstances as 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 rule under consideration in this request for exemption is 10 CFR 52, Appendix D, which requires that a licensee referencing the AP1000 Design Certification Rule (10 CFR Part 52, Appendix D) maintain, and evaluate and document departures and further exemptions from, the plant-specific Tier 1 and Tier 2* information applicable to the Vogtle Electric Generating Plant (VEGP) Unit 3 combined license (COL).

As previously noted, exemptions have been required to make even editorial Tier 1 and Tier 2* changes. Processing of such editorial or other changes that are not consequential to safety utilizes resources that could be applied to actual improvements in safety. Approval of the proposed exemptions from the Tier 1 and Tier 2* requirements would maintain the detailed design information within the licensing basis, and subsequent changes to the facility design would continue to maintain acceptable levels of safety through evaluations in accordance with the “50.59-like” criteria provided in Section VIII of Appendix D to 10 CFR Part 52. Significant changes that are consequential to safety would still require NRC review prior to implementation under § 50.59 or the “50.59-like” criteria provided in Section VIII of Appendix D to 10 CFR Part 52.

Therefore, since the underlying purpose of the rule is to consider proposed design changes and maintain acceptable levels of safety, the application of the regulation is not necessary to achieve the underlying purpose of the rule.

5. The special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption.

Since the revised processes for evaluating changes to the plant-specific design would continue to maintain acceptable levels of safety through evaluations in accordance with the “50.59-like” criteria provided in Section VIII of Appendix D to 10 CFR Part 52, and there is no significant benefit to be achieved by the added burden of existing processes, it is expected that similar process changes would be requested by other AP1000 stations once construction is complete. Maintaining the existing processes during construction will continue to support a high level of standardization since the construction period is when most major changes would be proposed. However, a review of the reduction in standardization resulting from the departure from the standard DCD determined that even if other AP1000 licensees and applicants do not request this same exemption, the special circumstances will continue to outweigh any decrease in safety from the reduction in standardization because the key design functions of the structures associated with this request will continue to be maintained at acceptable levels of safety.

Therefore, the special circumstances associated with the requested exemption outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption.

6. The design change will not result in a significant decrease in the level of safety.

There are no design changes associated with this request. The proposed exemption from the requirements of 10 CFR 52 Appendix D would allow elements of the VEGP Unit 3 design to depart from the AP1000 Tier 1 and Tier 2* plant-specific design information. The VEGP Unit 3 safety analysis report (incorporating the plant-specific DCD) will continue to reflect the approved licensing basis for VEGP Unit 3 and will maintain a consistent level of detail with that which is currently provided elsewhere in Tier 1 and Tier 2* designated portions of the DCD. Therefore, the affected VEGP Unit 3 plant-specific DCD will continue to serve its required purpose.

Approval of the proposed exemptions from the Tier 1 and Tier 2* requirements would maintain the detailed design information within the licensing basis, and subsequent changes to the facility design would continue to maintain acceptable levels of safety through evaluations in accordance with the “50.59-like” criteria provided in Section VIII of Appendix D to 10 CFR Part 52. Thus, there is no reduction in the level of safety.

5.0 Risk Assessment

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

6.0 Precedent Exemptions

None

7.0 Environmental Consideration

The Licensee requests a departure from elements of the Tier 1 and Tier 2* requirements of 10 CFR Part 52, Appendix D. The Licensee has determined that the proposed departure would require a permanent exemption from the requirements of 10 CFR 52, Appendix D, with respect to processes used to determine that a proposed change would require NRC review and approval prior to implementation; however, the Licensee evaluation of the proposed exemption has determined that the proposed exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9).

Based on the above review of the proposed exemption, the Licensee has determined that the proposed activity does 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 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), an environmental impact statement or environmental assessment of the proposed exemption is not required.

8.0 Conclusion

The proposed change removes restrictions to VEGP Unit 3 design change processes that have no identified benefit to offset the additional burden imposed by the restrictions. The exemption request meets the requirements of 10 CFR 52.63, *Finality of design certifications*, 10 CFR 52.7, *Specific exemptions*, 10 CFR 50.12, *Specific exemptions*, and 10 CFR 52 Appendix D, *Design Certification Rule for the AP1000*. Specifically, the exemption request meets the criteria of 10 CFR 50.12(a)(1) in that the request is authorized by law, presents no undue risk to public health and safety, and is consistent with the common defense and security. Furthermore, approval of this request does not result in a significant decrease in the level of safety, satisfies the underlying purpose of the AP1000 Design Certification Rule, and does not present a significant decrease in safety as a result of a reduction in standardization.

9.0 References

None

Combined License (COL) Mark-ups for License Amendment Request

COL Section 2.D.(2)(d), is revised to read:

(d) ~~(Removed by Amendment No. ####) SNC shall notify the Director of NRC, or the Director's designee, in writing, upon the successful completion of all the ITAAC included in Appendix C to this license.~~

COL Section 2.D.(3)(b), is revised to read:

(b) ~~(Removed by Amendment No. ####) Upon submission of the notification required by Section 2.D.(2)(c) of this license and upon a Commission finding in accordance with 10 CFR 52.103(g) that all the acceptance criteria in the ITAAC in Appendix C to this license are met, SNC is authorized to perform pre-critical tests in accordance with the conditions specified herein;~~

COL Section 2.D.(8), Incorporation, is revised to read:

The Technical Specifications and Environmental Protection Plan, ~~and ITAAC~~ in Appendices A, ~~B, and C, and B,~~ respectively, of this license, as revised through Amendment No. ####, are hereby incorporated into this license.

**COL Appendix C, Page C-1, is revised to read as shown below.
All following pages, C-2 through C-494, are deleted.**

APPENDIX C
VOGTL ELECTRIC GENERATING PLANT UNIT 3
INSPECTIONS, TESTS, ANALYSES, AND ACCEPTANCE CRITERIA

(Removed by Amendment No. ####)

Combined License (COL) Mark-ups for Exemption Request

COL Section 2.F.(1), Exemptions, is revised to add new item (b):

(b) The licensees are exempt from the requirements of 10 CFR Part 52, Appendix D, with respect to Tier 1 document compliance, maintenance, change process, and change documentation, including but not limited to:

(1) Section III to comply with the requirements of a plant-specific DCD document for Tier 1 information;
(2) Section VIII.A and Section X.A.3 to prepare and maintain written evaluation for determinations of departures from Tier 1 information;
(3) Section VIII.B.5.a with regard to Tier 2 information involving a change to or departure from Tier 1 information;
(4) Section IX.B.3 to comply with Tier 1 design descriptions; and
(5) Sections X.A.1 and X.A.2 to maintain a plant-specific DCD document for Tier 1 information.

COL Section 2.F.(1), Exemptions, is revised to add new item (c) and Section 2.F.(13) is removed:

(c) The licensees are exempt from the following requirements of 10 CFR Part 52, Appendix D, with respect to Tier 2* information and related regulations, including but not limited to:

(1) Section VIII.B.5.a with regard to Tier 2 information involving a change to or departure from Tier 2* information; and
(2) Section VIII.B.6 with regard to the designation of, and associated requirements, for Tier 2* information.