November 8, 2004

Mr. James A. Spina
Vice President Nine Mile Point
Nine Mile Point Nuclear Station, LLC
P.O. Box 63
Lycoming, NY 13093

SUBJECT: NINE MILE POINT NUCLEAR STATION UNIT NOS. 1 AND 2 - ISSUANCE OF AMENDMENTS RE: IMPLEMENTATION OF THE REACTOR PRESSURE VESSEL INTEGRATED SURVEILLANCE PROGRAM (TAC NOS. MC1758 AND MC1759)

Dear Mr. Spina:

The Commission has issued the enclosed Amendment No. 184 to Facility Operating License No. DPR-63 and Amendment No. 114 to Facility Operating License No. NPF-69 for the Nine Mile Point Nuclear Station, Unit Nos. 1 and 2. The amendments revise the Technical Specifications (TSs) for Unit 1, and approve revision of the licensing basis for both units, in response to your application transmitted by two separate letters, both dated January 9, 2004, and as supplemented by letter dated June 17, 2004.

The amendments approve implementation of the Boiling Water Reactor Vessel and Internals Project Reactor Pressure Vessel Integrated Surveillance Program as the basis for demonstrating the units' compliance with the requirements of Appendix H to Title 10 of the *Code of Federal Regulations*. Specifically, the amendments approved the wording proposed by the licensee to update the units' Updated Safety Analysis Reports. In addition, the Unit 1 amendment also revised the TSs to delete any reference to plant-specific surveillance requirements.

A copy of each unit's related Safety Evaluations is enclosed. A Notice of Issuance will be included in the Commission's next regular biweekly Federal Register notice.

Sincerely,

/RA/

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-220 and 50-410

Enclosures: 1. Amendment No. 184 to DPR-63
2. Amendment No. 114 to NPF-69
3. Safety Evaluations

cc w/encls: See next page

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cc w/encls: See next page

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NINE MILE POINT NUCLEAR STATION, LLC (NMP LLC)

DOCKET NO. 50-220

NINE MILE POINT NUCLEAR STATION, UNIT NO. 1

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 184
License No. DPR-63

1. The Nuclear Regulatory Commission (the Commission) has found that:

   A. The application for amendment by Nine Mile Point Nuclear Station, LLC (the licensee) dated January 9, 2004, as supplemented by letter dated June 17, 2004, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations set forth in 10 CFR Chapter I;

   B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;

   C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;

   D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and

   E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the license is amended by changes to the Technical Specifications as indicated in the attachment to this license amendment, and paragraph 2.C.(2) of Facility Operating License No. DPR-63 is hereby amended to read as follows:

   (2) Technical Specifications

   The Technical Specifications contained in Appendix A, which is attached hereto, as revised through Amendment No. 184, is hereby incorporated into this license. Nine Mile Point Nuclear Station, LLC shall operate the facility in accordance with the Technical Specifications.

3. This amendment is effective as of the date of its issuance, and the Integrated Surveillance Program, excluding incorporation into the Final Safety Analysis Report (Updated), shall be implemented within 90 days of issuance. The licensee shall incorporate the program description into the Final Safety Analysis Report (Updated) set forth in the licensee's application dated January 9, 2004, and as supplemented on June 17, 2004, and evaluated in the safety evaluation enclosed with this amendment. The licensee shall submit the changes authorized by this amendment in accordance with 10 CFR 50.71(e).

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Richard J. Laufer, Chief, Section I
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment:
Changes to the Technical
Specifications

Date of Issuance: November 8, 2004

ATTACHMENT TO LICENSE AMENDMENT NO. 184

TO FACILITY OPERATING LICENSE NO. DPR-63

DOCKET NO. 50-220

Replace the following pages of Appendix A, Technical Specifications, with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages	Insert Pages
83	83
84	84
358	358

NINE MILE POINT NUCLEAR STATION, LLC (NMPNS)

