

April 13, 2005

Mr. D. E. Grissette
Vice President
Southern Nuclear Operating
Company, Inc.
P.O. Box 1295
Birmingham, AL 35201-1295

SUBJECT: VOGTLE ELECTRIC GENERATING PLANT, UNITS 1 AND 2, TEMPORARY
EXEMPTION FROM THE REQUIREMENTS OF 10 CFR PART 50,
APPENDIX E, SECTION IV.F.2.b AND c (TAC NOS. MC5414 AND MC5415)

Dear Mr. Grissette:

The Nuclear Regulatory Commission (NRC) has approved the enclosed exemptions from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix E, Section IV.F.2.b and c for Vogtle Electric Generating Plant, Units 1 and 2. Your letter dated December 10, 2004, requested an exemption to allow the full participation biennial exercise to be rescheduled to February 23 and 24, 2005, and it referenced the requirements of Appendix E, Section IV.F.2.e that address the full participation by each offsite authority having a role under the plan. The NRC staff does not find that the requirements of Section IV.F.2.e are applicable to the circumstances of your request and, accordingly, no exemption from those requirements is being granted. However, the NRC staff does find that an exemption from the requirements of Section IV.2.b and 2.c is appropriate for the circumstances of your request. Accordingly, a one-time exemption from those requirements is being granted for the rescheduling of the exercise to February 23 and 24, 2005. The NRC staff understands that the exercise was conducted on February 23 and 24, 2005, and that future full-participation exercises would be scheduled biennially from the year 2004.

Regarding the timing of your request for exemption, we are aware that you submitted your request on December 10, 2004, soon after the Federal Emergency Management Agency's letter of November 23, 2004, approving the revised schedule for the exercise. However, it is the NRC staff's understanding that you recognized shortly after the September 2004 exercise that it would be unlikely that you would be able to meet your regulatory requirement to conduct a full participation exercise prior to the end of 2004. Should similar circumstances arise in the future, wherein, you know an exemption or other regulatory action will be required to prevent you from violating your license for reasons beyond your control, you should provide the earliest practical written notice to the NRC staff of that condition. Such notice would enable the NRC staff to process your request in a timely manner once submitted and will help ensure you remain in compliance with the schedular requirements of the Emergency Planning regulations.

A copy of the exemption has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Christopher Gratton, Sr. Project Manager, Section 1
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-424 and 50-425

Enclosure: Exemption

cc w/encl: See next page

Vogtle Electric Generating Plant, Units 1 & 2

cc:

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Office of the County Commissioner
Burke County Commission
Waynesboro, GA 30830

A copy of the exemption has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Christopher Gratton, Sr. Project Manager, Section 1
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-424 and 50-425

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cc w/encl: See next page

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ADAMS Accession Number: ML050130497

NRR-048

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EXEMPTION FROM THE REQUIREMENTS OF 10 CFR PART 50, APPENDIX E,
SECTION IV.F.2.b AND c (TAC NOS. MC5414 AND MC5415)

DATED: April 13, 2005

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

SOUTHERN NUCLEAR OPERATING COMPANY

VOGTLE ELECTRIC GENERATING PLANT, UNITS 1 AND 2

DOCKET NOS. 50-424 AND 50-425

EXEMPTION

1.0 BACKGROUND

The Southern Nuclear Operating Company (SNC or the licensee) is the holder of Facility Operating License Nos. NPF-68 and NPF-81 that authorizes operation of Vogtle Electric Generating Plant (VEGP), Units 1 and 2. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized-water reactors located in Burke County, Georgia.

2.0 REQUEST/ACTION

Section IV.F.2.b and c of Appendix E, to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 requires the licensee at each site to conduct an exercise of its onsite emergency plans and offsite emergency plans biennially with full participation by each offsite authority having a role under the plan. During such biennial full participation exercises, the NRC evaluates onsite and the Federal Emergency Management Agency (FEMA) evaluates offsite emergency preparedness activities, including interaction with its various State and local emergency management agencies. SNC's previously scheduled full-participation exercise at VEGP was successfully conducted during the week of June 12, 2002.

