

under design-basis conditions. Further, as discussed in the SE dated August 3, 2001, prepared in support of the licensee's exemption requests, the NRC has determined that it should deny the related licensee requests for exemptions from 10 CFR 50.34(b)(6)(ii) that requires the QAP be described in the Final Safety Analysis Report and 10 CFR 50.54(a)(3) that requires the licensee to submit certain changes to the QAP to the NRC for review and approval. In part, the basis for the NRC's determination to deny these related exemption requests is that the NRC found that the application of a risk-informed categorization process or changes to special treatment requirements applied to safety-related SSCs does not affect the underlying purpose of the requirements. Also, the licensee has submitted a revision to the STP QAP that meets the requirements of GDC 1 for LSS and NRS SSCs as discussed in the SE, dated August 3, 2001, prepared in support of the licensee's requested exemptions. As such, the NRC determined that an exemption from GDC 1 is not necessary as the licensee's submittal continues to meet the requirements of GDC 1.

The licensee requested exemptions to GDC 2, 4, and 18 to the extent that they require tests and inspections to (1) Demonstrate that SSCs are designed to withstand the effects of natural phenomena without loss of capability to perform their safety functions (GDC 2), (2) are able to withstand environmental effects (GDC 4), and (3) be performed for individual features, such as wiring, insulation, connections, switchboards, relays, switches, and buses (GDC 18). The NRC determined that GDC 2, GDC 4, and GDC 18, specify design requirements and do not require tests and/or inspections to be performed. Other regulations, from which the licensee has requested exemptions, specify testing and/or inspection requirements on SSCs. Further, the licensee has stated that safety-related LSS and NRS SSCs would be designed to satisfy original design requirements, including the design requirements of GDC 2, GDC 4, and GDC 18. Therefore, the NRC determined that an exemption from these regulations is not necessary, as the licensee will continue to maintain the design of safety-related LSS and NRS SSCs consistent with the design requirements of GDC 2, GDC 4, and GDC 18.

Further, the NRC has found that none of the special circumstances described under 10 CFR 50.12(a)(2) that are necessary for the Commission to grant the exemptions are satisfied with regard to the specific requirements of GDC 1, GDC 2, GDC 4, and GDC 18. There are

no conflicts with other rules or requirements of the Commission, the underlying purpose of the rules would not be met by granting the exemptions, compliance with the rules would not result in undue hardship or excessive costs, granting the exemptions would not result in either a benefit to the public health and safety or a decrease in safety, STPNOC is not seeking temporary relief from the regulations, and there are no other material circumstances not previously considered for which it would be in the public interest to grant the exemptions.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemptions are not appropriate. Further, the Commission has determined that special circumstances are not present. Therefore, the Commission hereby denies STPNOC the exemptions requested from the requirements of GDC 1, GDC 2, GDC 4, and GDC 18 for STP.

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

In the introduction to Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing

Plants," of Title 10 of the Code of Federal Regulations Part 50 (10 CFR Part 50, Appendix B), it states that nuclear power plants "include structures, systems, and components [SSCs] that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public. This appendix establishes quality assurance requirements for the design, construction, and operation of those structures, systems, and components. The pertinent requirements of this appendix apply to all activities affecting the safety-related functions of those structures, systems, and components; these activities include designing, purchasing, fabricating, handling, shipping, storing, cleaning, erecting, installing, inspecting, testing, operating, maintaining, repairing, refueling, and modifying." Under 10 CFR Part 50, Appendix B, there are 18 criteria to be met by the licensee's quality assurance program. These 18 criteria are (I) Organization, (II) Quality Assurance Program, (III) Design Control, (IV) Procurement Document Control, (V) Instructions, Procedures, and Drawings, (VI) Document Control, (VII) Control of Purchased Material, Equipment, and Services, (VIII) Identification and Control of Materials, Parts, and Components, (IX) Control of Special Processes, (X) Inspection, (XI) Test Control, (XII) Control of Measuring and Test Equipment, (XIII) Handling, Storage, and Shipping, (XIV) Inspection, Test, and Operating Status, (XV) Nonconforming Materials, Parts, or Components, (XVI) Corrective Action, (XVII) Quality Assurance Records, and (XVIII) Audits.