LONG ISLAND LIGHTING COMPANY

DOCKET NO. 50-410

NINE MILE POINT NUCLEAR STATION, UNIT 2

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 114
License No. NPF-69

1. The Nuclear Regulatory Commission (the Commission) has found that:

   A. The application for amendment by Nine Mile Point Nuclear Station, LLC (the licensee) dated January 9, 2004, as supplemented by letter dated June 17, 2004, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations set forth in 10 CFR Chapter 1;

   B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;

   C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;

   D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and

   E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the license is amended to include a new License Condition 2.C.(16), which reads:

   (16) Reactor Vessel Integrated Surveillance Program

   NMP LLC is authorized to revise the Updated Safety Analysis Report (USAR) to allow implementation of the Boiling Water Reactor Vessel and Internals Project reactor pressure vessel Integrated Surveillance Program as the basis for demonstrating compliance with the requirements of Appendix H to Title 10 of the *Code of Federal Regulations,* Part 50, "Reactor Vessel Material Surveillance Program Requirements," as set forth in the licensee's application dated January 9, 2004, and as supplemented on June 17, 2004.

3. This amendment is effective as of the date of its issuance, and the Integrated Surveillance Program, excluding incorporation into the USAR, shall be implemented within 90 days of issuance. The licensee shall incorporate the program description into the USAR set forth in the licensee's application dated January 9, 2004, and as supplemented on June 17, 2004, and evaluated in the safety evaluation enclosed with this amendment. The licensee shall submit the changes authorized by this amendment in accordance with 10 CFR 50.71(e).

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Richard J. Laufer, Chief, Section I
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment:
Changes to the Operating License

Date of Issuance: November 8, 2004

ATTACHMENT TO LICENSE AMENDMENT NO. 114

TO FACILITY OPERATING LICENSE NO. NPF-69

DOCKET NO. 50-410

Replace the following pages of Operating License No. NPF-69 with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove Pages	Insert Pages
7	7
8	8
9	9
10	10

c. The decommissioning trust agreement must provide that no disbursements of payments from the trusts, other than for ordinary administrative expenses, shall be made by the trustee unless the trustee has given the NRC 30 days prior written notice of the payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the Director of the Office of Nuclear Reactor Regulation.

d. The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director of the Office of Nuclear Reactor Regulation.

e. The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

(14) NMP LLC shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the Application for approval of the transfer of the Unit 2 license to NMP LLC (Application), the requirements of the Order approving the transfer, and the related safety evaluation.

(15) At the time any subject direct transfer is effected, NMP LLC shall enter or shall have entered into an intercompany credit agreement with Constellation Energy Group (CEG), Inc., or New Controlled, whichever entity is the ultimate parent of NMP LLC at that time, in the form and on the terms represented in the Application for license transfer. Should New Controlled become the ultimate parent of NMP LLC following the direct transfer of the license to NMP LLC, NMP LLC shall enter or shall have entered into a substantially identical intercompany credit agreement with New Controlled at the time New Controlled becomes the ultimate parent; in such case, any existing intercompany credit agreement with CEG, Inc. may be canceled once the intercompany credit agreement with New Controlled is established. Except as otherwise provided above, NMP LLC shall take no action to void, cancel, or modify any intercompany credit agreement referenced above, without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

(16) Reactor Vessel Integrated Surveillance Program

NMP LLC is authorized to revise the Updated Safety Analysis Report (USAR) to allow implementation of the Boiling Water Reactor Vessel and Internals Project reactor pressure vessel Integrated Surveillance Program as the basis for demonstrating compliance with the requirements of Appendix H to Title 10 of the *Code of Federal Regulations,* Part 50, "Reactor Vessel Material Surveillance Program Requirements," as set forth in the licensee's application dated January 9, 2004, and as supplemented on June 17, 2004.

