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September 16, 2016

Docket Nos.: 52-025  
52-026

ND-16-1352  
10 CFR 52.99(a)  
10 CFR 52.7  
10 CFR 50.12

Southern Nuclear Operating Company  
Vogtle Electric Generating Plant (VEGP) Units 3 and 4  
Request for Exemption from 10 CFR 52.99 Regarding ITAAC Schedule Updates

Ladies and Gentlemen:

In accordance with the provisions of 10 CFR 52.7, Southern Nuclear Operating Company (SNC), as a Combined License (COL) holder under 10 CFR 52, hereby requests an exemption from the requirements of 10 CFR 52.99(a) as applicable to Vogtle Electric Generating Plant (VEGP) Units 3 and 4. Specifically, SNC requests a permanent exemption from 10 CFR 52.99(a), which requires a holder of a combined license to submit the schedule for completing the inspections, tests, or analyses in the Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) every 6 months, and within one year of its scheduled date for initial loading of fuel, increase the ITAAC schedule submittal frequency to every thirty days. Enclosure 1 to this letter presents SNC's detailed basis for the exemption.

SNC believes that the formal submittal of the ITAAC schedule information is not needed because it is solely administrative in nature and reflects information that is currently provided to NRC Region II on a monthly basis. In addition, NRC resident inspectors are provided ITAAC schedule 12-month look-ahead information on a weekly basis thereby clearly meeting the intent of the schedule submittal requirement in 10 CFR 52.99(a).

It is not SNC's intention to withhold ITAAC schedule information from the NRC; only to cease the formal submittal requirement in 10 CFR 52.99(a). SNC will continue to provide NRC Region II the ITAAC schedule information on a monthly basis and the Resident Inspectors a 12-month look-ahead ITAAC schedule on a weekly basis.

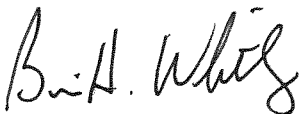
This letter commits to provide NRC Region II the schedule for completing the inspections, tests, or analyses in the ITAAC on a monthly basis and the Resident Inspectors a 12-month look ahead ITAAC schedule on a weekly basis until the final notification is provided to the NRC under 10 CFR 52.99(c)(1), should the exemption requested be approved.

Should you have any questions regarding the information enclosed, please contact Jason Redd at (205) 992-6435.

Mr. Brian H. Whitley states that: he is the Regulatory Affairs Director of Southern Nuclear Operating Company; he is authorized to execute this oath on behalf of Southern Nuclear Operating Company; and to the best of his knowledge and belief, the facts set forth in this letter are true.

Respectfully submitted,

SOUTHERN NUCLEAR OPERATING COMPANY



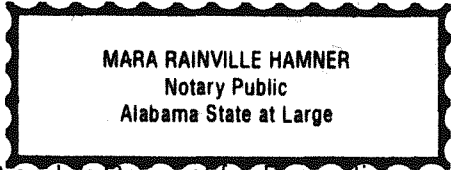
Brian H. Whitley

BHW/JPR/ljs

Sworn to and subscribed before me this 16 day of September, 2016

Notary Public: Mara Rainville Hamner

My commission expires: February 18, 2020



Enclosure 1: Vogtle Electric Generating Plant (VEGP) Units 3 and 4: Request for Exemption from 10 CFR 52.99(a) Regarding ITAAC Schedule Updates

Enclosure 2: Vogtle Electric Generating Plant (VEGP) Units 3 and 4: Regulatory Commitment

U. S. Nuclear Regulatory Commission

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**Southern Nuclear Operating Company**

**ND-16-1352**

**Enclosure 1**

**Vogtle Electric Generating Plant (VEGP) Units 3 and 4**

**Request for Exemption from 10 CFR 52.99(a) Regarding ITAAC Schedule Updates**

(This Enclosure contains 6 sheets including this cover sheet)

## **1.0 PURPOSE**

In accordance with the provisions of 10 CFR 52.7, Southern Nuclear Operating Company (SNC), as a Combined License (COL) holder under 10 CFR 52, hereby requests an exemption from the requirements of 10 CFR 52.99(a) as applicable to Vogtle Electric Generating Plant (VEGP) Units 3 and 4. Specifically, SNC requests an exemption from 10 CFR 52.99(a), which requires a holder of a combined license to submit the schedule for completing the inspections, tests, or analyses in the Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) every 6 months and within one year of its scheduled date for initial loading of fuel, increase the ITAAC schedule submittal frequency to every thirty days. SNC requests this exemption to alleviate the administrative burden of the formal submittal of the ITAAC schedule information. SNC will continue to make the information available to NRC Region II on a monthly basis and will continue to provide a 12-month look-ahead ITAAC schedule to the Resident Inspectors on a weekly basis.

