

1. *Was a waiver or waivers of the operating test granted for other applicants who took the most recent examination? (Capehart, Bates, Meeks)*
 - a. *If so, what was the basis and threshold for granting the waiver(s)?*

Yes, waivers for the operating test were granted for other applicants who took the 2011 exam. The process that was followed is as described below:

Following the grading of the 2011 Vogtle exam, P. Capehart sent emails to both M. Meeks and J. Hopkins independently asking them if they would recommend giving a waiver to the applicants they examined (for future exams). Both M. Meeks and J. Hopkins recommended to not grant waivers for Carla Smith (reference attached emails). Carla was the only applicant that was not recommended for a routine waiver. P. Capehart forwarded these recommendations to M. Widmann, along with his own recommendation to not grant a waiver for Carla Smith.

On June 7, 2011, [REDACTED], Vogtle operations training supervisor, sent an email to M. Meeks discussing the potential waiver requests for the upcoming March 2012 initial exam. Of note in this email, [REDACTED] identifies Carla Smith as one of three applicants from the 2011 exam that Vogtle identified as requiring further evaluation. M. Meeks had been assigned as the Chief Examiner (under instruction) for the March 2012 exam, with M. Bates assigned as the Chief Examiner of record. After receiving this email, M. Meeks consulted with P. Capehart, J. Hopkins, M. Bates, and M. Widmann to formulate a consolidated response from the region. Because everyone agreed that Carla Smith's performance on the 2011 exam was sufficiently poor to not grant a routine waiver, the decision was made to notify Vogtle that all of the other applicants, except Carla Smith, would probably receive the routine waiver of the operating test. For Carla Smith, it was agreed to notify Vogtle that if she submitted a waiver request for the operating test, "...for C. Smith, Region II would likely deny a waiver of the operating test portion of the exam." M. Meeks replied to [REDACTED] email on August 2, 2011.

In Carla Smith's cover letter to request an appeal, she states:

It is understood that a waiver is granted on a case by case basis. If the intent was to deny the waiver then the applicant should have the opportunity to formally submit a waiver for review. If the regional office decided to deny the waiver then per ES-204, Page 2 of 7: "the regional office shall promptly notify the applicant in writing concerning the

disposition of the request, and provide an explanation for the denial.”

Unfortunately this did not occur, The NRC examiners on the current examination team (to include the operating test examiner) were consulted and they strongly discouraged the submittal of a waiver of the operating exam on my behalf.

Throughout the exam development process, at no time did anyone from the NRC notify either Vogtle training personnel, or Carla Smith directly, that they were prohibited from submitting a waiver request from Carla Smith. As evidenced from the above statement and the attached emails, the consistent message to the Vogtle training management (there was no direct communication between anyone in the NRC and Carla Smith) was that if a waiver request was submitted, “it would likely be denied by the region.” Contrary to the applicant’s contention cited above, the “operating test examiner,” M. Bates, did not have any interaction with Carla Smith directly concerning her potential operating test waiver. Furthermore, M. Bates was not directly involved in the discussions concerning Carla Smith’s performance on the 2011 exam—the decision to likely deny a waiver was made by the 2011 exam team (P. Capehart, J. Hopkins, and M. Meeks), in consultation with the branch chief, independently of any input from M. Bates.

Irrespective of the region’s likely denial of an operating test waiver for Carla Smith, the facility licensee did not submit any waiver request to the region. Therefore, the region never denied any waiver. Accordingly, the reason that the region never formally sent a letter to Carla Smith explaining a denial of a waiver (per ES-204) was because the waiver request was never submitted.

In the applicant’s cover letter to her appeal of the grading of her operating test, she states:

It is unclear to the applicant why I was required to retake the operating test. The applicant passed the previous years’ simulator test with some margin and scored 100% (pass) on the JPM portion, (see results). Another applicant passed the JPM portion with the minimum score and was granted a waiver.

The other referenced applicant from the 2011 exam is [REDACTED]. For his operating test, he has three total comments on the entire simulator scenarios. Although [REDACTED] was graded as “UNSAT” on three JPMs, two of these are

administrative JPMs and one was a simulator JPM. A comparison between the two applicants' grading of the 2011 operating test is shown below:

Operating Test Portion	Carla Smith	[REDACTED]
Total Number of Simulator Scenario Comments	12	3
Number of Administrative JPM Failures	0	2
Number of System/In-Plant JPM Failures	0	1
Number of Administrative JPMs with Comments	1	1
Number of System/In-Plant JPMs with Comments	5	2

As stated in NUREG 1021, ES-301 B.3., the simulator scenario portion of the operating test is "...the most performance-based aspect of the operating test and is used to evaluate the applicant's ability to safely operate the plant's systems under dynamic, integrated conditions." With this guidance in mind, the applicant's comparative performance on the dynamic simulator scenarios weighed more heavily in the regional decision to grant the waiver to [REDACTED]; on the one hand, and to notify the facility that the region would likely deny the waiver for Carla Smith, on the other.