D. The facility requires exemptions from certain requirements of 10 CFR Part 50 and 10 CFR Part 70.

i) An exemption from the criticality alarm requirements of 10 CFR Part 70.24 was granted in the Special Nuclear Materials License No. SNM-1895 dated November 27, 1985. This exemption is described in Section 9.1 of Supplement 4 to the SER. This previously granted exemption is continued in this operating license.

ii) Exemptions to certain requirements of Appendix J to 10 CFR Part 50 are described in Supplements 3, 4, and 5 to the SER. These include (a) (this item left intentionally blank); (b) an exemption from the requirement of Option B of Appendix J, exempting main steam isolation valve measured leakage from the combined leakage rate limit of 0.6 La. (Section 6.2.6 of SSER 5)*; (c) an exemption from Option B of Appendix J, exempting the hydraulic control system for the reactor recirculation flow control valves from Type A and Type C leak testing (Section 6.2.6 of SSER 3); (d) an exemption from Option B of Appendix J, exempting Type C testing on traversing incore probe system shear valves. (Section 6.2.6 SSER 4)

iii) An exemption to Appendix A to 10 CFR Part 50 exempting the Control Rod Drive (CRD) hydraulic lines to the reactor recirculation pump seal purge equipment from General Design Criterion (GDC) 55. The CRD hydraulic lines to the reactor recirculation pump seal purge equipment use two simple check valves for the isolation outside containment (one side). (Section 6.2.4, SSER 3)

iv) A schedular exemption to GDC 2, Appendix A to 10 CFR Part 50, until the first refueling outage, to demonstrate the adequacy of the downcomer design under the plant faulted condition. This exemption permits additional analysis and/or modifications, as necessary, to be completed by the end of the first refueling outage. (Section 6.2.1.7.4, SSER 3)

* The parenthetical notation following the discussion of each exemption denotes the section of the Safety Evaluation Report (SER) and/or its supplements wherein the safety evaluation of the exemption is discussed.

v) A schedular exemption to GDC 50, Appendix A to 10 CFR Part 50 to allow the operating licensee until start-up following the "mini-outage," which is to occur within 12 months of commencing power operation (entering Operational Condition 1), to install redundant fuses in circuits that use transformers for redundant penetration protection in accordance with their letter of August 29, 1986 (NMP2L 0860). (Section 8.4.2, SSER 5)

vi) A schedular exemption to 10 CFR 50.55a(h) for the Neutron Monitoring System until completion of the first refueling outage to allow the operating licensee to provide qualified isolation devices for Class 1E/non-1E interfaces described in their letters of June 23, 1987 (NMP2L 1057) and June 25, 1987 (NMP2L 1058). (Section 7.2.2.10, SSER 6).

For the schedular exemptions in iv), v), and vi), above, the operating licensee, in accordance with its letter of October 31, 1986, shall certify that all systems, components, and modifications have been completed to meet the requirements of the regulations for which the exemptions have been granted and shall provide a summary description of actions taken to ensure that the regulations have been met. This certification and summary shall be provided 10 days prior to the expiration of each exemption period as described above.

The exemptions set forth in this Section 2.D are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security. These exemptions are hereby granted. The special circumstances regarding each exemption are identified in the referenced section of the Safety Evaluation Report and the supplements thereto. The exemptions in ii) through vi) are granted pursuant to 10 CFR 50.12. With these exemptions, the facility will operate to the extent authorized herein, in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

E. Nine Mile Point Nuclear Station, LLC shall fully implement and maintain in effect all provisions of the Commission-approved physical security, training and qualification, and safeguards contingency plans, including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The combined set of plans, which contain Safeguards Information protected under 10 CFR 73.21 is entitled “Nine Mile Point Nuclear Station, LLC Physical Security, Safeguards Contingency, and Security Training and Qualification Plan, Revision 0,” and was submitted by letter dated October 15, 2004, as supplemented by letter dated October 25, 2004. Changes made in accordance with 10 CFR 73.55 shall be implemented in accordance with the schedule set forth therein.

F. Except as otherwise provided in the Technical Specifications or Environmental Protection Plan, Nine Mile Point Nuclear Station, LLC shall report any violations of the requirements contained in Section 2.C of this license in the following manner: initial notification shall be made within 24 hours to the NRC Operations Center via the Emergency Notification System, with written followup within 30 days in accordance with the procedures described in 10 CFR 50.73(b), (c), and (e).