## **2.0 BACKGROUND**

SNC has made eight formal submittals of the ITAAC schedule information in accordance with the provisions of 10 CFR 52.99(a). The latest ITAAC schedule information was submitted in a letter to the NRC dated August 8, 2016 [ADAMS Accession No. ML16222A725]. Due to the nature of the information and the fast-paced dynamics of a construction project, the information is subject to frequent change, significantly reducing the usefulness of a semi-annual submittal. Therefore, SNC proposes that providing the information to Region II and the Resident Inspectors on a more frequent, but less formal, basis is more appropriate.

The construction schedule information SNC submits to the NRC is considered proprietary to both Westinghouse Electric Company, LLC (Westinghouse) and their subsidiary WECTEC. The construction schedule information was determined to be proprietary based on affidavits considered by the NRC in its letter to Westinghouse dated August 12, 2009 [ADAMS Accession No. ML092240522]. Therefore, the ITAAC schedule information is withheld from public disclosure in accordance with 10 CFR 2.390. Since all ITAAC schedule information is proprietary, changing the formal submittal requirement is in no way withholding information from the public that is currently provided.

## **3.0 TECHNICAL JUSTIFICATION OF ACCEPTABILITY**

The proposed exemption does not involve any change to Vogtle Units 3 and 4 structures, systems, or components (SSCs). No changes are proposed to the content of the ITAAC contained in the plant-specific Tier 1 material nor the Vogtle Units 3 and 4 COL Appendix C material. All SSCs continue to perform their design functions. There will not be an increase in occupational or public radiological dose nor any increase in effluents from the Vogtle site as a result of the proposed exemption.

#### **4.0 JUSTIFICATION OF EXEMPTION**

10 CFR 50.12 and §52.7 state that the NRC may grant exemptions from the requirements of the regulations provided four conditions are met: 1) the exemption is authorized by law [§50.12(a)(1)]; 2) the exemption will not present an undue risk to the health and safety of the public [§50.12(a)(1)]; 3) the exemption is consistent with the common defense and security [§50.12(a)(1)]; and 4) special circumstances are present [§50.12(a)(2)].

The requested exemption satisfies the criteria for granting specific exemptions, as described below.

##### **1. This exemption is authorized by law.**

The NRC has the authority to grant exemptions from its rules and such exemptions are authorized by law if the regulatory process of 10 CFR 50.12 is being followed. No law exists that would preclude the changes covered by this exemption request. Additionally, granting of the proposed exemption does not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations.

Accordingly, this requested exemption is "authorized by law," as required by 10 CFR 50.12(a)(1).

##### **2. This exemption will not present an undue risk to the health and safety of the public.**

The proposed exemption from the requirements of 10 CFR 52.99(a) would allow SNC to provide more frequent updates of the planned ITAAC completion schedule to interested parties within the NRC in lieu of the longer interval prescriptive requirements contained within that subpart. The plant-specific DCD Tier 1 ITAAC information and COL Appendix C will continue to reflect the approved licensing basis for VEGP Units 3 and 4. The proposed change in ITAAC schedule submittal does not represent any adverse impact to the ITAAC. The proposed exemption does not introduce any new industrial, chemical, or radiological hazards that would represent a public health or safety risk, nor does it modify or remove any design or operational controls or safeguards intended to mitigate any existing on-site hazards. Furthermore, the proposed exemption would not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that would result in fuel cladding failures. Accordingly, this proposed exemption does not present an undue risk from any existing or proposed equipment or systems.

Therefore, the requested exemption from 10 CFR 52.99(a) would not present an undue risk to the health and safety of the public.

**3. The exemption is consistent with the common defense and security.**

The proposed exemption from the requirements of 10 CFR 52.99(a) would allow SNC to provide more frequent updates of the planned ITAAC completion schedule to interested parties within the NRC in lieu of the longer interval prescriptive requirements contained within that subpart. The proposed exemption does not alter the design, function, or operation of any structures or plant equipment that is necessary to maintain a safe and secure status of the plant. The proposed exemption has no impact on plant security or safeguards procedures.

Therefore, the requested exemption is consistent with the common defense and security.

**4. Special circumstances are present.**

10 CFR 50.12(a)(2) lists six “special circumstances” for which an exemption may be granted. Pursuant to the regulation, it is necessary for one of these special circumstances to be present in order for the NRC to consider granting an exemption request. The requested exemption meets the special circumstances of 10 CFR 50.12(a)(2)(ii). That subsection defines special circumstances as when “[a]pplication 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.”

