



South Texas Project Electric Generating Station P.O. Box 289 Wadsworth, Texas 77483

May 13, 1998  
ST-NOC-AE-000158  
File No.: G20.04.02  
10CFR50.36  
STI: 30613934

U. S. Nuclear Regulatory Commission  
Attention: Document Control Desk  
Washington, DC 20555

South Texas Project  
Units 1 and 2  
Docket Nos. STN 50-498; STN 50-499  
Notice of Violation 98004-01

The South Texas Project has reviewed Notice of Violation 98004-01 regarding implementation of a plant change without obtaining prior Nuclear Regulatory Commission review and approval. The South Texas Project does not agree that a violation of Nuclear Regulatory Commission requirements occurred. The basis for this conclusion is provided in the attachment.

If you should have any questions concerning this matter please contact either S. M. Head at (512) 972-7136 or me at (512) 972-8686.

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KJT/

Attachment: Reply to Notice of Violation 98004-01

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## Reply to Notice of Violation 98004-01

### I. Statement of Violation:

During an NRC inspection conducted on February 14 through March 21, 1998, one violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.59(a)(1)(1) states, in part, "The holder of a license authorizing operation of a production or utilization facility may make changes in the facility as described in the safety analysis report, without prior Commission approval, unless the proposed change involves an unreviewed safety question."

Contrary to the above, in Unreviewed Safety Question Evaluation (USQE) 96-0012, titled, "UFSAR CN-2012/Update UFSAR Tables to Reflect New LOCA Radiological Analysis," the licensee updated the UFSAR to reflect their new LOCA radiological analysis, which increased the thyroid dose to the control room operator and, therefore, was an unreviewed safety question, without obtaining prior NRC review and approval.

This is a Severity Level IV violation (Supplement 1) (498;499/98004-01).

### II. South Texas Project Position:

The South Texas Project does not agree that a violation of Nuclear Regulatory Commission regulations occurred.

During a review of the South Texas Project Updated Final Safety Analysis Report design basis loss of coolant accident analysis, an error was discovered in the calculation of the dose to the control room operators. After revising the calculation, the calculated thyroid dose to the control room operator increased from 22.67 rem to 23.26 rem. This change was evaluated pursuant to 10CFR50.59 and an unreviewed safety question evaluation was performed. The evaluation concluded that the change did not increase the consequences of an accident or a malfunction of equipment important to safety previously evaluated in the safety analysis report. The basis for this conclusion was the results of the reanalysis showed that the calculated doses were within the Nuclear Regulatory Commission

acceptance limits of General Design Criteria 19 of Appendix A of 10CFR50. These are the acceptance limits stated in the South Texas Project Updated Final Safety Analysis Report and the Nuclear Regulatory Commission safety evaluation reports. Therefore, the change was evaluated to not involve an unreviewed safety question. The change was approved on May 22, 1996 and reported to the Nuclear Regulatory Commission on December 17, 1996 in the South Texas Project 10CFR50.59 Summary Report.

The South Texas Project evaluates plant change effects on consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report based on the acceptance limit that the Nuclear Regulatory Commission cited in its safety evaluation report. This basis is consistent with industry guidelines and practices. In this instance, these same acceptance limits are reported in the South Texas Project Updated Final Safety Analysis Report as the basis for an acceptable control room envelope design (i.e., Section 6.4.4.1 concludes that "the control room envelope HVAC System design meets the dose requirements of GDC 19 of 10CFR50, Appendix A"). Previous safety evaluation reports received from the Nuclear Regulatory Commission for South Texas Project license amendments affecting calculated dose to the control room operator from a loss of coolant accident concluded the analyses were acceptable and met General Design Criteria 19 of Appendix A of 10CFR50.

- NUREG-0781, "Safety Evaluation Report Related to the Operation of South Texas Project Units 1 and 2., Section 6.4, stated the "staff concludes that the control room habitability system of the South Texas facility is acceptable and meets GDC 19".
- The Safety Evaluation Report issued September 26, 1991, for amendments No. 28/19 concluded that the control room would be left in a safe and habitable condition during and following a design basis accident "so that the radiological exposures to the control room operator will be within the limits specified in General Design Criteria 19 of Appendix A to 10CFR50 and within the guidelines provided in the Standard Review Plan Section 6.4".
- The Safety Evaluation Report issued October 24, 1991, for amendments No. 30/21 stated "the radiological doses as a result of the removal of the spray additive tanks are less than the doses discussed in the safety evaluation supporting the aforementioned license amendments and are still within the requirements of GDC 19".

The South Texas Project threshold for evaluating plant change effects on consequences of an accident or malfunction of equipment important to safety is consistent with the May 10, 1989, Nuclear Regulatory Commission letter from C. E. Rossi to Mr. T. E. Tipton of NUMARC. In this letter, the Nuclear Regulatory Commission stated:

“...if in licensing the plant the staff explicitly found that the plant’s response to a particular event was acceptable because the dose was less than the SRP guidelines (without further qualification) then the staff implicitly accepted the SRP guideline as the licensing basis for the plant and the particular event, and the licensee may make changes that increase the consequences for the particular event, up to this value without prior NRC approval.”

We believe the Nuclear Regulatory Commission staff’s current position expressed in Notice of Violation 98004-01 is a new position, that is different from the position in the 1989 NRC letter mentioned previously. Therefore, the South Texas Project believes that the plant analysis change that occurred in 1996 and described in UFSAR CN-2012 was appropriately evaluated and approved pursuant to 10CFR50.59. This evaluation in 1996 was consistent with industry guidelines. In addition, the South Texas Project evaluation was consistent with the NRC stated position on the interpretation of the “increase in consequences threshold”. Finally, the South Texas Project evaluation was consistent with NRC conclusions in safety evaluation reports for previous South Texas Project amendments regarding acceptance limits for dose to the control room operator.

The South Texas Project is aware that the interpretation of “increase in consequences” was recently identified as an issue between the Nuclear Regulatory Commission staff and the industry. The explanation of the Nuclear Regulatory Commission staff’s position regarding this issue in draft NUREG-1606, Section III.R.4, is not applicable in this instance because the change evaluated by UFSAR CN-2012 did not change the inputs to the NRC’s dose calculation. In addition, the South Texas Project is aware of the NRC Commission’s direction to the staff to initiate expedited rulemaking to modify the language of 10CFR50.59 to establish realistic and safe limits allowing licensees to make changes under the rule without prior Nuclear Regulatory Commission approval. It appears that rulemaking is the appropriate method to resolve this issue.

The South Texas Project believes that Notice of Violation 98004-01 represents an imposition of a regulatory staff position interpreting the Commission rules that is different from a previously applicable staff position. Therefore, the bases for the notice of violation should be subject to backfit analysis pursuant to 10CFR50.109. This analysis requires a conclusion that a substantial increase in the overall protection of the public health and safety would result by imposition of the new staff position. The South Texas Project is unaware of any such analysis. In fact, the radiological dose limits of General Design

Criteria 19 of Appendix A of 10CFR50 provide adequate overall protection of the public health and safety. The South Texas Project's accident analysis demonstrates that these limits are maintained.

III. Reason for the Violation:

As noted above, the South Texas Project does not believe that a violation occurred.

IV. Corrective Action:

No corrective action is necessary as a result of this issue.

V. Date of Full Compliance:

The South Texas Project continues to be in full compliance.