

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

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

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

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also,

special circumstances are present. Therefore, the Commission hereby grants, subject to the conditions described below, STPNOC the exemption from the requirements of 10 CFR 50.59(c)(1), (c)(2), and (d)(1) to the extent that they require the licensee to perform a written evaluation for changes to the STP FSAR, and to seek prior NRC approval of these changes, resulting from the exemptions granted to the requirements of 10 CFR Parts 21, 50, and 100 requested in the licensee's submittal. All other changes to the FSAR, even those associated with LSS and NRS SSCs, are not included within the scope of the exemption granted. As conditions of this exemption:

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

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

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

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

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

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

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

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

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

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

For the Nuclear Regulatory Commission.

John A. Zwolinski,

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

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NUCLEAR REGULATORY COMMISSION

[Docket No(s). 50-498 and 50-499]

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

1.0 Background

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

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

2.0 Request/Action

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

remain functional during and following design-basis events to ensure the integrity of the reactor coolant pressure boundary, the capability to shut down the reactor and maintain it in a safe shutdown condition, or the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposure comparable to the guidelines in § 50.34(a)(1), § 50.67(b)(2), or § 100.11 of this chapter, as applicable;" (2) nonsafety-related structures, systems, or components (i) "[t]hat are relied upon to mitigate accidents or transients or are used in plant emergency operating procedures (EOPs)[,]" or (ii) "[w]hose failure could prevent safety-related structures, systems, and components from fulfilling their safety-related function[,]" or (iii) "[w]hose failure could cause a reactor scram or actuation of a safety-related system."

By letter dated July 13, 1999, as supplemented October 14 and 22, 1999, January 26 and August 31, 2000, and January 15, 18, 23, March 19, May 8, and May 21, 2001, (hereinafter, the submittal), STPNOC requested an exemption from the requirements of 10 CFR 50.65(b) to exclude structures, systems, and components (SSCs) categorized as low safety significant (LSS) and non-risk significant (NRS) from the scope of the Maintenance Rule, with the exception that the requirements of 10 CFR 50.65(a)(4) would continue to apply.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2)(vi), special circumstances are present whenever there is any other material circumstances not considered when the regulation was adopted for which it would be in the public interest to grant an exemption. If 10 CFR 50.12(a)(2)(vi) is relied on exclusively for satisfying the special circumstances provision of 10 CFR 50.12(a)(2), the exemption may not be granted until the Executive Director for Operations has consulted with the Commission.

The NRC has completed its evaluation of STPNOC's request for an exemption from the requirements of 10 CFR 50.65(b). The NRC's evaluation is provided in a safety evaluation (SE),

dated August 3, 2001, prepared in support of this exemption. The NRC evaluated the consequence of excluding LSS and NRS SSCs from scope of the Maintenance Rule. Information provided by the licensee in the submittal sufficiently describes a risk-informed categorization process that can identify a class of SSCs (LSS and NRS) that have little or no safety significance. The overall STPNOC process provides for adequate oversight to validate and recognize changes in safety significance and degradation in LSS and NRS SSCs.

The staff has reviewed STPNOC's integrated SSC categorization process. The categorization process was found to use both a probabilistic and a deterministic based methodology that appropriately addressed the issues of defense-in-depth, safety margins, and aggregate risk impacts. The staff finds the proposed categorization process to be acceptable to categorize the risk significance of both functions and SSCs for use in reducing the scope of SSCs subject to special treatment. The categorization process provides an acceptable method for defining those SSCs for which exemptions from the special treatment requirements can be granted. In support of its finding on the licensee's categorization process, the staff also found that the alternative treatment practices provide the licensee with a framework that, if effectively implemented, will provide reasonable confidence that safety-related LSS and NRS SSCs remain capable of performing their safety functions under design-basis conditions. Based on these findings, the staff determined that LSS and NRS SSCs could be excluded from the scope of 10 CFR 50.65, with the exception that the requirements of 10 CFR 50.65(a)(4) would continue to apply, without undue risk to public health and safety.

The staff also found that granting of this exemption is in the public interest in that it enhances the effectiveness and efficiency of the NRC's oversight of the licensee's activities at STP by focusing its resources on those SSCs that are most significant to maintaining public health and safety. Likewise, the licensee's resources and attention can be focused on those SSCs that have the highest contribution to plant risk. Further, the licensee's categorization process provides a method for establishing a licensing basis for STP that is consistent with the risk-informed approach in the NRC's reactor oversight process. This enhances the regulatory framework under which STPNOC operates its facility and by which the NRC oversees the licensee's activities.

