

Dated: August 3, 2001.

Mary Ann Hadyka,

Committee Management Officer.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-286]

Entergy Nuclear Operations, Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Entergy Nuclear Operations, Inc. (the licensee) to withdraw its September 7, 2000, application for proposed amendment to Facility Operating License No. DPR-64 for the Indian Point Nuclear Generating Unit No. 3, located in Westchester County, New York.

The proposed amendment would have modified the Technical Specifications to extend the surveillance frequency from 720 hours to 1440 hours for the Fuel Storage Building Emergency Ventilation system. The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on November 15, 2000 (65 FR 69064). However, by letter dated July 16, 2001, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated September 7, 2000, and the licensee's letter dated July 16, 2001, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, <http://www.nrc.gov/NRC/ADAMS/index/html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

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

For the Nuclear Regulatory Commission.

Guy S. Vissing,

Senior Project Manager, Section 1, Project Directorate I, 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; 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

Section 50.34(b)(6)(ii) of Title 10 of the Code of Federal Regulations Part 50 [10 CFR 50.34(b)(6)(ii)], requires that the Final Safety Analysis Report (FSAR) include information related to how the requirements of 10 CFR Part 50, Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," will be satisfied. The regulation at 10 CFR 50.54(a)(3) requires licensees to submit changes that reduce commitments in its Quality Assurance Program (QAP) description for NRC review prior to implementation. 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 50.34(b)(6)(ii) with respect to the extent that this regulation incorporates provisions from 10 CFR Part 50, Appendix B, except for Criterion III, "Design Control," Criterion XV, "Nonconforming Materials, Parts, or Components," and Criterion XVI, "Corrective Action." The licensee also requested an exemption from the requirements of 10 CFR 50.54(a)(3) to the extent that it would require the

licensee to submit an update to its QAP that would result from the changes that would occur from the exemptions granted to the special treatment requirements of 10 CFR Parts 21, 50, and 100. The scope of the exemptions requested was limited to those safety-related structures, systems or components (SSCs) categorized in accordance with STPNOC'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 pursuant to 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 10 CFR 50.34(b)(6)(ii) and 10 CFR 50.54(a)(3). The NRC has determined that exemptions from these requirements are not appropriate as documented in the safety evaluation dated August 3, 2001, prepared in support of the licensee's exemption requests.

The underlying purpose of the requirements is for the licensee to document how the quality assurance requirements of 10 CFR Part 50, Appendix B, will be satisfied, including changes to the application of these requirements to safety-related SSCs. 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 requirement of 10 CFR 50.34(b)(6)(ii) or 10 CFR 50.54(a)(3) related to the documentation describing the licensee's QAP. Should the licensee be granted exemptions from any of the requirements of 10 CFR Part 50, Appendix B, for LSS and NRS SSCs, the documentation describing its QAP should note that exemptions have been granted for LSS and NRS SSCs from those requirements. Changes to the QAP that supplement any exemptions from the requirements of 10 CFR Part 50, Appendix B should be reviewed and approved pursuant to the requirements of 10 CFR 50.34(a)(3).

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 exemption are satisfied with regard to the specific requirements of 10 CFR 34(b)(6)(ii) or 10 CFR 50.54(a)(3). There are no conflicts with other rules or requirements of the Commission, the underlying purpose of the rule would not be met by granting the exemption, compliance with the rule would not result in undue hardship or excessive costs, granting the exemption 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 regulation, and there are no other material circumstances not previously considered for which it would be in the public interest to grant an exemption.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is not appropriate. Further, the Commission

has determined that special circumstances are not present. Therefore, the Commission hereby denies STPNOC the exemptions from the 10 CFR 50.34(b)(6)(ii) requirements that the FSAR include information related to how the requirements of 10 CFR Part 50, Appendix B will be satisfied for STP and from the requirements of 10 CFR 50.54(a)(3) to submit for NRC review and approval changes to the QAP that would result from the granting of exemptions from the special treatment requirements of 10 CFR Parts 21, 50, and 100.

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 Section 50.49(b) of Title 10 to the Code of Federal Regulations, Part 50, [10 CFR 50.49(b)] criteria were established that defined the scope of components to be subject to the requirements of 10 CFR 50.49 [the Environmental Qualification (EQ) Rule]. As defined under 10 CFR 50.49(b) the scope of electrical equipment important to safety that must be included under a program for qualifying equipment includes (1) safety-related electric equipment, (2) nonsafety-related electric equipment whose failure under postulated environmental conditions

could prevent satisfactory accomplishment of safety functions (a) through (c) specified below, and (3) certain post-accident monitoring equipment. Under the regulation, safety-related electric equipment is that relied upon to remain functional during and following design-basis events to ensure (a) the integrity of the reactor coolant pressure boundary, (b) the capability to shut down the reactor and maintain it in a safe shutdown condition, or (c) the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the guidelines in 10 CFR 50.34(a)(1), 10 CFR 50.67(b)(2), or 10 CFR 100.11 as applicable. Further, under the regulation, design-basis events are defined as conditions of normal operation, including anticipated operational occurrences, design-basis accidents, external events, and natural phenomena for which the plant must be designed to ensure functions (a) through (c) defined above.

The purpose of the EQ rule, as defined under 10 CFR 50.49(a), is that licensee's shall establish a program for qualifying electric equipment. The EQ rule provides detailed requirements for the documentation requirements and methodology for qualification that licensee's shall implement to meet the purpose of the rule.

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 50.49(b) to exclude structures, systems, or components (SSCs) categorized as low safety significant (LSS) and non-risk significant (NRS), using the licensee's categorization process, from the scope of SSCs subject to the EQ Rule.

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