

## Vogle PEmails

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**From:** Hoellman, Jordan  
**Sent:** Tuesday, December 05, 2017 10:04 AM  
**To:** Vogle PEmails  
**Subject:** DRAFT LAR-17-037, Changes to Tier 2\* Departure Evaluation Process  
**Attachments:** ND-17-1726\_LAR-17-037\_T2-Star Chng\_Pre-submittal\_Final DRAFT 2017-12-01.pdf

Attached please find the DRAFT SNC LAR-17-037 "Changes to Tier 2\* Departure Evaluation Process" for discussion at the 12/14/2017 public meeting.

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December XX, 2017

Docket Nos.: 52-025  
52-026

ND-17-1726  
10 CFR 50.90  
10 CFR 52.7

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

**Southern Nuclear Operating Company  
Vogtle Electric Generating Plant Units 3 and 4  
Request for License Amendment and Exemption:  
Changes to Tier 2\* Departure Evaluation Process (LAR-17-037)**

Ladies and Gentlemen:

In accordance with 10 CFR §§ 52.7, 50.12, 52.98, and 50.90, Southern Nuclear Operating Company (SNC or the "licensee"), the licensee for Vogtle Electric Generating Plant (VEGP) Units 3 and 4, requests an amendment to Combined License (COL) Numbers NPF-91 and NPF-92 to apply the existing departure evaluation process for Tier 2 departures in the evaluation of certain Tier 2\* departures. Accordingly, SNC requests an exemption from certain change requirements in 10 CFR Part 52, Appendix D, to allow departures from Tier 2\* information meeting criteria proposed in a new License Condition without a license amendment by expanding the applicability of the existing Tier 2 departure evaluation process.

This request arises from SNC's nearly six years' experience with the change control processes outlined in 10 CFR Part 52, Appendix D. As the first Part 52 licensee, SNC has identified an approach to alleviate some of the administrative burden for both the NRC and the Licensee for certain Tier 2\* departures. SNC's approach would also address issues discussed in the NRC's "Part 52 Implementation Self-Assessment Review Report," dated July 2013 [ADAMS Accession Number ML13196A403]. In addition, SNC's proposal is intended to be in line with the staff's lessons learned related to Tier 2\* discussed in SECY-17-0075, "Planned Improvements in Design Certification Tiered Information Designations" [ADAMS Accession Number ML16196A321]. Finally, the proposed approach for the treatment of Tier 2\* departures is consistent with the approach proposed by recent applicants for design certifications in that safety-significant departures would require prior NRC approval.

As explained in the enclosed amendment and exemption requests, SNC's proposal is to obtain an amendment to COL Numbers NPF-91 and NPF-92 that allows the existing Tier 2 departure evaluation process in 10 CFR Part 52, Appendix D, Paragraph VIII.B.5, to be applied to departures from Tier 2\* information that meet criteria proposed in a new License Condition.

To implement this amendment, SNC requests an exemption from the Tier 2\* change control process found in 10 CFR Part 52, Appendix D.

Enclosure 1 provides the description, technical evaluation, regulatory evaluation (including the Significant Hazards Consideration determination) and environmental considerations for the proposed changes.

Enclosure 2 provides the background and supporting basis for the requested exemption.

Enclosure 3 identifies the requested changes and provides markups depicting the requested changes to the VEGP Units 3 and 4 licensing basis documents.

Enclosure 4 provides a reviewer's aid which depicts the proposed Tier 2\* departure evaluation process. Enclosure 5 provides a reviewer's aid in tabular form which presents a summary of an analysis of Tier 2\* matters listed in 10 CFR Part 52, Appendix D, Section VIII paragraphs B.6.b and B.6.c.

This letter contains no regulatory commitments. This letter has been reviewed and determined not to contain security related information.

SNC requests this license amendment and exemption by March 31, 2018 and would implement the amendment within 45 days of issuance. This license amendment and exemption is not tied to any particular construction activity; however, any delay in the issuance would also delay the benefits.

In accordance with 10 CFR 50.91, SNC is notifying the State of Georgia by transmitting a copy of this letter and its enclosures to the designated State Official.

Should you have any questions, please contact Wesley Sparkman at (205) 992-5061.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the [Day] of [Month Year].

Respectfully submitted,

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Brian H. Whitley  
Director, Regulatory Affairs  
Southern Nuclear Operating Company

Enclosures 1) Vogtle Electric Generating Plant (VEGP) Units 3 and 4 – Request for License Amendment: Changes to Tier 2\* Departure Evaluation Process (LAR-17-037)

- 2) Vogtle Electric Generating Plant (VEGP) Units 3 and 4 – Exemption Request: Changes to Tier 2\* Departure Evaluation Process (LAR-17-037)
- 3) Vogtle Electric Generating Plant (VEGP) Units 3 and 4 – Proposed Changes to Licensing Basis Documents (LAR-17-037)
- 4) Vogtle Electric Generating Plant (VEGP) Units 3 and 4 – Reviewer's Aid - Proposed Tier 2\* Departure Evaluation Process (LAR-17-037)
- 5) Vogtle Electric Generating Plant (VEGP) Units 3 and 4 – Reviewer's Aid – Tier 2\* Matters Analysis Summary (LAR-17-037)

DRAFT

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**Southern Nuclear Operating Company**

**ND-17-1726**

**Enclosure 1**

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

**Request for License Amendment:**

**Changes to Tier 2\* Departure Evaluation Process**

**(LAR-17-037)**

(This Enclosure consists of 16 pages, including this cover page.)



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DRAFT

Pursuant to 10 CFR 52.98(c) and in accordance with 10 CFR 50.90, Southern Nuclear Operating Company (SNC) hereby requests an amendment to Combined License (COL) Nos. NPF-91 and NPF-92 for Vogtle Electric Generating Plant (VEGP) Units 3 and 4, respectively.

## 1. SUMMARY DESCRIPTION

Under the current change control process applicable to Tier 2\* information described in 10 CFR Part 52, Appendix D, Paragraph VIII.B, SNC must seek prior NRC approval through a License Amendment Request (LAR) for any proposed change to Tier 2\* information, even if SNC can demonstrate that the change results in no more than a minimal impact to safety or improves safety. As the NRC staff has recently recognized in SECY-17-0075, "Planned Improvements in Design Certification Tiered Information Designations," [ADAMS Accession Number ML16196A321], "one specific lesson it has identified with respect to designating information as Tier 1, Tier 2, or Tier 2\* is that some information has been designated as Tier 2\* when other regulatory tools could have been used instead to ensure a facility is safely designed, constructed and operated. This results in licensees submitting LARs on topics that may not involve safety-significant facility changes." This is consistent with SNC's experience with the Tier 2\* departure control process. In order to mitigate the regulatory inefficiency associated with this issue, SNC proposes a site-specific permanent exemption and license amendment that would apply a new screening evaluation, and the existing Tier 2 change control process, if required, to Tier 2\* changes to ensure any safety-significant Tier 2\* changes would require prior NRC approval. A diagram of the proposed process is shown in Enclosure 4.

## 2. DETAILED DESCRIPTION

The NRC issued the first Part 52 licenses to SNC VEGP Units 3 and 4 in February 2012. Changes to the licensing bases for those licenses are governed, in part, by 10 CFR Part 52, Appendix D, Paragraph VIII.B. This portion of the regulations specifies the change process for Tier 2 information and Tier 2\* information and requires NRC approval for all departures from Tier 2\* information.

However, recent Design Certification applications do not contain Tier 2\* information, in part because the level of detail contained in Tier 1 information will encompass information that might be designated as Tier 2\*, and the existing Tier 2 change process requires prior NRC approval of safety-significant departures. SNC is proposing changes to the VEGP Units 3 and 4 licensing bases regarding Tier 2\* change processes to make them functionally similar to the processes currently under development between Korea Hydro and Nuclear Power (KHNP) and the NRC as part of the Advanced Power Reactor 1400 (APR1400) design certification application.

SNC acknowledges that the Commission employed a Tier 2\* designation to capture certain significant AP1000® design information existing in Tier 2 that the Commission did not want changed without prior approval (see 71 Fed. Reg. 4474 (Jan. 27, 2006)). In SECY-17-0075, the NRC discussed the reasons for designating some Tier 2 information as Tier 2\* and indicated that "Tier 2\* is intended to have substantial safety significance, commensurate with information designated as Tier 1." However, the NRC recognized in SECY-17-0075 that the Tier 2\* scope

identified in previous design certifications, such as AP1000, is broader than necessary, and includes information more appropriately designated as Tier 2; e.g., background information and other information of minimal safety significance. Furthermore, SNC's experience has demonstrated that not every change to information designated as Tier 2\* has an impact on the safety-significant nature, if any, of the information. As such, SNC proposes to invoke a process functionally consistent with departure evaluation processes applied by current applicants for the certification of designs that contain no Tier 2\* information but have significant safety-related information contained in the Tier 1 design control document (DCD). Specifically, SNC proposes a site-specific amendment that would allow qualifying departures from Tier 2\* information to be evaluated under the existing change control process for Tier 2 departures in 10 CFR Part 52, Appendix D, Paragraphs VIII.B.5.a through VIII.B.5.e. Qualification of Tier 2\* changes for the Tier 2 departure process would be determined by applying screening criteria to proposed departure from Tier 2\* information in order to exclude departures from Tier 2\* information that involve safety significance commensurate with Tier 1 information. Such non-qualifying Tier 2\* departures would continue to require prior NRC review and approval in accordance with 10 CFR Part 52, Appendix D, Paragraph VIII.B.6.