The licensee had scheduled a full-participation exercise for September 2004, however, FEMA requested that the exercise be postponed to enable the Georgia Emergency Management Agency to respond to multiple hurricanes. FEMA subsequently consulted with the States of Georgia and South Carolina, and in a letter to the Georgia Emergency Management Agency dated November 23, 2004, FEMA approved rescheduling the full-participation exercise to February 2005. Under the current regulations, the licensee would have had until December 31, 2004, to complete its next full-participation exercise.

By letter dated December 10, 2004, the licensee requested an exemption from Section IV.F.2.e of Appendix E to 10 CFR Part 50 regarding the requirement to conduct a biennial full-participation exercise. The NRC staff determined that the requirements of Section IV.F.2.e are not applicable to the circumstances of the licensee's request and, accordingly, no exemption from those requirements is being granted. However, the NRC staff has determined that the requirements of Appendix E to 10 CFR Part 50, Sections IV.F.2.b and 2.c are applicable to the circumstances of the licensee's request and that an exemption from those requirements is appropriate.

3.0 DISCUSSION

The Commission, pursuant to 10 CFR 50.12(a)(1), may grant exemptions from the requirements of 10 CFR Part 50 that are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security. The Commission, however, pursuant to 10 CFR 50.12(a)(2), will not consider granting an exemption unless special circumstances are present. 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. Under 10 CFR 50.12(a)(2)(v), special circumstances are present 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.

The underlying purpose for conducting a biennial full-participation exercise is to ensure that emergency organization personnel are familiar with their duties and to test the adequacy of emergency plans. In order to accommodate scheduling of a full participation exercise, the NRC has allowed licensees to schedule the exercises at any time during the calendar biennium. Conducting the VEGP full-participation exercise in calendar year 2005 as proposed places the exercise past the previously scheduled biennial calendar year of 2004.

Since the last full-participation exercise conducted at VEGP, Units 1 and 2 on June 12, 2002, VEGP conducted two annual Full Scale Plume Phase exercises on November 5, 2003, and June 30, 2004, and an off-hour/unannounced exercise on November 8, 2004. Six other emergency plan drills have also been conducted since June 2002. The NRC staff considers that the intent of this requirement is met by having conducted these series of exercises and drills. The NRC staff considers that these measures are adequate to maintain an acceptable level of emergency preparedness during this period, satisfying the underlying purpose of the rule. Therefore, the special circumstances of 10 CFR 50.12(a)(2)(ii) are satisfied.

The licensee also stated in its letter dated December 10, 2004, that only temporary relief from the regulation is requested for the exemption, since VEGP will resume its normal biennial exercise cycle in 2006. The NRC staff also found that the licensee made a good faith effort to comply with the regulation by originally scheduling the full participation exercise within the calendar biennium, in accordance with the regulation. The exemption is being sought by the licensee in response to a request by FEMA to reschedule the exercise. As documented in FEMA letter dated November 23, 2004, the Georgia Emergency Management Agency was unable to support the original schedule for the exercise due to a series of severe weather events that impacted its available resources. FEMA, in consultation with the States of Georgia

and South Carolina, proposed a rescheduled date for the exercise that is beyond that allowed by the regulations.

The NRC staff, having considered the schedule and resource issues associated with those agencies that participate in and evaluate the offsite portion of full-participation exercises, concludes that the licensee made a good faith effort to meet the requirements of the regulation. The NRC staff, therefore, concludes that the exemption request meets the special circumstances of 10 CFR 50.12(a)(2)(v) and should be granted.

4.0 CONCLUSION

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants SNC an exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b and c for VEGP, Units 1 and 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (70 FR 19108).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 13th day of April.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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