



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 2, 2021

MEMORANDUM TO: Victor E. Hall, Chief
Vogtle Project Office
Office of Nuclear Reactor Regulation

FROM: Cayetano Santos Jr., Senior Project Manager */RA/*
Vogtle Project Office
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF A PUBLIC MEETING WITH SOUTHERN NUCLEAR
OPERATING COMPANY ON NOVEMBER 10, 2021

The U.S. Nuclear Regulatory Commission (NRC) staff held a public observation meeting with Southern Nuclear Operating Company (SNC) on November 10, 2021. The purpose of the meeting was to discuss the exemption request regarding the applicability of Title 10 of the *Code of Federal Regulations* (10 CFR) 26.3, "Scope," until initial fuel load.

The meeting notice can be found in the Agencywide Documents Access and Management System (ADAMS) Accession No. ML21313A114. The meeting notice was also posted on the NRC public website. Enclosures 1 and 2 are the meeting agenda and attendance list for the meeting, respectively. The documents referenced during the discussion can be found at the ADAMS Accession Nos. given below:

Request for Exemption: Applicability of 10 CFR 26.3, Scope, Until Initial Fuel Load	ML21309A545
NRC Staff Presentation: Discussion of proposed rule language changes discussed in the exemption request	ML21314A583

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Meeting Summary

On November 10, 2021, the NRC staff held an observation public meeting with Southern Nuclear Operating Company (SNC) to discuss SNC's request for an exemption, for Vogtle Electric Generating Plant (Vogtle) Units 3 and 4, from portions of 10 CFR 26.3, "Scope," to delay implementation of a fitness for duty (FFD) program that meets all requirements of 10 CFR Part 26, except Subpart K, from the time the Commission issues the 10 CFR 52.103(g) finding for each unit until initial fuel load of the unit (ADAMS Accession No. ML21309A545). 10 CFR 26.3, in part, defines when the various portions of 10 CFR Part 26, "Fitness for Duty Programs," should be implemented. The 10 CFR 52.103(g) finding is a determination made by the NRC that all the acceptance criteria in the combined license are met, after which SNC may load fuel and begin operation in accordance with the conditions of the license.

SNC requested this exemption so that 10 CFR Part 26, Subpart K, "FFD Programs for Construction," may continue to be used at Vogtle Units 3 and 4, during the period between the 10 CFR 52.103(g) finding and the initial loading of fuel into the reactor vessel. At this public meeting SNC described the changes made to the proposed draft exemption request following the November 4, 2021, pre-submittal meeting discussing this same topic (ADAMS Accession No. ML21316A069).

The NRC staff's presentation was based on the initial findings of their ongoing acceptance review of the SNC exemption request, specifically discussing four items for SNC's consideration (ADAMS Accession No. ML21314A583).

Below is a summary of the general comment and discussions:

- On November 1, 2021, SNC submitted a separate exemption request for Vogtle Units 3 and 4 to delay implementation of the Physical Protection Program and Access Authorization Program until before initial fuel load (ADAMS Accession No. ML21305B797). This exemption request and the one discussed during this meeting will be independent licensing reviews. SNC staff noted that when the protected area is declared, some individuals per 10 CFR 26.4, "FFD Program Applicability to Categories of Individuals," currently on the Vogtle site under the more limited Subpart K requirements, would need to meet the full FFD program requirements.
- SNC staff noted that the second sentence in 10 CFR 26.3(a) does not strictly apply to Vogtle Unit 3 because new fuel is already on site and initial fuel load cannot occur until after the receipt of the fuel assemblies on site.
- SNC's focus for this exemption request is to extend the use of Subpart K requirements until initial fuel load.
- The NRC staff stated that the framework of 10 CFR Part 26 is to apply a full FFD program prior to a change in the risk of radiological consequences. This is reflected in the NRC's regulatory basis document titled, "Alignment of Licensing Process and Lessons Learned from New Reactor Licensing," (ADAMS Accession No. ML20149K680) that proposes to implement the full FFD program "before initial fuel load." However, SNC's exemption request, which references this regulatory basis document as part of the technical justification, proposes implementation of the full FFD program "after initial

fuel load.” SNC staff responded that the focus of the exemption was changing the 10 CFR 52.103(g) milestone to initial fuel load so the “after” statements in the regulations were retained. SNC staff added that their intent is to transition out of Subpart K to the full FFD Program after the NRC’s 10 CFR 52.103(g) finding but before starting fuel load.