Consistent with the NRC's findings in SECY-17-0075, SNC has identified several examples of departures from Tier 2\* information that were not safety-significant, but nonetheless required prior NRC approval through a LAR. Application of the Tier 2 departure control process to these proposed departures would have concluded with a determination that the proposed change was not safety-significant and could therefore have been processed as a departure consistent with 10 CFR Part 52, Appendix D, Paragraph VIII.B.5.

- A figure in SNC's licensing basis included a Note specifying the design basis size and spacing of shear studs in the structural modules. However, a change to the Note was needed for consistency with design basis calculations that were previously revised and incorporated into the AP1000 generic DCD. To resolve this inconsistency, the figure needed to be changed to make the Note consistent with the design basis and clarify that spacing may be changed to satisfy the applicable codes and standards. The change had the effect of enhancing safety by reflecting the design philosophy of adherence with the specific codes and standards invoked by the licensing basis. Nevertheless, because the Note was designated as Tier 2\*, prior NRC approval was required.<sup>1</sup>
- During construction, it was discovered that the tolerances for basemat thickness would potentially not ensure a level floor. The positive tolerance needed to be expanded to improve the probability of a level surface on which to construct the Nuclear Island structures. An engineering evaluation demonstrated that the change in tolerance was within the code allowance and the strength of the basemat would be maintained; however, because the tolerance was designated as Tier 2\*, prior NRC approval was required.<sup>2</sup>

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<sup>1</sup> SNC letter ND-12-0101, *Request for License Amendment: Containment Internal Structural Module Shear Stud Size and Spacing (LAR-12-001)*, dated February 14, 2012 [ADAMS Accession No. ML12047A067] and SNC letter ND-12-1399, *Revised Request for License Amendment: Structural Modules Shear Stud Size and Spacing (LAR-12-001S)*, dated March 12, 2012 [ADAMS Accession No. ML12074A180].

<sup>2</sup> SNC letter ND-12-0670, *Request for License Amendment: Nuclear Island Basemat Thickness Tolerance (LAR-12-003)*, dated April 6, 2012 [ADAMS Accession No. ML12100A185], as supplemented by SNC letter

- In a document incorporated by reference (IBR'd) into the Updated Final Safety Analysis Report (UFSAR) and designated as Tier 2\*, SNC had to obtain prior NRC approval to make a clarification that the phrase "ISV Facility" included identical facilities located both at Westinghouse and Vogtle, rather than just Westinghouse. Another change to this Tier 2\* document requiring prior NRC permission was needed to add two questions to a survey given to students after simulator drills.<sup>3</sup> Because the IBR'd document is designated as Tier 2\*, prior NRC approval was required.
- Several "editorial" changes, such as typing, clerical, spelling, and consistency changes, were required to Tier 2\* information to achieve consistency throughout the licensing basis. These changes affected nothing in the physical layout of the plant nor in the design function of the plant. Safety is enhanced by these kinds of changes because electronic searches of the licensing basis become more accurate. For example, a typographical inconsistency in an acronym would impede an electronic search for that acronym, as it would not yield the portion of the licensing basis containing the inconsistency; editorial changes were needed to resolve this issue.<sup>4</sup>

These examples demonstrate that although Tier 2\* information was "intended to have substantial safety significance, commensurate with information designated as Tier 1," some Tier 2\* departures are not, in fact, safety-significant. This license amendment request would allow SNC to apply screening criteria to departures from Tier 2\* information to determine whether such departures qualify to be evaluated under the Tier 2 departure control process.

Listed below are the proposed screening criteria that would be used to determine whether a proposed Tier 2\* departure is excluded from the use of the Tier 2 departure control process, thereby requiring prior NRC approval (i.e., as "Non-qualifying" Tier 2\* departures), does the proposed departure:

1. Involve design methodology or construction materials that depart from, or result in a reduction in a margin of safety afforded by, a code or standard credited in the plant-specific DCD for establishing the criteria for the design or construction of a structure, system, or component (SSC) important to safety,
2. Result in a material change to a design process described in the plant-specific DCD that is used to implement an industry standard or endorsed regulatory guidance,
3. Result in a material change to the fuel criteria evaluation process, the fuel principal assembly design requirements, core design, or reactivity control system design,

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ND-12-0809, *Request for License Amendment – Supplemental Information: Nuclear Island Basemat Thickness Tolerance (LAR-12-003)*, dated April 12, 2012 [ADAMS Accession No. ML12104A323], and revised by SNC letter ND-12-0990, *Request for License Amendment: Nuclear Island Basemat Thickness Tolerance (LAR-12-003R) Revised*, dated May 7, 2012 [ADAMS Accession No. ML12130A468].

<sup>3</sup> SNC letter ND-13-0348, *Request for License Amendment: Revision to AP1000 Human Factors Engineering Integrated System Validation Plan I GEH-320 (LAR-13-001)*, dated February 15, 2013 [ADAMS Accession No. ML13050A214].

<sup>4</sup> SNC letter ND-14-1045, *Request for License Amendment: Tier 2\* Editorial and Consistency Changes (LAR-13-033)*, dated July 30, 2014 [ADAMS Accession No. ML14211A666].

4. Adversely affect the debris screen design criteria.

If the screening criteria are all answered no, the proposed change would be considered a “Qualifying Change” and would be processed in accordance with the Tier 2 departure control process specified in 10 CFR Part 52, Appendix D, Paragraphs VIII.B.5.a through VIII.B.5.e (See Enclosure 4 for a proposed process diagram).

Licensing Basis Change Descriptions:

**Proposed Licensing Basis Changes**

<u>COL License Condition</u>	<u>Description of the Proposed Change</u>
2.D.(13)	Adds new license condition 2.D.(13) to document that the licensee is exempt from the requirements of 10 CFR Part 52, Appendix D, Paragraphs II.F, VIII.B.5, and VIII.B.6 subject to the conditions and limitations set forth in Section 2.D.(13) of this license and to specify the plant-specific licensing requirements for the Tier 2* departure evaluation process. The elements of this process are provided in sub-paragraphs (a) and (b).
2.D.(13)(a)	Adds a new license condition sub-paragraph that defines the Tier 2* departure regulations from which SNC is exempt except when any of four screening criteria are met.
2.D.(13)(b)	Adds a new license condition sub-paragraph that allows Tier 2* departures to be evaluated under the provisions of 10 CFR Part 52, Appendix D, Section VIII.B.5 provided the conditions of the license condition are met.
UFSAR pages with a footer regarding Tier 2* information	The footer is modified to require prior NRC approval of departures from Tier 2* information in accordance with the departure evaluation process specified in License Condition 2.D.(13).

**3. TECHNICAL EVALUATION**

The NRC issued the first Part 52 licenses to VEGP Units 3 and 4 in February 2012. Changes to the licensing bases for those licenses are governed, in part, by 10 CFR Part 52, Appendix D, Paragraph VIII.B. This portion of the regulations specifies the departure and change process for Tier 2 information and Tier 2\* information and requires NRC approval for all departures from Tier 2\* information.

SNC acknowledges that the Commission employed a Tier 2\* designation to capture certain significant AP1000® design information existing in Tier 2 that the Commission determined should



not be changed without prior approval (see 71 Fed. Reg. 4474 (Jan. 27, 2006)). In SECY-17-0075, the NRC discussed the reasons for designating some Tier 2 information as Tier 2\* and indicated that “Tier 2\* is intended to have substantial safety significance, commensurate with information designated as Tier 1.” However, the NRC recognized in SECY-17-0075 that the Tier 2\* scope identified in previous design certifications, such as AP1000, is broader than necessary, and includes information more appropriately designated as Tier 2; e.g., background information and other information of minimal safety significance. Furthermore, SNC’s experience has demonstrated that not every change to information designated as Tier 2\* has an impact on the safety-significant nature, if any, of the information. As such, SNC proposes to invoke a process functionally consistent with departure evaluation processes applied by current applicants for the certification of designs that contain no Tier 2\* information. Specifically, SNC proposes a site-specific amendment that would allow qualifying departures from Tier 2\* information to be evaluated under the existing change control process for Tier 2 departures in 10 CFR Part 52, Appendix D, Paragraphs VIII.B.5.a through VIII.B.5.e. Tier 2\* departures which qualify (referred to as “qualifying changes”) would be determined based on application of screening criteria designed to assure that Tier 2\* departures with a safety significance afforded Tier 1 information would receive prior NRC approval. Non-qualifying Tier 2\* departures would continue to require prior NRC approval in accordance with 10 CFR Part 52, Appendix D, Paragraph VIII.B.6.