G. Nine Mile Point Nuclear Station, LLC shall implement and maintain in effect all provisions of the approved fire protection program as described in the Final Safety Analysis Report for the facility through Amendment No. 27 and as described in submittals dated March 25, May 7 and 9, June 10 and 25, July 11 and 16, August 19 and 22, September 5, 12, and 23, October 10, 21, and 22, and December 9, 1986, and April 10 and May 20, 1987, and as approved in the SER dated February 1985 (and Supplements 1 through 6) subject to the following provision:

> Nine Mile Point Nuclear Station, LLC may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.

H. The licensees shall have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with Section 170 of the Atomic Energy Act of 1954, as amended, to cover public liability claims.

I. This license is effective as of the date of issuance and shall expire at midnight on October 31, 2026.

FOR THE NUCLEAR REGULATORY COMMISSION

Original signed by:

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Enclosures:
1. Appendix A - Technical Specifications (NUREG-1253)
2. Appendix B - Environmental Protection Plan

Date of Issuance: July 2, 1987

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 184 TO FACILITY OPERATING

LICENSE NO. DPR-63

NINE MILE POINT NUCLEAR STATION, LLC

NINE MILE POINT NUCLEAR STATION, UNIT NO. 1 (NMP1)

DOCKET NO. 50-220

1.0 INTRODUCTION

By letter dated January 9, 2004 (Reference 1), as supplemented by letter dated June 17, 2004 (Reference 2), Nine Mile Point Nuclear Station, LLC (NMPNS, the licensee) submitted an application for a license amendment to modify the basis for NMP1 compliance with the requirements of Appendix H to Title 10 of the *Code of Federal Regulations*, Part 50 (Appendix H to 10 CFR Part 50), "Reactor Vessel Material Surveillance Program Requirements." In the application, NMPNS requested approval to implement the Boiling Water Reactor Vessel and Internals Project (BWRVIP) reactor pressure vessel (RPV) integrated surveillance program (ISP) as the basis for demonstrating the compliance of NMP1 with the requirements of Appendix H to 10 CFR Part 50. The supplemental letter dated June 17, 2004, provided a regulatory commitment by NMPNS that did not change the scope of the January 9, 2004, application nor the Nuclear Regulatory Commission (NRC) staff's initial proposed no significant hazards consideration determination.

The BWRVIP RPV ISP was submitted for NRC staff review and approval in topical reports BWRVIP-78, "BWR Vessel and Internals Project, BWR Integrated Surveillance Program Plan," (Reference 3) and BWRVIP-86, "BWR Vessel and Internals Project, BWR Integrated Surveillance Program Implementation Plan" (Reference 4). Additional information necessary to establish the technical basis for, and proposed implementation of, the BWRVIP ISP was provided in letters from the BWRVIP to the NRC dated December 15, 2000 (Reference 5), and May 30, 2001 (Reference 6). The NRC staff approved the proposed BWRVIP ISP in a Safety Evaluation (SE) that was provided to the BWRVIP by letter dated February 1, 2002 (Reference 7). However, the NRC staff's SE stated that plant-specific information be provided by BWR licensees who wish to implement the BWRVIP ISP for their facilities. NMPNS's application cited above addressed the plant-specific information specified in the NRC staff's February 1, 2002, BWRVIP ISP SE.

2.0 REGULATORY EVALUATION

The NRC staff finds that NMPNS identified the applicable regulatory requirements. The regulatory requirements for which the NRC staff based its acceptance are described below.

Pursuant to 10 CFR 50.36, technical specifications (TSs) are required to include items in the following five specific categories related to station operation: (1) safety limits, limiting safety system settings, and limiting control settings; (2) limiting conditions for operation; (3) surveillance requirements (SRs); (4) design features; and (5) administrative controls. Section 50.36(c)(3) states, "Surveillance requirements are requirements relating to test, calibration, or inspection to assure that the necessary quality of systems and components is maintained, that facility operation will be within safety limits, and that the limiting conditions for operation will be met." As a result, SRs that do not satisfy the criteria of 10 CFR 50.36(c)(3) may be deleted from the TSs or relocated to other licensee-controlled documents.

