

## **NRR-PMDAPEm Resource**

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**From:** Dean, Bill  
**Sent:** Wednesday, December 16, 2015 10:29 AM  
**To:** Dave Lochbaum  
**Cc:** Regner, Lisa  
**Subject:** Re: RE: Emergency license amendment request for South Texas Project

Dave

Thanks for your engagement on this matter. I think Lisa gave you a great reply as to our rationale. I appreciate your perspective that we did not make a good case for pursuing an emergency tech spec and I certainly appreciate your assessment of our safety basis.

Bill Dean  
Director  
Office of Nuclear Reactor Regulation

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On: 16 December 2015 10:10, "Dave Lochbaum" wrote:

Dear Ms. Regner:

Thanks for the response and the NRC's amendment.

First, let me make it clear that the licensee made a solid technical argument showing that safety would not be compromised by operating Unit 1 with one control rod removed. And the NRC equally provided a solid justification for accepting the licensee's argument -- first defining the applicable regulatory requirements and then explaining how the staff's evaluation concluded the safety margins associated with those requirements would not be compromised/reduced.

Second, let me make it clear that, in my opinion, neither the licensee nor the NRC staff provided equivalently solid explanations as to why the situation was unavoidable and why an emergency amendment was justified. The licensee's "explanation" was confined to the few words in the second paragraph on page 3 of its license amendment request (ML15343A347). Likewise, the NRC staff's safety evaluation for the emergency amendment includes a few words at the bottom of page 27 and top of page 28 (ML15343A128).

For someone not affiliated with the licensee or the NRC staff (e.g., people like me), the available paperwork reveals thorough, extensive, detailed reasons why safety will not be compromised by the removal of one control rod during the operating cycle. As mentioned above, both the licensee and the NRC staff provided solid justification for the technical conclusion.

That level of detailed discussions are lacking with respect to the legal conclusion regarding the need for the emergency amendment. I'm not suggesting or contending that the word count for the legal determination must match that for the technical determination. But the discussions need to be long enough to allow someone to see why that determination was sound.

Again, on the technical side, the discussions met that criterion.

On the legal side, the discussions were woefully inadequate. They remind me of the woefully inadequate 50.59s that the NRC staff properly objected to: "The proposed change does not increase the probability of or consequences from a previously analyzed accident because neither the probability nor the consequences are increased."

In this case, both the licensee and the NRC staff essentially merely restarted the question in providing the answer --- the condition was unavoidable because it could not be avoided.

Put another way, the technical arguments provided by the licensee and the NRC staff would almost certainly convince the majority, if not the entirety, of a jury of peers that the request did not undermine safety. However,

the legal arguments provided by the licensee and the NRC staff would almost certainly convince no members of that peer panel that the criteria for an emergency amendment had been met.

For example, the skimpy rationale provided by the licensee and bought by the NRC staff involved the damaged control rod passing normal tests during the past operating cycle. These tests were developed with undamaged control rods in mind. Did the licensee evaluate the applicability of these tests to the damaged control rod? Or did it conveniently accept the results because the damaged control rod passed the tests? Control rods at South Texas Project are unlike the control rods at any other U.S. reactor, thus operating experience in the U.S. is of limited applicability. Did the licensee consult the vendor or check international OE to see if the damage they knew about was not likely to become worse?

The technical justifications asked and answered all the right questions.

The legal justifications, on the other hand, asked and answered none of the right questions.

Bottom line --- the technical justifications for this situation were very sound while the legal justifications for the emergency amendment were far from sound.

Thanks,

Dave Lochbaum

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**From:** Regner, Lisa [Lisa.Regner@nrc.gov]

**Sent:** Wednesday, December 16, 2015 9:20 AM

**To:** Dave Lochbaum

**Subject:** RE: Emergency license amendment request for South Texas Project

Mr. Lochbaum,

Thank you for your email. I understand your skepticism and would like to explain our reasoning for issuing this amendment under emergency circumstances. Please feel free to give me a call if you have additional questions.

The staff did carefully consider whether to grant the licensee's request for emergency processing of this amendment under 10 CFR 50.91(a)(5). The NRC team determined that STP Nuclear Operating Company (STPNOC) communicated with the NRC staff in good faith, took appropriate actions to address the control rod issue, and met the criteria in the regulations for the NRC to process this as an emergency amendment.