SECY-17-0075 provides the historical basis and origins for designating information as Tier 2\*. Citing the history of the development of Tier 2\*, SECY-17-0075 explains that Tier 2\* was intended to have the same safety significance as Tier 1 information. In addition, SECY-17-0075 references SECY-96-077<sup>5</sup> which also provides insight to the origins and requirements of Tier 2\* information. Specifically, SECY-96-077 states, “...Also, many codes, standards, and design processes, which were not specified in Tier 1, that are acceptable for meeting inspection, test, analysis, and acceptance criteria [ITAAC] were specified in Tier 2. The result of these actions is that certain significant information only exists in Tier 2 and the NRC does not want this significant information to be changed without prior NRC approval...” To address the issues identified in SECY-96-077, SNC performed an analysis of the Tier 2\* matters listed in 10 CFR Part 52, Appendix D, Section VIII paragraphs B.6.b and B.6.c. The analysis examined each item in terms of the following criteria:

- Degree to which the Tier 2\* information is not addressed in the following but meets Tier 1 inclusion criteria:
  - VEGP 3 and 4 Plant-specific Tier 1 Design Control Document (DCD), or
  - VEGP 3 and 4 Combined License (COL), or
  - Applicable regulations, e.g., 10 CFR 50.46
- Degree to which Codes, standards, and design and qualification process, are relied upon for ITAAC acceptance criteria, but not specified in the VEGP 3 and 4 Plant-specific Tier 1 DCD
- Safety-significance
- Degree to which 10 CFR Part 52, Appendix D, Section VIII.B.5 would effectively evaluate a Tier 2\* departure

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<sup>5</sup> SECY-96-077, Certification of Two Evolutionary Designs, April 15, 1996 (ADAMS Accession No. ML003708129)

Based on the results of the analysis, 11 of the 24 Tier 2\* matters listed in 10 CFR Part 52, Appendix D, Section VIII paragraphs B.6.b and B.6.c were selected for development of additional screening criteria that would determine whether an associated Tier 2\* departure qualifies for the change control process outlined in 10 CFR Part 52, Appendix D, Section VIII.B.5. A summary of the analysis is provided in Enclosure 5. The selected matters are:

- Maximum fuel rod average burn-up
- Fuel principal design requirements
- Fuel criteria evaluation process
- Screen design criteria
- Design Summary of Critical Sections
- American Concrete Institute (ACI) 318, ACI 349, American National Standards Institute/American Institute of Steel Construction (ANSI/AISC)–690, and American Iron and Steel Institute (AISI), "Specification for the Design of Cold Formed Steel Structural Members, Part 1 and 2," 1996 Edition and 2000 Supplement
- Nuclear design of fuel and reactivity control system, except burn-up limit
- Instrumentation and control system design processes, methods, and standards
- Piping design acceptance criteria
- Human factors engineering
- Steel composite structural module details

A set of criteria was then developed that would be used to determine the critical safety aspects of the above matters to determine whether a proposed departure from Tier 2\* could be qualified to be evaluated under the departure control process for Tier 2 departures outlined in Section VIII.B.5. A proposed Tier 2\* departure would not qualify to be evaluated under Section VIII.B.5, if it:

1. Involves design methodology or construction materials that deviate from, or result in a reduction in a margin of safety afforded by, a code or standard credited in the plant-specific DCD for establishing the criteria for the design or construction of a structure, system, or component (SSC) important to safety,
2. Results in a material change to a design process described in the plant-specific DCD that is used to implement an industry standard or endorsed regulatory guidance,
3. Results in a material change to the fuel criteria evaluation process, the fuel principal assembly design requirements, core design, or reactivity control system design, or
4. Adversely affects the debris screen design criteria.

To ensure consistent application of the evaluation criteria, the following detailed guidance would be used to perform the evaluations:

Criterion 1 (Codes and Standards) detailed guidance:

- Use of a code or standard not approved by the NRC is a deviation from a code or standard
- Use of a later edition of a code or standard approved by the NRC is not a deviation from a code or standard.
- Use of an equivalent code or standard is not a deviation from a code or standard.

- Change inputs to analysis using the approved standards and codes (e.g., structural dimensions) would not constitute a reduction in margin to safety provided the standard or code limit is met.
- Editorial and grammatical corrections are not a reduction in margin to safety.
- Corrections required to achieve consistency are not reductions in a margin to safety.

Criterion 2 (Design Processes) detailed guidance:

- A material change affects a design process output, or method of performing a design process, or method of controlling the design process. The following are examples of material changes:
  - The addition, deletion, or alteration of a design process step
  - Reconfiguration of design process steps
  - Departures from regulatory guidance related to the design process
- The following examples are not material changes:
  - Editorial changes
  - Clarifications to improve reader understanding
  - Correction of inconsistencies within the document which are clearly discernible (e.g., between sections)
  - Minor corrections to figures (e.g., correcting mislabeled items)
  - Similar changes that do not change the meaning or substance of information presented (e.g., reformatting or removing detail)

Because the application of design process changes to the change process described in 10 CFR Part 52, Appendix D, Section VIII, paragraph B.5.b, is somewhat tenuous (design process changes might be evaluated as a change to a commitment related to 10 CFR 50, Appendix B, Criterion III, Design Control), the screening criteria assure that safety-significant departures related to Tier 2\* information related to design processes receive prior NRC approval.

Criterion 3 (Nuclear Fuel) detailed guidance:

- Material change is any change in a method of evaluation or calculation.
- A material change to a design would be any change that has an adverse effect on a design function.
- A material change is any change that would have an effect on core reactivity.
- A material change is not:
  - Editorial Changes
  - Clarifications to improve reader understanding
  - Correction of inconsistencies within the document which are clearly discernible (e.g., between sections)
  - Minor corrections to drawings and figures (e.g., correcting mislabeled valves)
  - Similar changes that do not change the meaning or substance of information presented (e.g., reformatting or removing detail)



Criterion 4 (Debris Screen) detailed guidance:

- An adverse change is any change that would be considered a non-conservative change of a debris value established in the UFSAR.
- An adverse change would be any change that changes any element of the evaluations used to determine the design of the debris screens.

Because the screening criteria would assure that departures from Tier 2\* matters that are safety-significant and would meet criteria for inclusion in a Tier 1 design control document, would require prior NRC approval, the underlying intent of the Tier 2\* designation is maintained.

Should a proposed Tier 2\* departure meet any of the four criteria outlined above, then it would not qualify for application of the Tier 2 change control process and would require prior NRC approval.

Should a Tier 2\* departure qualify for evaluation under 10 CFR Part 52, Appendix D, Section VIII.B.5, and be determined to involve more than a minimal safety significance it would continue to require prior NRC approval through the analysis in Section VIII.B.5.b – e for the reasons outlined below.

Applicable codes and standards are designated in the plant-specific Tier 2 DCD portion of the VEGP Units 3 and 4 Updated Final Safety Analysis Report (UFSAR). Departures from the plant-specific Tier 2 DCD are controlled by 10 CFR Part 52, Appendix D, Section VIII.B.5. Regulatory guidance for the evaluation of departures from the UFSAR is contained in NEI 96-07, *Guidelines for 10 CFR 50.59 Implementation*, Revision 1, and NEI 96-07, Appendix C, *Guideline for Implementation of Change Processes for New Nuclear Power Plants Licensed Under 10 CFR Part 52*, Revision 0. NEI 96-07, Sections 4.3.1 and 4.3.2 state in part, "...Although this criterion allows minimal increases, licensees must still meet applicable regulatory requirements and other acceptance criteria to which they are committed (such as contained in regulatory guides and nationally recognized industry consensus standards; e.g., the ASME B&PV Code and IEEE standards). Further, departures from the design, fabrication, construction, testing and performance standards as outlined in the General Design Criteria (Appendix A to Part 50) are not compatible with a "no more than minimal increase" standard..." Because departures from codes and standards would require prior NRC approval, the expectation for safety-significant information changes related to codes and standards to require prior NRC approval continues to be met.

Regulatory assurance related to design processes is assured through the inclusion of key design processes in the VEGP Units 3 and 4 Plant-specific Tier 1 DCD because 10 CFR Part 52, Section VIII, paragraph B.5.a requires that Tier 2 departures involving Tier 1 information receive prior NRC approval. The key design processes included in the VEGP 3 and 4 Plant-specific Tier 1 DCD that have information designated as Tier 2\* in the VEGP 3 and 4 plant-specific Tier 2 DCD are related to the Diverse Actuation System (DAS), Protection and Safety Monitoring System (PMS), and Human Factors Engineering (HFE).