Appendix H to 10 CFR Part 50 requires nuclear power plant licensees to implement RPV surveillance programs to "monitor changes in the fracture toughness properties of ferritic materials in the reactor vessel beltline region...which result from exposure of these materials to neutron irradiation and the thermal environment." Two specific alternatives are provided with regard to the design of a facility's RPV surveillance program which may be used to address the requirements of Appendix H to 10 CFR Part 50.

The first alternative is the implementation of a plant-specific RPV surveillance program consistent with the requirements of American Society for Testing and Materials (ASTM) Standard Practice E 185, "Standard Practice for Conduction Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels." In the design of a plant-specific RPV surveillance program, a licensee may use the edition of ASTM Standard Practice E 185 that was current on the issuance date of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME B&PV Code) to which the reactor vessel was purchased, or later editions through the 1982 edition.

The second alternative provided in Appendix H to 10 CFR Part 50 is the implementation of an ISP. An ISP is defined in Appendix H to 10 CFR Part 50 as occurring when, ".....the representative materials chosen for surveillance for a reactor are irradiated in one or more other reactors that have similar design and operating features." Five specific criteria are stated in Appendix H to 10 CFR Part 50 that must be met to support approval of an ISP:

a. The reactor in which the materials will be irradiated and the reactor for which the materials are being irradiated must have sufficiently similar design and operating features to permit accurate comparisons of the predicted amount of radiation damage.

b. Each reactor must have an adequate dosimetry program.

c. There must be adequate arrangement for data sharing between plants.

d. There must be a contingency plan to assure that the surveillance program for each reactor will not be jeopardized by operation at reduced power level or by an extended outage of another reactor from which data are expected.

e. There must be substantial advantages to be gained, such as reduced power outages or reduced personnel exposure to radiation, as a direct result of not requiring surveillance capsules in all reactors in the set.

As noted above, the NRC staff approved the proposed BWRVIP ISP in an SE that was issued to the BWRVIP by letter dated February 1, 2002 (Ref. 7). In that letter, all of the criteria cited above for approval of an ISP were addressed either completely or partially. For those criteria that could not be fully addressed in that letter, plant-specific information would be needed from licensees who wish to implement the BWRVIP for their facilities. As stated in Reference 7:

> [L]icensees who wish to participate in the BWR ISP must provide, for NRC staff review and approval, information which defines how they will determine RPV and/or surveillance capsule fluences based on the dosimetry data which will be available for their facilities. This information must be submitted concurrently with each licensee's submittal to replace their existing plant-specific surveillance program with the BWR ISP as part of their facility's licensing basis. The information submitted must be sufficient for the staff to determine that:
>
> (1) RPV and surveillance capsule fluences will be established...based on the use of an NRC-approved fluence methodology that will provide acceptable results based on the available dosimetry data,
>
> (2) If one methodology is used to determine the neutron fluence values for a licensee's RPV and one or more different methodologies are used to establish the neutron fluence values for the ISP surveillance capsules which "represent" that RPV in the ISP, the results of these differing methodologies are compatible (i.e., within acceptable levels of uncertainty for each calculation).

Regulatory Guide (RG) 1.190, "Calculational and Dosimetry Methods for Determining Pressure Vessel Neutron Fluence," describes methods and assumptions acceptable to the NRC staff for determining the pressure vessel neutron fluence. The guide is intended to ensure the accuracy and reliability of the fluence determination required by General Design Criteria 14, 30, and 31 of Appendix A to 10 CFR Part 50, "General Design Criteria for Nuclear Power Plants."

This plant-specific information was required by the NRC staff to ensure that, for an ISP, Criterion b from Appendix H to 10 CFR Part 50 could be met by each facility and to confirm that data that would be shared as part of the BWRVIP ISP could be effectively utilized by each licensee for the monitoring of RPV embrittlement for its facility.