In hindsight, Carla Smith's performance on the dynamic simulator portion of the 2012 exam, which led to documentation of approximately 18 comments on the 303 form, retroactively supports the region's position that her performance on the 2011 exam warranted additional evaluation on the 2012 exam.

To further answer question 1.a., the ultimate reason that Carla Smith was not granted a waiver was public health and safety—all three examiners (M. Meeks, P. Capehart, and J. Hopkins) from the 2011 exam agreed that her performance on the 2011 exam, specifically the simulator scenario portion, was

poor enough to warrant additional evaluation if she were to retake the exam at a later date.

2. *How did the applicant's performance on the previous examination operating test differ from any applicants who were granted waivers? (Capehart, Bates, Meeks)*

Please reference above answer. Specifically, Carla's performance on the previous examination was different in that she was especially weak in the simulator scenarios. As detailed above, the dynamic simulator scenario portion of the exam carries extra weight because it is the most operationally valid evaluation of the applicants in actual conditions in real time.

Although as detailed above, Carla had a large number of comments on the simulator scenario portion of the 2011 exam, there is no objective, quantitative criteria that I know of to evaluate whether an applicant should be granted a waiver from one test to the next. For me, in addition to the large number of documented deficiencies, the basis of my recommendation to not grant Carla a routine waiver was because Carla's performance on the simulator scenarios (2011 exam) stood out as being unsafe. I take very seriously my obligations to uphold the operator licensing standards in order to protect the public health and safety. So, based upon my knowledge and experience as a nuclear operator in the Navy, my knowledge and experience as a licensed Senior Reactor Operator (SRO) at a Westinghouse PWR in the commercial nuclear power field, and my training as a member of the NRC, I am required to differentiate between safe and unsafe operational performance. Therefore, following my observations of Carla's performance on the 2011 exam, my recommendation to not grant a routine waiver for Carla Smith was ultimately based upon my judgment that she was unsafe. I often tell applicants in the Appendix E brief that our signatures on the 303 forms represent our recommendation to management that we would be confident living next to their plant with our families and sleeping easy at night, knowing that they would be on watch, capable of handling any emergency. Based on her performance on the 2011 exam, I could not truthfully make that statement if I thought Carla was the SRO on watch. Her performance on the 2012 exam supported this determination.

3. *What did you discuss with the applicant and/or licensee regarding submitting a waiver for the operating test? (Capehart, Bates, Meeks)*

Please reference answer for question 1. above. No discussions were held with the applicant (Carla Smith). All discussions that I had with the licensee's training staff are included in the attached emails at the end of this document. As the assigned chief examiner (under instruction), I was always careful to ensure my management (M. Widmann) was briefed before I sent the emails, and always cc'ed on the emails that I sent to Vogtle regarding the waivers; and the language that we consistently used regarding Carla Smith was that she would "likely be denied" a routine waiver if such a waiver was requested. At no time did we tell Vogtle that they could not submit a waiver request for her; however, we felt that we should be honest with them (that she would likely be denied a waiver) so that they could arrange for the needed remedial training if they decided to include her in a future license class.

4. *Did you review the applicant's docket file, including ES-303, prior to administering the operating test to her? (Bates, Meeks)*
 - a. *Why or why not?*

No, I did not review the applicant's (2011) docket file or (2011) ES-303 before administering the (2012) Vogtle operating test. The ultimate reason was that, if the facility licensee recommended her as ready for a license, I assumed that Carla's performance would have improved and would be satisfactory. Moreover, I did not want any evaluation that I made to be shaded by any comment from the 2011 exam—I wanted to ensure that I was as fair to Carla as I would be to any other applicant (*i.e.* to allow them to start from a 'blank sheet of paper' as much as possible). Finally, I thought that with the extra training and extra time practicing in the simulator Carla would perform as well as an upgrade SRO applicant, and so I also assumed that she would not have any trouble passing the operating test in 2012. The first time that I looked at Carla's ES-303 forms from the 2011 exam was in preparation for Don Jackson's review team in late June 2012.

5. *Did you review the docket files, including ES-303s, of any other applicants that were granted waivers prior to administering the operating test? (Bates, Meeks)*
 - a. *Why or why not?*

No, I did not review any other docket files or ES-303s prior to administering the (2012) operating test. In my mind, the waiver question had been settled immediately following the 2011 exam (as detailed in the answer to 1. above) and therefore I did not believe there was any reason to revisit the decision or to review the 303s from that exam.