VEGP 3 and 4 Plant-specific Tier 1 DCD, Section 2.5.1, *Diverse Actuation System*, contains a description as to how the associated hardware and software is to be designed during the following life cycle stages:

- a) Development phase for hardware and any software
- b) System test phase
- c) Installation phase

Details of the design process are verified in associated inspections, tests, analyses, and acceptance criteria (ITAAC).

VEGP 3 and 4 Tier 1 Plant -specific DCD, Section 2.5.2, *Protection and Safety Monitoring System*, contains a description of the requirements for the development of associated hardware and software during the following life cycle stages.

- a) Design requirements phase, may be referred to as conceptual or project definition phase (Complete)
- b) System definition phase
- c) Hardware and software development phase, consisting of hardware and software design and implementation
- d) System integration and test phase
- e) Installation phase

Additional requirements listed for software design, testing and maintenance include:

- a) Software management including documentation requirements, standards, review requirements, and procedures for problem reporting and corrective action.
- b) Software configuration management including historical records of software and control of software changes.
- c) Verification and validation including requirements for reviewer independence.

Details of the design process are verified in associated inspections, tests, analyses, and acceptance criteria (ITAAC).

Tier 1 DCD, Section 3.2, *Human Factors Engineering*, contains a description of the process to be used when designing the operation and control centers system (OCS). The design description for the HFE program states in part, "The AP1000 human-system interface (HSI) will be developed and implemented based upon a human factors engineering (HFE) program. Figure 3.2-1 illustrates the HFE program elements. The HSI scope includes the design of the operation and control centers system (OCS) and each of the HSI resources. For the purposes of the HFE program, the OCS includes the main control room (MCR), the remote shutdown workstation (RSW), the local control stations, and the associated workstations for each of these centers. The HSI resources include the wall panel information system, alarm system, plant information system (nonsafety-related displays), qualified safety-related displays, and soft and dedicated controls. Minimum inventories of controls, displays, and visual alerts are specified as part of the HSI for the MCR and the RSW..."

Because departures from Tier 1 information require prior NRC approval via a license amendment request and an exemption request, and involved Tier 2 departures require prior NRC approval via a license amendment, the expectation for safety-significant information changes related to design processes to require NRC prior approval continues to be met.

As a result, the proposed change would continue to meet NRC requirements and expectations regarding designation of safety-significant Tier 2 information as Tier 2\* and would require NRC review and approval of departures from Tier 2\* information that meet the safety significance standard.

The proposed changes do not affect any function or feature used for the prevention or mitigation of accidents or their safety analyses. No safety-related structure, system, component (SSC) or function is involved. The proposed changes neither involve nor interface with any SSC accident initiator or initiating sequence of events related to the accidents evaluated in the UFSAR, and therefore, do not have an adverse effect on any SSC design function.

The proposed changes do not affect the radiological source terms (i.e., amounts and types of radioactive materials released, their release rates, and release durations) used in the accident analyses. The equipment involved in these proposed changes does not affect safety-related equipment or any fission product barrier. No system or design function or equipment qualification is adversely affected by the proposed changes. The changes do not result in a new failure mode, malfunction, or sequence of events that could adversely affect a radioactive material barrier or safety-related equipment. The proposed changes do 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 significant fuel cladding failures.

This license amendment request does not affect SSCs that are used to contain, control, channel, monitor, process or release radioactive or non-radioactive materials. The types and quantities of expected effluents are not changed, and no effluent release path is adversely affected by the proposed changes. Therefore, radioactive and non-radioactive material effluents are not affected by the proposed changes.

Plant radiation zones (as described in UFSAR Section 12.3), controls under 10 CFR Part 20, and expected amounts and types of radioactive materials are not affected by the proposed changes. Therefore, individual and cumulative radiation exposures do not change.

The change activity has no adverse impact on the emergency plan or the physical security plan implementation, because there are no changes to physical access to credited equipment inside the Nuclear Island (including containment or the auxiliary building) and no adverse impact to plant personnel's ability to respond to any plant operations or security event.

#### **4. REGULATORY EVALUATION**

##### **4.1 Applicable Regulatory Requirements/Criteria**

10 CFR 52.98(f) requires NRC approval for any modification to, addition to, or deletion from the terms and conditions of a combined license (COL). The proposed change involves the addition of a new COL License Condition 2.D.(13) to specify the regulatory process for evaluating departures from Plant-specific Tier 2\* matters and Tier 2 information that involves a change to or departure from Tier 2\* information, Paragraphs VIII.B.5 and VIII.B.6 subject to the conditions and limitations set forth in new License

Condition 2.D.(13). Therefore, NRC approval is required prior to making the plant-specific proposed change in this license amendment request.

#### **4.2 Precedent**

None.

#### **4.3 Significant Hazards Consideration**

The requested license amendment would amend, for Southern Nuclear Operating Company's (SNC's) Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Combined License (COL) Numbers NPF-91 (Unit 3) and NPF-92 (Unit 4), the change control process for qualifying departures from Tier 2\* information.

An evaluation to determine whether a significant hazards consideration is involved with the proposed amendment was completed by focusing on the three standards set forth in 10 CFR 50.92, "Issuance of amendment," as discussed below:

##### **4.3.1 Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?**

Response: No.

The proposed changes would add a license condition that would allow use of the Tier 2 change control process for Tier 2\* departures, where such departures would not have more than a minimal impact to safety. Changing the criteria by which departures from Tier 2\* information are evaluated to determine if NRC approval is required does not affect the plant itself. Changing these criteria does not affect prevention and mitigation of abnormal events, e.g., accidents, anticipated operational occurrences, earthquakes, floods and turbine missiles, or their safety or design analyses. No safety-related structure, system, component (SSC) or function is adversely affected. The changes neither involve nor interface with any SSC accident initiator or initiating sequence of events, and thus, the probabilities of the accidents evaluated in the Updated Final Safety Analysis Report (UFSAR) are not affected. Because the changes do not involve any safety-related SSC or function used to mitigate an accident, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

##### **4.3.2 Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?**

Response: No.

The proposed changes would add a license condition that would allow use of the Tier 2 change control process for Tier 2\* departures, where such departures would not have more than a minimal impact to safety. The changes do not affect the

safety-related equipment itself, nor do they affect equipment which, if it failed, could initiate an accident or a failure of a fission product barrier. No analysis is adversely affected. No system or design function or equipment qualification is adversely affected by the changes. This activity does 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 significant fuel cladding failures. In addition, the changes do not result in a new failure mode, malfunction or sequence of events that could affect safety or safety-related equipment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

**4.3.3 Does the proposed amendment involve a significant reduction in a margin of safety.**

Response: No.

The proposed changes would add a license condition that would allow use of the Tier 2 change control process for Tier 2\* departures, where such departures would not have more than a minimal impact to safety.

The proposed change is not a modification, addition to, or removal of any plant SSCs. Furthermore, the proposed amendment is not a change to procedures or method of control of the nuclear plant or any plant SSCs. The only impact of this activity is the application of the current Tier 2 departure evaluation process to Tier 2\* departures.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

Based on the above, it is concluded that the proposed amendment does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of “no significant hazards consideration” is justified.

**4.4 Conclusions**

In conclusion, based on the considerations discussed above, (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission’s regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. Pursuant to 10 CFR 50.92, the requested change does not involve a Significant Hazards Consideration.



## 5. ENVIRONMENTAL CONSIDERATIONS

The proposed changes would add a license condition that would allow use of the Tier 2 change control process for Tier 2\* departures, where such departures would not have more than a minimal impact to safety.

A review has determined that the proposed license condition requires an amendment to the COLs; however, a review of the anticipated construction and operational effects of the proposed amendment and exemption has determined that it meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9), in that:

(i) *There is no significant hazards consideration.*

As documented above, an evaluation was completed to determine whether or not a significant hazards consideration is involved by focusing on the three standards set forth in 10 CFR 50.92, "Issuance of amendment." The Significant Hazards Consideration determined that (1) the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated; (2) the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) the proposed amendment does not involve a significant reduction in a margin of safety. Therefore, it is concluded that the proposed amendment does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of "no significant hazards consideration" is justified.

(ii) *There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.*

The proposed changes would add a license condition that establishes a departure evaluation process to determine whether site-specific departures from Tier 2\* information would have more than a minimal impact to safety. The proposed changes are unrelated to any aspect of plant construction or operation that would introduce any change to effluent types (e.g., effluents containing chemicals or biocides, sanitary system effluents, and other effluents), or affect any plant radiological or non-radiological effluent release quantities. Furthermore, the proposed changes do not affect any effluent release path or diminish 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 requested amendment does not involve a significant change in the types or a significant increase in the amounts of any effluents that may be released offsite.