As discussed further in the August 3, 2001, SE prepared in support of this

exemption, the NRC has concluded that the special circumstances of 10 CFR 50.12(a)(2)(vi) are satisfied in that the licensee has presented a material circumstance (the categorization process) that was not considered when the regulations were adopted and that provides an acceptable method for refining the scope of SSCs to include under the regulations. Furthermore, it is in the public interest to grant such exemptions. Finally, as required by 10 CFR 50.12(a)(2)(vi), the Executive Director for Operations has consulted with the Commission in the application of this special circumstance during the Commission meeting held on July 20, 2001.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants, subject to the conditions described below, STPNOC the exemption from the requirements of 10 CFR 50.65(b) for SSCs at STP categorized as LSS and NRS to the extent that this rule defines the scope of SSCs subject to the requirements of 10 CFR 50.65(a)(1), (a)(2), and (a)(3). The requirements of 10 CFR 50.65(a)(4) continue to apply to the scope of all SSCs defined under 10 CFR 50.65(b). As conditions of this exemption:

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

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

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

- b. Changes to FSAR Section 13.7.3, "Treatment of Component Categories," dated

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

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

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

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

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

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

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

For the Nuclear Regulatory Commission.

John A. Zwolinski,

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

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NUCLEAR REGULATORY COMMISSION

[Docket No(s). 50-498 and 50-499]

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

1.0 Background

STP Nuclear Operating Company, et al. (STPNOC or the licensee) is the holder of Facility Operating License Nos. NPF-76 and NPF-80, which authorize operation of the South Texas Project, Units 1 and 2 (STP or the facilities). The licenses provide, among other things, that the licensee is subject

to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

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

2.0 Request/Action

The General Design Criteria (GDC) of Appendix A to Title 10 of the Code of Federal Regulations part 50 (10 CFR part 50, appendix A), establish minimum requirements for the principal design criteria for water-cooled nuclear power plants. The underlying purpose of the GDC is to establish the necessary design, fabrication, construction, testing, and performance requirements for structures, systems, and components (SSCs) important to safety; that is, SSCs that provide reasonable assurance that the facility can be operated without undue risk to the health and safety of the public. By letter dated July 13, 1999, as supplemented, October 14 and 22, 1999, January 26, and August 31, 2000, and January 15, 18, 23, March 19, May 8 and 21, 2001, (hereinafter, the submittal), the licensee requested an exemption from the requirements of 10 CFR part 50, appendix A, GDC 1, "Quality Standards and Records," GDC 2, "Design Bases for Protection Against Natural Phenomena," GDC 4, "Environmental and Dynamic Effects Design Bases," and GDC 18, "Inspection and Testing of Electric Power Systems." The scope of the exemption is limited to those safety-related SSCs that are categorized in accordance with the licensee's risk-informed categorization process as low safety significant (LSS) or non-risk significant (NRS).

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present under 10 CFR 50.12(a)(2)(i) whenever application of the regulation in the particular circumstances conflicts with other rules or requirements of the Commission. Under 10 CFR 50.12(a)(2)(ii), special circumstances are present 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. Special

circumstances are present pursuant to 10 CFR 50.12(a)(2)(iii) when compliance 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. Special circumstances are present under 10 CFR 50.12(a)(2)(iv) whenever an exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the granting of the exemption. Special circumstances are present under 10 CFR 50.12(a)(2)(v) whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation. Special circumstances are present under 10 CFR 50.12(a)(2)(vi) whenever there is any other material circumstances not considered when the regulation was adopted for which it would be in the public interest to grant an exemption. If 10 CFR 50.12(a)(2)(vi) is relied on exclusively for satisfying the special circumstances provision of 10 CFR 50.12(a)(2), the exemption may not be granted until the Executive Director for Operations has consulted with the Commission.

The NRC has completed its evaluation of STPNOC's request for an exemption from the requirements of GDC 1, GDC 2, GDC 4, and GDC 18. The NRC has determined that an exemption from these requirements is not appropriate as documented in the safety evaluation (SE) dated August 3, 2001, prepared in support of the licensee's exemption request.

GDC 1 states, in part, that plant equipment shall be designed, fabricated, erected, and tested to quality standards that are commensurate with the importance of the safety function performed. GDC 1 additionally requires that a quality assurance program (QAP) shall be established and implemented to provide adequate assurance that plant equipment is functional, and that appropriate records be maintained for various activities. The NRC concluded that even for LSS and NRS SSCs it remains necessary (1) To use appropriate standards (as available and applicable) commensurate with the risk significance, (2) to establish and implement a QAP, (3) to maintain plant records as determined by the licensee, and (4) for the licensee to have confidence, commensurate with their risk significance, that LSS and NRS SSCs will be capable of functioning