3.0 TECHNICAL EVALUATION

In the application, NMPNS submitted information for NMP1 that is responsive to both items (1) and (2) of the NRC staff's February 1, 2002 BWRVIP ISP SE (Reference 7). Regarding item (1), NMPNS proposed to add a new Section 4.6 to the UFSAR, stating:

> Reactor vessel neutron fluence has been evaluated using a method in accordance with the recommendations of Regulatory Guide (RG) 1.190, "Calculational and Dosimetry Methods for Determining Pressure Vessel Neutron

> Fluence," dated March 2001. Future evaluations of reactor vessel fluence will be completed using a method in accordance with the recommendations of RG 1.190 (as noted in Reference 5). NRC approval of the Unit 1 neutron fluence calculational methodology is documented in Reference 6.

NMPNS has used the methodology described in its letter of November 15, 2002 (Reference 8), as supplemented by the information submitted in NMPNS letters dated January 15 and July 31, 2003 (References 9 and 10, respectively), to calculate the most recent fluence values. This calculation was performed to support proposed revisions to the NMP1 RPV pressure-temperature limit curves that were submitted to the NRC by letter. The NRC staff approved NMPNS's plant-specific methodology, which is in accordance with the recommendations of RG 1.190, in a letter dated October 27, 2003 (Reference 11).

Regarding item (2), NMPNS submitted a regulatory commitment in its June 17, 2004, letter, stating:

> In the event that the neutron fluence methodologies used to establish neutron fluence values for the ISP surveillance capsules that represent the NMP1 and NMP2 RPVs in the ISP differ from the NRC-approved NMPNS neutron fluence methodology, the results of the differing methodologies will be evaluated and resolved to assure that the results are compatible.

RPV surveillance capsules tested under the BWRVIP ISP will have their fluences determined by the use of a methodology that is consistent with the attributes of RG 1.190 and has been approved by the NRC staff. The NRC staff has concluded that any two (or more) different fluence methodologies will provide "compatible" (as defined in Reference 7) results provided that each methodology is consistent with the attributes of RG 1.190 and has been approved by the NRC staff. The NRC staff has concluded that the inclusion of both statements above in the NMP1 Updated Final Safety Analysis Report (UFSAR) is sufficient to address both items (1) and (2) from Reference 7.

NMPNS proposed to add two new paragraphs to Section 4.1 of the NMP1 UFSAR to document the licensee's incorporation of the BWRVIP ISP into the NMP1 licensing basis:

> In Reference 40, the NRC approved Unit 1 participation in the BWR Vessel and Internals Project (BWRVIP) Integrated Surveillance Program (ISP), as described in BWRVIP-78 (Reference 37) and BWRVIP-86-A (Reference 38). The NRC approved the ISP for the industry in their safety evaluation dated February 1, 2002 (Reference 39). The ISP meets the requirements of 10 CFR 50, Appendix H. Participation in the ISP replaces the Unit 1 plant-specific vessel material surveillance program.
>
> The current surveillance capsule withdrawal schedule for Unit 1 representative materials is based on the latest NRC-approved version of BWRVIP-86 (Reference 38). No capsules from the Unit 1 vessel are included in the ISP. Capsules from other plants will be removed and specimens will be tested in accordance with the ISP implementation plan. The results from these tests will provide the necessary data to monitor embrittlement of the Unit 1 vessel.

The NRC staff has concluded that the information provided in the proposed revision to the NMP1 UFSAR is adequate to document the licensee's intent to appropriately implement the BWRVIP ISP as the method for demonstrating the compliance of NMP1 with the requirements of Appendix H to 10 CFR Part 50.

Section II.B.3 of Appendix H to 10 CFR Part 50 requires licensee to submit to, and receive approval from, the NRC of a proposed withdrawal schedule for material specimens before implementation. The control of changes to this schedule by way of a license amendment to the TSs duplicates the requirements of Appendix H to 10 CFR Part 50. In Generic Letter 91-01, "Removal of the Schedule for the Withdrawal of Reactor Vessel Material Specimens from Technical Specification," the NRC staff concluded that this duplication is unnecessary. The pressure-temperature limit curves provide the limits necessary to assure that facility operation will be within safety limits. The schedule for the withdrawal of RPV material surveillance specimens are not, therefore, required to assure that facility operations will be within safety limits because changes to this schedule are controlled by the requirements of Appendix H to 10 CFR Part 50.