6. *What criteria or process was used to determine examiner assignments? (Bates, Meeks)*

When the facility licensee provided us with the final list of applicants, Mark Bates and I constructed a schedule using abbreviations (where "I1" was an instant SRO, "R1" a Reactor Operator Applicant, and "U1" an upgrade SRO applicant, etc.). This schedule was designed to minimize the number of scenarios that we were required to run, and to minimize the number of surrogate operators that were required. I also specifically decided to use any surrogates in the Balance-of-Plant position (BOP) if possible, instead of using surrogates in the SRO position. Once the applicant positions had been determined, we assigned examiners using abbreviations ("E1," "E2," and "E3") in order to ensure we met the NUREG 1021 requirement of only having the examiner of record evaluate an individual applicant during the simulator scenarios. Then, I organized the groups of applicants in a randomly-selected, reverse alphabetical order. In so doing, Carla Smith became designated as "I2" (or instant SRO applicant number 2). Because applicant "I2" had been assigned examiner "E2," we decided in the interest of fairness to ensure Mark Bates became "E2" in order to prevent anyone from claiming that we were unfair to the applicant and carried over any negative perceptions from the 2011 exam. I then decided to be "E1" and that made Phil Capehart "E3."

7. *What criteria or process was used to determine the number of scenarios to administer to each applicant? (Bates, Meeks)*

Please reference above answer to question 6.

8. *What steps, if any, did you take to mitigate any potential bias (predisposition based on knowledge of past performance) when administering the examination? (Bates, Meeks)*

The exam team was cognizant of the potential for bias or predisposition against applicants we had seen in 2011, and attempted to minimize it as follows:

As referenced in the emails between [REDACTED] and M. Meeks in the previous section, Vogtle initially considered scheduling a retake exam for the applicants that had failed in 2011, to be given before the next regularly scheduled exam in the spring of 2012. Ultimately, Vogtle decided not to attempt to give a specific retake exam, and the applicants who had failed the exam in 2011 were moved in with the class to be tested in the spring of 2012. This decision led to the

2012 Vogtle class size to be relatively large; ultimately the 2012 operating test was administered to 18 applicants, with 22 applicants taking the written exam.

As shown in the attached FY2012 weekly schedule (revision 1), the initial exam team consisted of M. Bates as the chief examiner, with B. Caballero and M. Meeks the other two examiners. Based on his qualification schedule, M. Meeks requested to serve as the chief examiner under instruction for this exam and was approved by the branch chief. During the corporate notification phone call ("120-day"), this exam team was communicated to the facility licensee. Due to other scheduling pressures, in approximately August of 2011 the exam team changed, and B. Caballero was forced by his additional obligations to be replaced on the Vogtle 2012 exam with P. Capehart.

When the final number and makeup of the applicant class was determined following the completion of the licensee "audit" exam, M. Bates and M. Meeks independently began development of the schedule for what was scheduled as two full weeks for the operating test. These draft schedules were in a generic format ("I1 I2 I3" to designate "Instant SRO 1, Instant SRO 2, Instant SRO 3," *etc.*) and did not include any applicant names. During the development of these generic schedules, M. Bates' schedule worked better than M. Meeks' schedule; however, M. Meeks asked M. Bates to modify his schedule so that any surrogate operators would be in the BOP position, instead of the SRO position. Once the generic schedule had been generated, M. Meeks assigned applicant names to the positions in an inverse alphabetical order. Carla Smith's name was assigned as "I2." A copy of this schedule is included at the end of this section. When Carla Smith was associated with "I2," the exam team purposely assigned M. Bates as the examiner of record for I2. This was specifically chosen to ensure that there would be no bias from the previous 2011 exam, and the branch chief was notified of this decision.

In the cover letter from Carla Smith requesting an appeal review of her grading, she states:

In addition, two of the three examiners were a part of the evaluation team from Hot License 16 examination. I was the only applicant that was re-evaluated from Hot License 16. I did not have the benefit of starting with a clean slate or without preconceived expectations, like the other applicants....

As shown in the preceding discussion and the following, this statement is without merit.

NUREG 1021, section ES-201 D.1.a states that: “The regional office shall not assign an examiner who failed an applicant on an operating test to administer any part of that applicant’s retake operating test.” Keeping the intent of this requirement in mind, as shown above M. Bates was intentionally assigned as Carla Smith’s examiner of record. It would have been acceptable and in accordance with NUREG 1021 requirements to assign any one of the 2012 exam team members as Carla’s examiner of record; however, we felt it would be better for all concerned to use Mark Bates, above and beyond the explicit NUREG requirements, because he had not seen her performance from 2011.