- The exemption request proposes to replace the phrase “after the Commission has made the finding under 10 CFR 52.103(g),” in 10 CFR 26.3(a) with the phrase “after initial loading of fuel into the reactor vessel.” The NRC staff noted that this phrase appears twice in 10 CFR 26.3(a) and the exemption request is not clear whether the replacement is intended for one or both instances.
- The NRC staff noted that change in 10 CFR 26.3(a) suggested in the exemption request could be interpreted such that the FFD program would be implemented after initial fuel load and before the receipt of additional fuel assemblies for a subsequent fuel load. If this interpretation was applied, there would be a gap between when the FFD program was intended to be implemented by the regulations and the actual implementation. SNC staff noted that the current language in this regulation could also be interpreted this way.
- The majority of the technical justification for the exemption request is based on a generic assessment described in the NRC regulatory basis document referenced in the submittal. The NRC staff noted that the exemption request does not provide site-specific examples demonstrating how Vogtle Units 3 and 4 are bounded by this generic assessment. SNC staff responded that Vogtle Units 3 and 4 are required to meet 10 CFR 26.4, which describes the applicability of the FFD program to categories of individuals, and the exemption is not requesting any change to the 10 CFR 26.4 requirements. SNC staff also noted that, given a dynamic construction schedule, it may be difficult to provide details as to what specific activities would be occurring between the 10 CFR 52.103(g) finding and initial fuel load.
- The NRC staff stated that they are currently in the process of performing an acceptance review of the exemption request and that they intend to consider any potential response, provided by SNC to respond to the NRC’s comments from this meeting, before completing the acceptance review.
- SNC staff stated that they would consider the comments provided by the NRC staff in preparing a possible supplement to this exemption request.
- The NRC staff stated that the comments provided at this meeting were done as part of the NRC’s acceptance review. The NRC staff also stated that, if this exemption request is accepted and a full NRC technical review proceeds, the process provides that the staff will have the opportunity to request any additional information needed as part of the technical review process.
- The NRC staff made it clear that any discussion during this meeting does not necessarily imply that the exemption request will be accepted by the NRC for full technical review or that it would be subsequently approved by the NRC.

At the conclusion of the discussion, there was an opportunity for the public to provide comments and ask questions. There were no comments or questions from the public.

Docket No.: 52-025
52-026

Enclosures:
As stated

cc w/encls: See next page

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 OPERATING COMPANY ON NOVEMBER 10, 2021
 DATED: December 2, 2021

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ADAMS Accession No.: ML21322A150 ***via e-mail** **NRR-106**

OFFICE	PM: NRR/VPO	LA: NRR/VPO	PM: NRR/VPO	BC: NSIR/DPCP/RSB
NAME	CSantos	RButler	CSantos	ABowers
DATE	11/29/2021	11/29/2021	12/01/2021	12/01/2021
OFFICE	BC: NRR/DRO/IOLB	BC: NRR/VPO	PM: NRR/VPO	/
NAME	BGreen	VHall	CSantos	
DATE	12/02/2021	12/02/2021	12/02/2021	

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**AGENDA FOR PUBLIC MEETING
U.S. NUCLEAR REGULATORY COMMISSION
Thursday, November 10, 2021
Teleconference
9:00 a.m. – 10:00 a.m.**

PURPOSE: To discuss issues associated with the safety review of licensing actions for Southern Nuclear Operating Company’s (SNC) Vogtle Electric Generating Plant (VEGP) Units 3 and 4.

Time	Topic	Led By
9:00 a.m.	Opening Remarks and Introductions	NRC
9:05 a.m. – 9:30 a.m.	Discussion of Identified Topics <ul style="list-style-type: none"> • Request for Exemption: Applicability of 10 CFR 26.3, Scope, Until Initial Fuel Load 	NRC/SNC
	Opportunity for Public Comment Following each Topic	NRC/Public
9:30 a.m.	Open Portion Concludes	NRC
9:30 a.m. – 10:00 a.m.	Closed Portion of Meeting (If needed)	NRC/SNC
10:00 a.m.	Adjourn	NRC

PUBLIC MEETING
U.S. NUCLEAR REGULATORY COMMISSION
Thursday, November 10, 2021
List of Attendees

Name	Organization
Cayetano (Tanny) Santos Victor Hall William (Billy) Gleaves Garry Armstrong Michael Webb James Gaslevic Justin Vazquez Brian Green Philip McKenna David Desaulniers Anne-Marie Grady	NRC/Office of Nuclear Reactor Regulation
Anthony Bowers Paul Harris	NRC/Office of Nuclear Security and Incident Response
Michael Spencer	NRC/Office of the General Counsel
Stephanie Agee Nick Kellenberger Nathan Chapman Steve Leighty Dan Williamson Cheree Montgomery Mike Long Brandon Norris Lisa Pritchett Mike Yox Sheila Dowd Jerry Sims Tina St. Pierre Mitch Hillis	Southern Nuclear Operating Company
None identified	Members of the Public

Note: All participated via teleconference.