(iii) *There is no significant increase in individual or cumulative occupational radiation exposure.*

The proposed changes would add a license condition that would allow use of the Tier 2 change control process for Tier 2\* departures, where such departures would not have more than a minimal impact to safety. Plant radiation zones (addressed in UFSAR Section 12.3) are not affected, and controls under 10 CFR Part 20 preclude a significant increase in occupational radiation exposure. Therefore, the requested amendment does

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Enclosure 1

Request for License Amendment: Changes to Tier 2\* Departure Evaluation Process  
(LAR-17-037)

not involve a significant increase in individual or cumulative occupational radiation exposure.

Based on the above review of the requested amendment, it has been determined that anticipated construction and operational effects of the requested amendment do not involve (i) a significant hazards consideration, (ii) a significant change in the types or significant increase in the amounts of any effluents that may be released offsite, or (iii) a significant increase in individual or cumulative occupational radiation exposure. Accordingly, the requested amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), an environmental impact statement or environmental assessment of the proposed amendment and exemption is not required.

## **6. REFERENCES**

None.

**Southern Nuclear Operating Company**

**ND-17-1726**

**Enclosure 2**

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

**Exemption Request:**

**Changes to Tier 2\* Departure Evaluation Process**

**(LAR-17-037)**

(This Enclosure consists of 10 pages, including this cover page.)



## 1.0 Purpose

Southern Nuclear Operating Company (SNC), the licensee for Vogtle Electric Generating Plant (VEGP) Units 3 and 4, requests a permanent exemption from certain provisions of 10 CFR Part 52, Appendix D, "Design Certification Rule for AP1000 Design," to allow plant-specific departures from Tier 2\* matters, and from Tier 2 information that involves a change to or departure from Tier 2\* matters, identified in 10 CFR Part 52, Appendix D, Section VIII.B.6, without prior NRC approval for qualifying Tier 2\* departures.

Under the current change control process applicable to Tier 2\* information, SNC must seek prior NRC approval through a License Amendment Request (LAR) for any proposed change to Tier 2\* information, even if SNC can demonstrate that the change results in no more than a minimal impact to safety or improves safety. As the NRC staff has recently recognized in SECY-17-0075, "Planned Improvements in Design Certification Tiered Information Designations," [ADAMS Accession Number ML16196A321] "one specific lesson" it has identified with respect to designating information as Tier 1, Tier 2, or Tier 2\* "is that some information has been designated as Tier 2\* when other regulatory tools could have been used instead to ensure a facility is safely designed, constructed and operated. This results in licensees submitting LARs on topics that may not involve safety-significant facility changes." Thus, although the Tier 2\* designation and associated change control process was intended to require NRC approval for "safety-significant information," in practice, the Tier 2\* change control process has resulted in LARs for departures that are not safety-significant. This is consistent with SNC's experience with the Tier 2\* change control process. In order to mitigate the regulatory inefficiency associated with this issue, SNC proposes a site-specific permanent exemption and license amendment that would apply the existing Tier 2 change control process to some proposed Tier 2\* departures and Tier 2 departures that involve a change to or departure from Tier 2\* information, provided the proposed Tier 2\* departure does not meet any of the proposed screening criteria which would exclude Tier 2\* departures of high safety significance. Application of the Tier 2 departure control process and the proposed screening criteria would ensure that any safety-significant departures from Tier 2\* information would continue to require prior NRC approval, while departures that would improve safety or would result in no more than a minimal impact to safety could proceed as a departure without prior NRC approval.

The specific provisions of Appendix D from which SNC requests an exemption are:

- Section II, Definitions, paragraph F:
- Paragraph II.F provides the definition of Tier 2\* as the portion of the Tier 2 information designated as such in the generic Design Control Document (DCD), which is subject to the change process in Section VIII.B.6 of Appendix D. The requested exemption would allow qualifying Tier 2\* departures based on new screening criteria to be subject to the change process in Section VIII.B.5 of Appendix D. Section VIII, Processes for Changes and Departures, Subsection B, paragraph 5.a:

Paragraph VIII.B.5.a provides the basis for which licensees may depart from Tier 2 information without NRC approval. The departure may be taken provided the departure does not involve Tier 1 information, Tier 2\* information, or the TS, or requires a license amendment under paragraphs B.5.b or B.5.c of 10 CFR 52, Appendix D,

Section VIII. The requested exemption would allow departures from Tier 2 that involve Tier 2\* information not meeting any of the new screening criteria provided the departure did not involve a departure from Tier 1 information, the TS, or require a license amendment under Section 2.D.(13)(a) of the license.

- Section VIII, Processes for Changes and Departures, Subsection B, Tier 2 Information, paragraph 6.b (VIII.B.6.b):

Paragraph VIII.B.6.b requires a licensee who references 10 CFR Part 52, Appendix D to obtain NRC approval prior to departing from the eight identified categories of Tier 2\* matters. (SNC was previously granted an exemption from Criterion (4), regarding Fire Areas [ADAMS Accession Number ML15191A128].) The requested exemption would allow application of the Tier 2 change process outlined in VIII.B.5 for qualifying Tier 2\* departures for the remaining seven identified categories of Tier 2\* matters, based on new screening criteria. The requested exemption does not change the list of categories of Tier 2\* matters provided in B.6.b.

- Section VIII, Processes for Changes and Departures, Subsection B, Tier 2 Information, paragraph 6.c (VIII.B.6.c):

Paragraph VIII.B.6.c refers to paragraph VIII.B.6.b for the departure process which requires a licensee who references 10 CFR Part 52, Appendix D to obtain NRC approval prior to departing from the 16 identified categories of Tier 2\* matter that will revert to Tier 2 status after the plant first achieves full power. The requested exemption would allow application of the Tier 2 change process outlined in VIII.B.5 for qualifying Tier 2\* departures based on new screening criteria. The requested exemption does not change the list of categories of Tier 2\* matters provided in paragraph B.6.c.

This request for exemption provides the technical and regulatory basis to demonstrate that 10 CFR 52.63, §52.7, and §50.12 requirements are met with regards to the Tier 2\* departure evaluation process changes identified above.

## **2.0 Background**

The Licensee is the holder of Combined License Nos. NPF-91 and NPF-92, which authorize construction and operation of two Westinghouse Electric Company AP1000 nuclear plants, named Vogtle Electric Generating Plant (VEGP) Units 3 and 4, respectively.

The NRC issued the first Part 52 licenses to SNC's VEGP Units 3 and 4 in February 2012. Changes to the licensing bases for those licenses are governed, in part, by 10 CFR 52, Appendix D, Paragraph VIII.B. This portion of the regulations specifies the change process for Tier 2\* information and requires NRC approval for all departures from Tier 2\* information.

SNC was the first applicant to receive 10 CFR 52 licenses and begin construction under the 10 CFR 52 regulatory processes. Prior to the associated construction experience, the

impact of departures to Tier 2\* information during construction could not be entirely understood. Experience has shown that more departures are needed than were initially expected.

SNC has identified several examples of departures from Tier 2\* information that were not safety-significant, but nonetheless required prior NRC approval through a LAR. Application of the Tier 2 change control process to these proposed departures would have concluded with a determination that the proposed change was not safety-significant and could therefore have been processed as a departure not requiring prior NRC approval consistent with 10 CFR Part 52, Appendix D, Section VIII paragraphs B.5.b and B.5.c. Specific details of the examples supporting this request for exemption are provided in Section 2 of the associated License Amendment Request provided in Enclosure 1 of this letter.

SNC acknowledges that the Commission employed a Tier 2\* designation to capture certain significant AP1000® design information existing in Tier 2 that the Commission did not want changed without prior approval (see 71 Fed. Reg. 4474 (Jan. 27, 2006)). In SECY-17-0075, the NRC discussed the reasons for designating some Tier 2 information as Tier 2\* and indicated that “Tier 2\* is intended to have substantial safety significance, commensurate with information designated as Tier 1.” However, the NRC recognized in SECY-17-0075 that the Tier 2\* scope identified in previous design certifications, such as AP1000, is broader than necessary, and includes information more appropriately designated as Tier 2; e.g., background information and other information of minimal safety significance. Furthermore, SNC’s experience has demonstrated that not every change to information designated as Tier 2\* has an impact on the safety-significant nature, if any, of the information. As such, SNC proposes to invoke a process functionally consistent with departure evaluation processes applied by current applicants for the certification of designs that contain no Tier 2\* information. Specifically, SNC proposes a site-specific amendment that would allow qualifying departures from Tier 2\* information to be evaluated under the existing change control process for Tier 2 departures in 10 CFR Part 52, Appendix D, Paragraphs VIII.B.5.a through VIII.B.5.e. Qualification of Tier 2\* changes for the Tier 2 departure process would be determined by applying screening criteria to proposed changes to Tier 2\* information in order to exclude changes to Tier 2\* information that involve safety significance commensurate with Tier 1 information. Such non-qualifying Tier 2\* changes would continue to require prior NRC approval in accordance with 10 CFR Part 52, Appendix D, Paragraph VIII.B.6. Implementation of the proposed license condition requires a permanent exemption from the current provisions of 10 CFR Part 52, Appendix D, to allow plant-specific departures from Tier 2\* matters, and from Tier 2 information that involves a change to or departure from Tier 2\* matters, identified in 10 CFR Part 52, Appendix D, Paragraph VIII.B.6, without prior NRC approval.