The NRC staff was aware of the damage to the D-6 control rod drive mechanisms in the 2012 ratcheted rod drop, and the fact that STP could not conduct rapid refueling operations due to the damaged holdout ring. The NRC closely tracked the licensee's actions to inspect, troubleshoot, and test the control rod drive mechanism to ensure it could perform its safety function prior to start up following refueling outages 17 and 18. The licensee acceptably tested the control rod for operability prior to startup, monitored and tested the rod during operation for degradation in accordance with its technical specifications, and took appropriate actions to determine the cause. The NRC identified no concerns with the licensee's follow-up actions.

The licensee stated that its inspections revealed damage to the control rod holdout ring – a component used only for rapid refueling operations – and did not impact normal operation of the rod. It is easy to state, from our perspective looking back, that this situation could have been predicted and avoided, but the facts show that the rod performed acceptably in normal operation, and the use of rapid refueling operations was not necessary.

The NRC conducted a thorough review to ensure that the staff's findings on this amendment were comprehensive and appropriate; however, the review was accomplished on an accelerated timeframe. The NRC team conducted two days of audits at Westinghouse Offices to thoroughly review the licensee's analyses. The NRC staff found that the licensee's analyses of the impacts of the change would not challenge the safety limits in the original safety analysis report, and that STP could operate safely for one cycle.

It is true that the emergency processing regulations allow for noticing for public comment and hearing after issuance of the amendment, and this is an established process that the staff followed. The NRC will consider any requests for hearing on this amendment under the hearing regulations. If you have reason and standing to request a hearing, please contact myself or Mr. Robert Pascarelli, Chief, Plant Licensing Branch 4-1, NRR ([Robert.Pascarelli@nrc.gov](mailto:Robert.Pascarelli@nrc.gov) or 301-415-6603). Of course, any additional comments you have will also be addressed through our established process.

The amendment and safety analysis was list served and publicly available on Monday, but I've attached a copy for your convenience.

As I said before, please feel free to give me a call if I can be of further assistance.

Thank you,

Lisa Regner

**Lisa M Regner**, Sr. Project Manager, Branch LPLIV-1

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**From:** Dave Lochbaum [mailto:DLochbaum@ucsusa.org]

**Sent:** Friday, December 11, 2015 9:39 AM

**To:** Regner, Lisa

**Subject:** [External\_Sender] Emergency license amendment request for South Texas Project

Hello Ms. Regner:

By letter dated December 3, 2015 (ML15343A347) which appeared in public ADAMS within the past two days, the South Texas Project Unit 1 licensee submitted an emergency license amendment request seeking to revise the technical specifications to allow control rod D-6 to be removed from the reactor core during the next operating cycle. The licensee requested that NRC approve this emergency request by today.

I certainly hope and trust that the NRC staff will carefully evaluate whether this request justifies emergency handling and approval by the agency.

The first sentence of the second full paragraph on page three says "The need for this license amendment could not be avoided or predicted."

Really? A dead blind man could have seen this one coming.

Page 2 says that D-6 failed to fully insert on November 11, 2012 during Refueling Outage 17. No repairs were made.

Page 3 says that D-6 was unable to be locked out on March 17, 2014, for the rapid refueling mode during Refueling Outage 18.. So, they opted for a non-rapid refueling. They determined then that the rapid holdout ring was damaged. But no repairs were made.

The control rod does not function properly in Refueling Outage 19. Given its problems in Refueling Outage 17 and 18 with no repairs having been made, it seems wicked easy to have predicted (a) the problem would happen again, and (b) the problem could get worse.

It could have been easily - easily - avoided after the problem encountered in Refueling Outage 17 by ordering the special tool necessary to remove the CRDM during Refueling Outage 18, or during Refueling Outage 19. The licensee's inept handling of a recurring problem with D-6 does not justify it receiving expedited handling of an emergency license amendment request.

I hope and trust the NRC staff will not reward this licensee's poor performance by jumping through hoops to approve this emergency request, and denying the public the opportunity to legally intervene against this unjustified request along the way..

Thanks,

Dave Lochbaum

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**Created By:** Bill.Dean@nrc.gov

**Recipients:**  
"Regner, Lisa" <Lisa.Regner@nrc.gov>  
Tracking Status: None  
"Dave Lochbaum" <DLochbaum@ucsusa.org>  
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