The rule under consideration in this request for exemption is 10 CFR 52.99(a) which requires that a licensee under Part 52 provide prescriptive periodic updates of the planned ITAAC completion schedule while the plant is under construction. The underlying purpose of 10 CFR 52.99(a) is to ensure that the NRC Staff has the information needed to inspect and approve ITAAC items. Providing the schedule information to the NRC is needed for the NRC to identify needed staffing, develop their inspection activities, and plan activities necessary to support the Commission’s finding related to whether all of the ITAAC are met prior to the scheduled date for fuel load. However, this exemption is only requesting relief from a formal NRC ITAAC schedule submittal to the NRC based on the Commitment that NRC Region II and the Resident Inspectors will continue to be provided the ITAAC schedule data on a more frequent basis. Therefore, SNC believes the application of the regulation in this particular circumstance does not serve the underlying purpose of the rule nor is it necessary to achieve the underlying purpose of the rule.

The proposed exemption does not affect any function or feature used for the prevention and mitigation of accidents or their safety analyses. No safety-related SSC or function is involved. The proposed changes do not involve nor interface with any SSC accident initiator or initiating sequence of events related to the accidents evaluated and therefore do not have an adverse effect on any SSC’s design function. Accordingly, this exemption from 10 CFR 52.99(a) will continue to enable the Licensee to safely construct and operate the AP1000 facility consistent with the design certified by the NRC in 10 CFR 52, Appendix D and applicable regulations.



Request for Exemption from 10 CFR 52.99(a) Regarding ITAAC Schedule Updates

Therefore, special circumstances are present, because application of 10 CFR 52.99(a) in the particular circumstances discussed in this request is not necessary to achieve the underlying purpose of the rule.

**5.0 RISK ASSESSMENT**

A risk assessment was not determined to be applicable to address the acceptability of this proposal.

**6.0 PRECEDENT EXEMPTIONS**

None.

**7.0 SIGNIFICANT HAZARDS DETERMINATION AND ENVIRONMENTAL CONSIDERATION**

Review of the proposed exemption against the criteria of 10 CFR 51.22, “Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review” is described below. This review determined that the requested exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25)(vi)(B).

The requested exemption, which seeks a change to the reporting requirements in 10 CFR 52.99(a), does not make any changes to the facility or operating procedures and does not:

- a) Involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), in that it does not:
- Alter the design, function, or operation of any plant equipment. Therefore, granting this exemption would not increase the probability or consequence of any previously evaluated accident.
  - Create any new accident initiators. Therefore, granting this exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.
  - Exceed or alter a design basis or safety limit. Therefore, granting this exemption does not involve a significant reduction in a margin of safety.

Therefore, a finding of “no significant hazards considerations” is justified.

- b) Involve any changes that would introduce any change to effluent types, affect any plant radiological or non-radiological effluent release quantities, or affect any effluent release paths, or the functionality of any design or operational features that are credited with controlling the release of effluents during plant operation.

Therefore, it is concluded that the proposed exemption does not involve a significant change in the types or a significant increase in the amounts of any effluents that may be released offsite.

- c) Affect any plant radiation zones, nor change any controls required under 10 CFR Part 20 that preclude a significant increase in occupational radiation exposure.

Therefore, it is concluded that the proposed exemption does not involve a significant increase in individual or cumulative occupational radiation exposure.

- d) Involve any facility changes or change any construction activities.

Therefore, there is no significant construction impact.

- e) Alter the design, function, or operation of any plant equipment.

Therefore, there is no significant increase in the potential for or consequences from radiological accidents.

Therefore, the exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25).

Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of this exemption.

## **8.0 CONCLUSION**

The exemption request meets the requirements of 10 CFR 52.7, *Specific exemptions*, and 10 CFR 50.12, *Specific exemptions*. Specifically, the exemption request meets the criteria of 10 CFR 50.12(a)(1) in that the request is authorized by law, presents no undue risk to public health and safety, and is consistent with the common defense and security. Furthermore, approval of this request presents special circumstances and meets the eligibility requirements for categorical exclusion.

Based on the above discussion, SNC requests the NRC grant a permanent exemption from the requirements of 10 CFR 52.99(a) pertaining to a formal 6-month, and later every 30-day, submittal of the ITACC schedule information for Vogtle Units 3 and 4.

## **9.0 REFERENCES**

None.

**Southern Nuclear Operating Company**

**ND-16-1352**

**Enclosure 2**

**Vogtle Electric Generating Plant (VEGP) Units 3 and 4**

**Regulatory Commitment**

(This Enclosure contains 2 sheets including this cover sheet)

Enclosure 2  
ND-16-1352  
Regulatory Commitment

The following table identifies the regulatory commitment in this document. Any other statements in this submittal represent intended or planned actions. They are provided for information purposes and are not considered to be regulatory commitments.

<b>Regulatory Commitment</b>	<b>Due Date / Event</b>	<b>Expiration</b>
SNC commits to provide NRC Region II the schedule for completing the inspections, tests, or analyses in the ITAAC on a monthly basis and the Resident Inspectors a 12-month look ahead ITAAC schedule on a weekly basis.	Initiate within 30 days of granting of the requested exemption.	This commitment remains in effect until the final notification is provided to the NRC under 10 CFR 52.99(c)(1), on a unit-specific basis.