### **3.0 Technical Justification of Acceptability**

The departure evaluation process proposed by SNC would apply screening criteria to proposed Tier 2\* departures to determine if the departure would qualify to be evaluated using the Tier 2 departure evaluation criteria in 10 CFR Part 52, Appendix D, Paragraphs VIII.B.5.a through VIII.B.5.e to identify those departures that require prior NRC approval.

Tier 2\* departures that do not qualify because they meet one or more of the screening criteria would continue to be submitted for prior NRC approval in accordance with 10 CFR Part 52, Appendix D, Paragraph VIII.B.6.

The new departure evaluation process for Tier 2\* departures that do not meet any of the proposed new screening criteria would be the same as existing processes governing Tier 2 information. In general, current regulations allow Tier 2 information to be changed if a departure evaluation determines that the change only results in a "minimal increase" in the frequency or severity of an adverse event. Regulations governing Tier 2 departures are in 10 CFR Part 52, Appendix D, Paragraph VIII.B.5, and have the departure evaluation method used to determine if Tier 2 departures require prior NRC approval. SNC proposes to use this same departure evaluation process for qualifying Tier 2\* departures that do not meet any of the new screening criteria.

The requested exemption would only allow a change to the departure screening and evaluation process for Tier 2\* departures and would not actually implement any changes to the design, construction, or operation of the plant. The proposed change does not affect any function or feature used for the prevention and mitigation of accidents or their safety analyses. No safety-related structure, system, component (SSC) or function is involved.

The requested exemption would accomplish the goal of focusing licensee and regulator resources on the more safety-significant change activities by expanding the scope of the existing departure evaluation process in 10 CFR 52, Appendix D, VIII.B.5, for Tier 2 departures to apply to Tier 2\* departures and Tier 2 departures that involve departures from Tier 2\* matters. The proposed exemption and amendment also address issues discussed in the NRC's "Part 52 Implementation Self-Assessment Review Report" (July 2013) [ADAMS Accession No. ML13196A403], SECY-17-0075, "Planned Improvements in Design Certification Tiered Information Designations" [ADAMS Accession Number ML16196A321], and SECY-96-077, "Certification of Two Evolutionary Designs," April 15, 1996 [ADAMS Accession No. ML003708129].

Detailed technical justification supporting this request for exemption is provided in Section 3 of the associated License Amendment Request in Enclosure 1 of this letter.

#### **4.0 Justification of Exemption**

10 CFR Part 52, Appendix D, Section VIII.A.4 and 10 CFR 52.63(b)(1) govern the issuance of exemptions from elements of the certified design information for AP1000 nuclear power plants. Since SNC has identified a need to deviate from 10 CFR Part 52, Appendix D regulations as discussed in Enclosure 1 of the accompanying License Amendment Request, an exemption from the regulations is needed.

10 CFR Part 52, Appendix D, and 10 CFR 50.12, §52.7, and §52.63 state that the NRC may grant exemptions from the requirements of the regulations provided six 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)]; 4) special circumstances are present [§50.12(a)(2)]; 5) the special circumstances outweigh any



decrease in safety that may result from the reduction in standardization caused by the exemption [§52.63(b)(1)]; and 6) the design change will not result in a significant decrease in the level of safety [Part 52, App. D, VIII.A.4].

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

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

The NRC has authority under 10 CFR 52.63, §52.7, and §50.12 to grant exemptions from the requirements of NRC regulations. Specifically, 10 CFR 50.12 and §52.7 state that the NRC may grant exemptions from the requirements of 10 CFR Part 52 upon a proper showing. 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 would allow departures from Tier 2\* information using the Tier 2 departure process when those departures do not meet any of the new screening criteria. The exemption would only authorize departures from Tier 2\* information without NRC approval when those departures are determined to have no more than a minimal impact to safety.

Therefore, the requested exemption from 10 CFR 52, Appendix D, Section III.B 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 exemption would allow a departure from Tier 2\* information without prior NRC approval only if: a. the change is qualified for the revised change process by the application of the new screening criteria; and b. only if it were determined that NRC approval is not required by existing departure evaluation criteria for Tier 2 information. The exemption would not alter the design, function, or operation of any 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, systems, or equipment.

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. Only one of these special circumstances need be present before granting

an exemption request. In this case, two of the six “special circumstances” are present, specifically 10 CFR 50.12(a)(2)(ii) and (iii).

#### **4.1 Application would not serve the underlying purpose of the rule**

10 CFR 50.12(a)(2)(ii) 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 is 10 CFR Part 52, Appendix D, specifically Section VIII, the change control process. The underlying purpose of requiring prior NRC approval for departures from Tier 2\* information is to reflect the potential safety significance of Tier 2\* information. The NRC was specifically concerned with “certain significant information [that] only exists in Tier 2 [that] the Commission does not want [...] to be changed without prior NRC approval.” 71 Fed. Reg. at 4474. However, because Tier 2\* derives from Tier 2, some documents designated as Tier 2\* contain information more appropriately designated as Tier 2, e.g., background information. However, under current processes, to depart from that “Tier 2-type” information, prior NRC approval is required.

Currently, compliance with 10 CFR Part 52, Appendix D, Section VIII, B.6.a., requires the licensee to obtain NRC approval for *any* change to Tier 2\* information – even those having no more than a minimal impact to safety.

Because the exemption would allow departures from Tier 2\* without NRC approval only after evaluation against the screening criteria defined in a new License Condition and application of the departure screening and evaluation criteria for Tier 2\* departures, any safety-significant departures would continue to require prior NRC approval.

Therefore, application of 10 CFR 52, Appendix D, Section VIII, in the particular circumstances discussed in this request, is not necessary to achieve the underlying purpose of the rule.

#### **4.2 Compliance would result in undue hardship**

10 CFR 50.12(a)(2)(iii) defines special circumstances as when “[c]ompliance 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.” The NRC’s goal was to identify only that significant information for which its approval was required if changes were made. It follows then that the NRC’s assessment of the compliance obligation for licensees related to the Tier 2\* designation would be limited to those instances involving safety-significant departures from this Tier 2\* information.

The current departure control process has no mechanism whereby departures that have minimal bearing on the safety-significant nature of Tier 2\* information can be made without NRC approval. Compliance imposes significant costs and delay, both to SNC and to the NRC, without a corresponding benefit.

Therefore, compliance with 10 CFR Part 52, Appendix D, Section VIII, in the particular circumstances discussed in this request, would result in undue hardship.

**5. The special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption.**

The requested exemption would only allow a change to the departure evaluation process for Tier 2\* departures and would not actually implement any changes to the design, construction, or operation of the plant. A change to the departure evaluation process is unrelated to any aspect of design standardization

Therefore, the special circumstances associated with the requested exemption outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption.

**6. The proposed change will not result in a significant decrease in the level of safety.**

The requested exemption would allow the application of screening criteria to identify departures that require prior NRC approval, followed by application of the Tier 2 change evaluation process and criteria to the remaining plant-specific departures from Tier 2\* matters that do not meet any of the screening evaluation criteria, and Tier 2 information that involves a change to or departure from Tier 2\* matters that do not meet any of the screening evaluation criteria. Because the exemption would allow departures from Tier 2\* without NRC approval only after application of the departure screening and evaluation criteria, any safety-significant departures would continue to require prior NRC approval.

Therefore, the proposed change will not result in a significant decrease in the level of safety.

**5.0 Risk Assessment**

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

## 6.0 Precedent Exemptions

The NRC has long used screenings and evaluations as a regulatory tool; e.g., 10 CFR 50.59. The change process for Tier 2 information has been effective at ensuring that departures that would result in more than a minimal impact to safety require prior NRC approval through an LAR. SNC proposes to use the same departure evaluation process for departures from Tier 2\* that do not meet any of the criteria specified in new License Condition 2.D.(13). SNC's proposal is consistent with the statement in NRC's *Principles of Good Regulation*, "Regulatory activities should be consistent with the degree of risk reduction they achieve."

## 7.0 Environmental Consideration

The Licensee requests a permanent exemption from certain provisions of 10 CFR Part 52, Appendix D, *Design Certification Rule for AP1000 Design*, to allow the application of screening and the existing Tier 2 departure evaluation process to proposed Tier 2\* departures and departures from Tier 2 information that involves a change to or departure from Tier 2\* matters, and that do not meet any of the criteria of new License Condition 2.D.(13). However, the Licensee evaluation of the proposed exemption has determined that the proposed exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9).