As mentioned earlier, M. Bates was not directly involved in the decision associated with the likely denial of a waiver for Carla Smith. This was purposely done to ensure that M. Bates would independently evaluate Carla Smith’s performance without preconceived ideas based on her performance in 2011 on the previous exam. Specifically, M. Bates took special effort not to review any 303 documentation or any other record of Carla Smith’s 2011 performance until after the 2012 exam report was issued.

9. *What threshold was used to determine whether or not to document an error committed by the applicant during administration of the operating test (simulator scenarios and JPMs)? (Bates, Meeks)*

Please see attached file “JPMs Administered by Meeks” to verify that every applicant received the same comments when warranted on the JPMs. The threshold that was used was the requirements of the examiner standard, NUREG 1021. Specifically, for the JPMs, if an applicant did not successfully complete a critical step of the JPM or did not complete the assigned task, the applicant was evaluated as not successfully completing the JPM. If an applicant made an error that was not associated with a critical step and was able to successfully complete the JPM, the applicant was graded as successfully completing the JPM but a comment was made to document the error.

Similarly, for the simulator scenarios the threshold that was used was as required by the NUREG 1021: because the NUREG specifies a grading scale based, in general, on individual competencies instead of the particular

consequences of a specific action or inaction, any error that related to an operator's competency was documented. The following several paragraphs speak directly to the grading philosophy used for the simulator scenarios, for all applicants:

GRADING PHILOSOPHY AND CONSISTENCY

One of the principal assertions that is present throughout multiple comments made by Carla in her appeal is that she was graded excessively hard; specifically because many of her errors did not result in adverse consequences. However, NUREG 1021 directly contradicts this position; in section ES-303 it states:

Using Form ES-303-3 or ES-303-4, depending on the applicant's license level, and the following generic guidance, evaluate any deficiencies coded for the simulator test to determine a grade for every applicable rating factor (RF) and competency. Keep in mind that the simulator test is generally graded based on competencies rather than consequences; every error that reflects on an operator's competence is considered equal unless it is related to the performance of a critical task (as determined in accordance with ES-301 and Appendix D).

Therefore, with the exception of a critical task as noted above, the examiners were required to grade every error that reflects on an operator's competence equally, irrespective of the consequences or potential consequences of the error. The potential or actual consequences of the individual errors are documented in the 303 form write-up in accordance with NUREG 1021 ES-303 D.3.b., but do not have any bearing on the grading.

Furthermore, the applicant contends that some of her communications errors contained minimal consequences. In addition to the above guidance, NUREG-1021 recognizes that communications, on its own, has lesser significance. This is evidenced by the grading criteria specifically preventing a failure based solely on competency 4, Communications. Competency 4 is treated differently than all of the other competencies in that a score of less than 1.8 can still result in a passing grade for the dynamic simulator portion of the exam. Receiving a score of less than 1.8 only raises the cut score in the other competencies from 1.8 to 2.0. With this in mind, NUREG-1021 contains scoring mechanics that explicitly address the level of significance of communication errors. Lastly, as can be seen in the table discussed below,

several communications errors existed that were not documented. The numbers of communication errors display a pattern of poor communications, some of which did contain significance.

Another one of the principal assertions was that many of her errors were corrected by her teammates. However, in NUREG-1021, Appendix E, Part E, item 4, states:

Members of the operating team or crew (whether applicants or surrogates) should perform peer checks in accordance with the facility licensee's procedures and practices; non-crew members and NRC examiners will not perform this function. However, if you begin to make an error that is corrected by a peer checker, you will be held accountable for the consequences of the potential error without regard to mitigation by the crew.

Therefore, when corrected by her teammates when a direction or mis-operation was performed, the examiners were required to downgrade Carla and hold her accountable for the consequences of the potential error without regard to the mitigation by the crew.

NUREG-1021, ES-303, Section D.1.d, reads as follows:

..... Whenever possible, attempt to identify the root cause of the applicant's deficiencies and code each deficiency with no more than two different rating factors. However, one significant deficiency may be coded with additional rating factors if the error can be shown, consistent with the criteria in Section D.3.b, to be relevant to each of the cited rating factors.

Considering the above guidance, the errors were assigned to the rating factor the exam team believed to be the root cause of the deficiency. In many instances, the exam team discussed that it may be appropriate to place some of the errors in more than one rating factor. In the end, the exam team decided to only place each error in one rating factor that was most closely related to the root cause of the error, although the above guidance allowed for up to two different rating factors to be documented under normal circumstances. Throughout the analysis of the grading during the appeal process, the exam team has noted other rating factors in which the applicant displayed weakness during a specific error. Even though the errors were only documented under one rating factor, the association with other rating factors was used as