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 definition of scope of SSCs to be covered by the rule in the introduction of 10 CFR Part 50, Appendix B, to the extent that it imposes the requirements of 15 of the 18 criteria on SSCs categorized as low safety significant (LSS) or non-risk significant (NRS) in accordance with the licensee's categorization process. The three criteria that are not included within the scope of the licensee exemption request and that will continue to be applied to activities associated with all safety-related SSCs (including LSS and NRS SSCs) are Criterion III, "Design Control," Criterion XV, "Nonconforming Materials, Parts, or

Components,” and Criterion XVI, “Corrective Action.”

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 the special circumstance of 10 CFR 50.12(a)(2)(vi) is relied on exclusively, 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 Part 50, Appendix B (excluding the requirements of Criteria III, XV, and XVI). The NRC's evaluation is provided in a safety evaluation (SE) dated August 3, 2001, prepared in support of this exemption.

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 Part 50, Appendix B (the requirements of Criteria III, XV, and XVI 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 definition of the scope of SSCs to be covered by the rule in the introduction of 10 CFR Part 50, Appendix B, to the extent that it imposes the requirements of Criteria I, II, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XVII, and XVIII for SSCs at STP categorized as LSS and NRS. The requirements imposed by Criteria III, XV, and XVI of 10 CFR Part 50, Appendix B, continue to apply to all safety-related SSCs. 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 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 Option B of Appendix J to Title 10 of the Code of Federal Regulations part 50 (10 CFR part 50, appendix J, Option B) a performance based set of testing requirements is provided to ensure that leakage through primary reactor containments for water cooled power reactors or structures, systems, and components (SSCs) penetrating these containments does not exceed allowable leakage rates specified in the Technical Specifications and that the integrity of the containment structure is maintained during its service life. Also required by 10 CFR Part 50, Appendix J, Option B, Section III.B, is that "the sum of the leakage rates at accident pressure of Type B tests and pathway leakage rates from Type C tests, must be less than the performance criterion (L_a) with margin, as specified in the Technical Specifications."

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 10 CFR Part 50, Appendix J, Option B, Section III.B, "Type B and C Tests," to the extent that this regulation imposes Type C leakage rate testing on

certain containment isolation valves. The scope of the exemption includes those containment isolation valves categorized as low safety significant (LSS) or non-risk significant (NRS) in accordance with the licensee's categorization process and satisfying one or more of the following criteria:

- a. The valve is required to be open under accident conditions to prevent or mitigate core damage events.
- b. The valve is normally closed and in a physically closed, water filled system.
- c. The valve is in a physically closed system whose piping pressure rating exceeds the containment design pressure rating and that is not connected to the reactor coolant pressure boundary.
- d. The valve is in a closed system whose piping pressure rating exceeds the containment design pressure rating, and is connected to the reactor coolant pressure boundary. The process line between the containment isolation valve and the reactor coolant pressure boundary is non-nuclear safety (*i.e.*, the valve itself would have been classified as non-nuclear safety were it not for that fact that it penetrates the containment building).
- e. The valve size is 1-inch nominal pipe size or less (*i.e.*, by definition the valve failure does not contribute to large early release).

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 the special circumstance of 10 CFR 50.12(a)(2)(vi) is relied on exclusively, 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 Type C leakage rate testing requirements of 10 CFR part 50, Appendix J, Option B, Section III.B. The NRC's evaluation is provided in a safety evaluation (SE), dated August 3, 2001, prepared in support of this exemption.

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.

In addition, in determining whether to grant this exemption, the NRC reviewed the licensee's submittal and specifically reviewed the criteria for excluding containment isolation valves from Type C testing. The NRC found that these criteria are reasonable in that even without Type C testing the probability of significant leakage during an accident (that is, leakage to the extent that public health and safety is affected) is small. Based on its review of these criteria, the NRC found that the licensee's assumption that these valves contribute zero leakage is acceptable. In addition, the NRC reviewed the licensee's application of the proposed criteria to the various containment isolation valves and found that the licensee was appropriately applying the criteria.

Based on these findings, the staff determined that LSS and NRS SSCs, meeting the additional criteria proposed by the licensee for containment isolation valves, could be excluded from the scope of Type C leakage rate testing required by 10 CFR part 50, Appendix J, Option B, Section III.B, 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