Based on the above review of the proposed exemption, the Licensee has determined that the proposed activity does not involve (i) a significant hazards consideration, (ii) a significant change in the types or significant increase in the amounts of any effluents that may be released offsite, or (iii) a significant increase in individual or cumulative occupational radiation exposure. Accordingly, the proposed exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), an environmental impact statement or environmental assessment of the proposed exemption is not required.

Specific details of the environmental considerations supporting this request for exemption are provided in Section 5 of the associated License Amendment Request provided in Enclosure 1 of this letter.

## 8.0 Conclusion

The proposed changes to the COL allow the application of screening criteria to identify Tier 2\* departures that require prior NRC approval, followed by application of the existing Tier 2 departure evaluation process to the remaining plant-specific Tier 2\* departures that do not meet any of the screening criteria defined in new License Condition 2.D.(13) and departures from Tier 2 information that involve departures from this same Tier 2\* matter. The exemption request meets the requirements of 10 CFR 52.63, *Finality of design certifications*, 10 CFR 52.7, *Specific exemptions*, 10 CFR 50.12, *Specific exemptions*, and 10 CFR Part 52 Appendix D, *Design Certification Rule for the AP1000*. 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 does not result in a significant decrease in the level of safety, satisfies the underlying purpose of the AP1000 Design Certification Rule, and would not perpetuate undue hardship to the Licensee. Granting of this exemption is in the public interest and does not present a significant decrease in safety as a result of a reduction in standardization.

## **9.0 References.**

None.

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**Enclosure 3**

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

**Proposed Changes to Licensing Basis Documents**

**(LAR-17-037)**

**Insertions Denoted by Blue Underline and Deletions by ~~Red~~ Strikethrough  
Omitted text is identified by three asterisks ( \* \* \* )**

(This Enclosure consists of three pages, including this cover page.)

**Revise Combined License (COL) License Condition 2.D, by adding new condition (13), to address the Tier 2\* Change Process, as follows:**

- D. The license is subject to, and SNC shall comply with, the conditions specified and incorporated below:

\* \* \*

(13) Departures from Plant-specific DCD Tier 2\* Information

- (a) SNC is exempt from the requirements of 10 CFR Part 52, Appendix D, Paragraphs II.F and VIII.B.6 that invoke the Tier 2\* change process that requires prior NRC approval via a license amendment for departures from Tier 2\* information; and Paragraph VIII.B.5.a for Tier 2 information that involves a change to, or departure from, Tier 2\* information; except for departures from Tier 2\* information that:
1. Involve design methodology or construction materials that deviate from, or result in a reduction in a margin of safety afforded by, a code or standard credited in the plant-specific DCD for establishing the criteria for the design or construction of a structure, system, or component (SSC) important to safety.
  2. Result in a material change to a design process described in the plant-specific DCD that is used to implement an industry standard or endorsed regulatory guidance.
  3. Result in a material change to the fuel criteria evaluation process, the fuel principal assembly design requirements, core design, or reactivity control system design, or
  4. Adversely affect the debris screen design criteria.
- (b) The licensee may depart from the Tier 2\* matters identified in VIII.B.6 b and VIII.B.6.c, except as described in License Condition 2.D.(13)(a), using the provisions of Paragraph VIII.B.5 for Tier 2 departures.

**Revise Updated Final Safety Analysis Report page footers that contain a Tier 2\* note as follows:**

\*In accordance with the departure evaluation process specified in License Condition 2.D.(13), NRC Staff approval ~~is~~ may be required prior to implementing a change in this information.

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**Southern Nuclear Operating Company**

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**Enclosure 4**

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

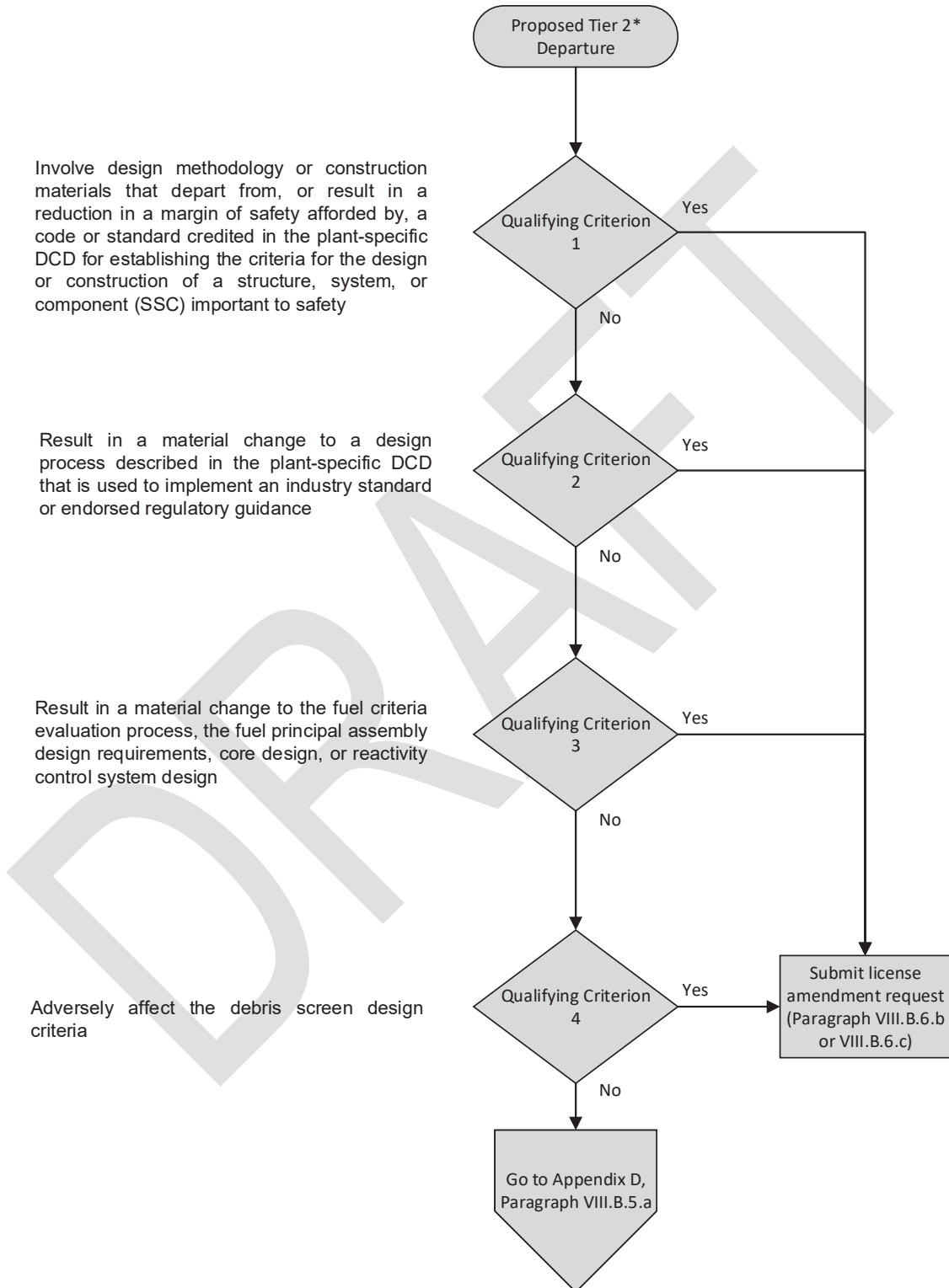
**Reviewer's Aid**

**Proposed Tier 2\* Departure Evaluation Process**

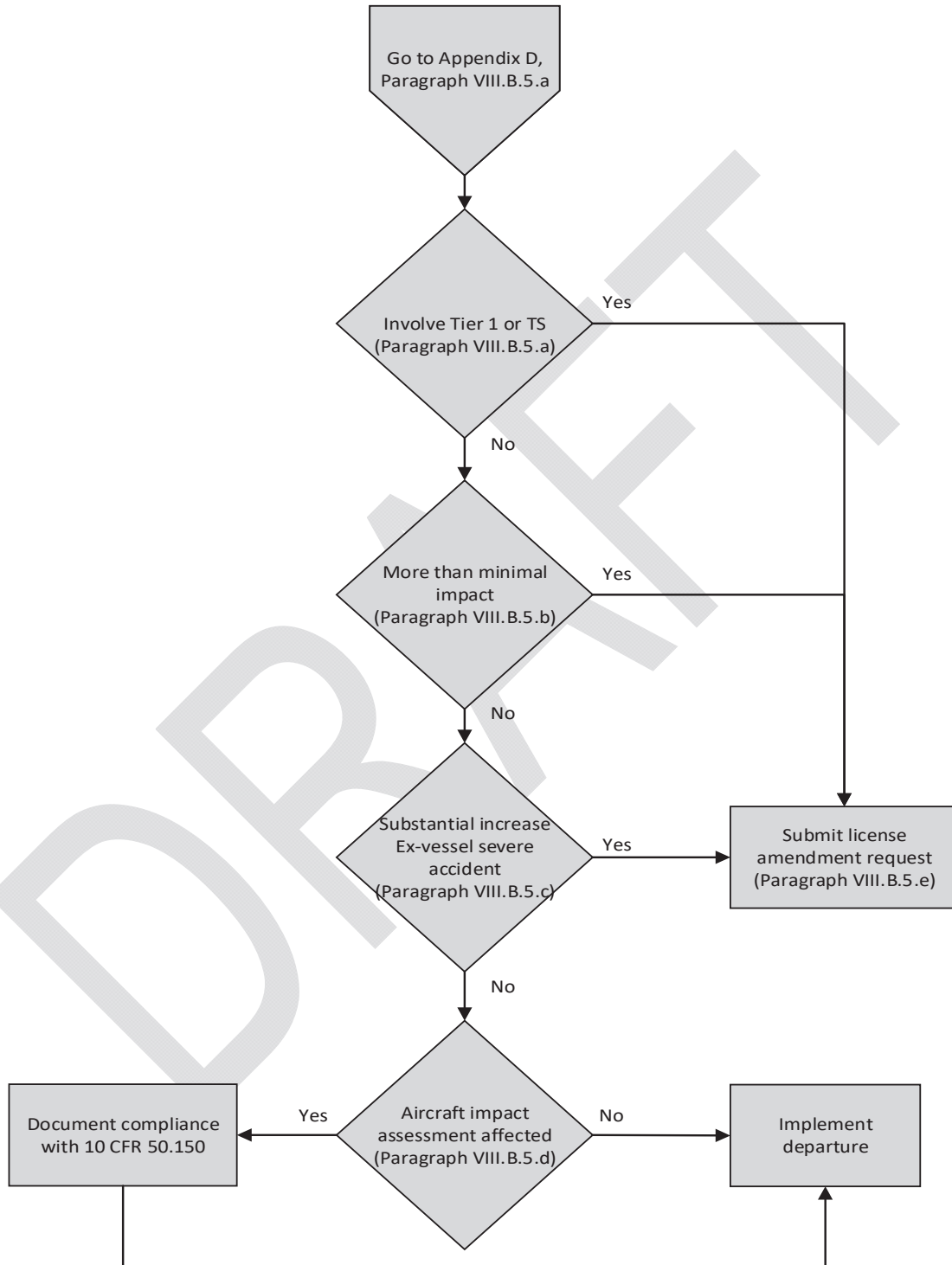
**(LAR-17-037)**

(This Enclosure consists of three pages, including this cover page.)

### Proposed Departure Evaluation Process



### Proposed Departure Evaluation Process



**Southern Nuclear Operating Company**

**ND-17-1726**

**Enclosure 5**

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

**Reviewer's Aid**

**Tier 2\* Matters Analysis Summary**

**(LAR-17-037)**

(This Enclosure consists of six pages, including this cover page.)



Tier 2\* Analysis Results

Section VIII.B.6.b (Tier 2* Matters that Do Not Expire at Full Power)	Selected for additional screening	Basis	Associated Criteria
1 Maximum fuel rod average burn-up.	Yes	Not addressed in Tier 1	Result in a material change to the fuel criteria evaluation process, the fuel principal assembly design requirements, core design, or reactivity control system design.
2 Fuel principal design requirements.	Yes	Not addressed in Tier 1	Result in a material change to the fuel criteria evaluation process, the fuel principal assembly design requirements, core design, or reactivity control system design.
3 Fuel criteria evaluation process.	Yes	Not addressed in Tier 1	Result in a material change to the fuel criteria evaluation process, the fuel principal assembly design requirements, core design, or reactivity control system design.
4 Fire areas.	N/A	Previous exemption re-designated VEGP 3 and 4 fire area figures as Tier 2	N/A
5 Reactor coolant pump type.	No	Adequately addressed in Tier 1	N/A
6 Small-break loss-of-coolant accident (LOCA) analysis methodology.	No	10 CFR 50.46 and adequately addressed by paragraph VIII.B.5	N/A

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 Reviewer's Aid - Tier 2\* Matters Analysis Summary (LAR-17-037)

Section VIII.B.6.b (Tier 2* Matters that <u>Do Not Expire at Full Power</u> )		Selected for additional <u>screening</u>	<u>Basis</u>	<u>Associated Criteria</u>
7	Screen design criteria.	Yes	Paragraph VIII.B.5 may not work well in all cases; safety significance	Adversely affect the debris screen design criteria.
8	Heat sink data for containment pressure analysis.	No	Adequately addressed by paragraph VIII.B.5	N/A

Section VIII.B.6.c (Tier 2* Matters that <u>Expire at Full Power</u> )		Selected for additional <u>screening</u>	<u>Basis</u>	<u>Associated Criteria</u>
1	Nuclear Island Structural Dimensions.	No	Adequately addressed in Tier 1	N/A
2	American Society of Mechanical Engineers Boiler & Pressure Vessel Code (ASME Code) piping design and welding restrictions, and ASME Code Cases.	No	Adequately addressed in Tier 1; 10 CFR 50.55a; Paragraph VIII.B.5	N/A

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 Reviewer's Aid - Tier 2\* Matters Analysis Summary (LAR-17-037)

Section VIII.B.6.c (Tier 2* Matters that <u>Expire at Full Power</u> )	Selected for additional <u>screening</u>	<u>Basis</u>	<u>Associated Criteria</u>
3 Design Summary of Critical Sections.	Yes	Safety significance	Involve design methodology or construction materials that deviate from, or result in a reduction in a margin of safety afforded by, a code or standard credited in the plant-specific DCD for establishing the criteria for the design or construction of a structure, system, or component (SSC) important to safety.
4 American Concrete Institute (ACI) 318, ACI 349, American National Standards Institute/American Institute of Steel Construction (ANSI/AISC)–690, and American Iron and Steel Institute (AISI), "Specification for the Design of Cold Formed Steel Structural Members, Part 1 and 2," 1996 Edition and 2000 Supplement.	Yes	Safety significance	Involve design methodology or construction materials that deviate from, or result in a reduction in a margin of safety afforded by, a code or standard credited in the plant-specific DCD for establishing the criteria for the design or construction of a structure, system, or component (SSC) important to safety.
5 Definition of critical locations and thicknesses.	No	Adequately addressed in Tier 1	N/A
6 Seismic qualification methods and standards.	No	Adequately addressed by paragraph VIII.B.5	N/A

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 Enclosure 5  
 Reviewer's Aid - Tier 2\* Matters Analysis Summary (LAR-17-037)

Section VIII.B.6.c (Tier 2* Matters that <u>Expire at Full Power</u> )	Selected for additional <u>screening</u>	<u>Basis</u>	<u>Associated Criteria</u>
7 Nuclear design of fuel and reactivity control system, except burn-up limit.	Yes	Not addressed in Tier 1 and safety significance	Result in a material change to the fuel criteria evaluation process, the fuel principal assembly design requirements, core design, or reactivity control system design.
8 Motor-operated and power-operated valves.	No	Adequately addressed in Tier 1 and by paragraph VIII.B.5	N/A
9 Instrumentation and control system design processes, methods, and standards.	Yes	Safety Significance	Result in a material change to a design process described in the plant-specific DCD that is used to implement an industry standard or endorsed regulatory guidance.
10 Passive residual heat removal (PRHR) natural circulation test (first plant only).	No	Adequately addressed in Tier 1 and COL	N/A
11 Automatic depressurization system (ADS) and core make-up tank (CMT) verification tests (first three plants only).	No	Adequately addressed in Tier 1 and COL	N/A
12 Polar crane parked orientation.	No	Does not meet criteria for Tier 1; therefore, paragraph VIII.B.5 will adequately address	N/A
13 Piping design acceptance criteria.	Yes	Safety Significance	Result in a material change to a design process described in the plant-specific DCD that is used

Section VIII.B.6.c (Tier 2* Matters that <u>Expire at Full Power</u> )	Selected for additional <u>screening</u>	<u>Basis</u>	<u>Associated Criteria</u>
14 Containment vessel design parameters, including ASME Code, Section III, Subsection NE.	No	Adequately addressed in Tier 1 and paragraph VIII.B.5	to implement an industry standard or endorsed regulatory guidance.
15 Human factors engineering.	Yes	Paragraph VIII.B.5 may not work well and safety significance	Result in a material change to a design process described in the plant-specific DCD that is used to implement an industry standard or endorsed regulatory guidance.
16 Steel composite structural module details.	Yes	Safety significance	Involve design methodology or construction materials that deviate from, or result in a reduction in a margin of safety afforded by, a code or standard credited in the plant-specific DCD for establishing the criteria for the design or construction of a structure, system, or component (SSC) important to safety.