Accordingly, the licensee proposed to delete all TS sections pertaining to a plant-specific reactor pressure vessel surveillance program: Sections 4.2.2.b and 6.6.6.a. The requirements of TS 6.6.6.a are contained in 10 CFR Part 50, Appendix H, Paragraph IV, "Report of Test Results" and BWRVIP-86-A. Since the NRC staff is approving the licensee to use the BWRVIP RPV ISP in lieu of the plant-specific surveillance program, these deletions are acceptable.

The licensee proposed to revise the Bases for Sections 3.2.2 and 4.2.2 in the TSs by deleting information concerning the surveillance capsules' location and withdrawal schedule. This change reflects the evaluation setforth above. Therefore, the NRC staff has no objection to the licensee's proposed changes to the TS Bases.

3.1 Summary of Evaluation

Based on the above, the NRC staff concludes that the BWRVIP ISP can be implemented for NMP1 as the basis for demonstrating the facility's continued compliance with the requirements of Appendix H to 10 CFR Part 50. As part of the implementation and documentation of the licensee's intent to utilize the BWRVIP ISP for this purpose, the amendment will authorize the licensee to revise the NMP1 UFSAR per the requirements of 10 CFR 50.71, and as presented in the licensee's January 9, 2004, submittal.

4.0 STATE CONSULTATION

In accordance with the Commission's regulations, the New York State official was notified of the proposed issuance of the amendment. The State official had no comments.

5.0 ENVIRONMENTAL CONSIDERATION

The amendment changes surveillance requirements. The NRC staff has determined that the amendment involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration,

and there has been no public comment on such finding (69 FR 7524). Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendments.

6.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (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 amendments will not be inimical to the common defense and security or to the health and safety of the public.

7.0 REFERENCES

(1) P. E. Katz (NMPNS) to U.S. NRC Document Control Desk, “Nine Mile Point Nuclear Station, License Amendment Request: Revision to the Reactor Pressure Vessel Material Surveillance Program,” January 9, 2004.

(2) J. A. Spina (NMPNS) to U.S. NRC Document Control Desk, “License Amendment Requests Concerning Revision to the Reactor Pressure Vessel Material Surveillance Programs - Response to Request for Additional Information (TAC Nos. MC1758 and MC1759),” June 17, 2004.

(3) C. Terry (BWRVIP) to U.S. NRC Document Control Desk, “Project No. 704 - BWR Vessel and Internals Project, BWR Integrated Surveillance Program Plan (BWRVIP-78),” December 22, 1999.

(4) C. Terry (BWRVIP) to U.S. NRC Document Control Desk, “Project No. 704 - BWRVIP-86: BWR Vessel and Internals Project, BWR Integrated Surveillance Program Implementation Plan,” EPRI Technical Report 1000888, December 22, 2000.

(5) C. Terry (BWRVIP) to U.S. NRC Document Control Desk, “Project No. 704 - BWRVIP Response to NRC Request for Additional Information Regarding BWRVIP-78,” December 15, 2000.

(6) C. Terry (BWRVIP) to U.S. NRC Document Control Desk, “PROJECT NO. 704 - BWRVIP Response to Second NRC Request for Additional Information on the BWR Integrated Surveillance Program,” May 30, 2001.

(7) W. H. Bateman (USNRC) to C. Terry, Safety Evaluation Regarding EPRI Proprietary Reports “BWR Vessel and Internals Project, BWR Integrated Surveillance Program Plan (BWRVIP-78)” and “BWRVIP-86: BWR Vessel and Internals Project, BWR Integrated Surveillance Program Implementation Plan,” February 1, 2002.

(8) NMPNS Letter to the NRC, NMP1L 1697 dated November 15, 2002, “License Amendment Request Pursuant to 10 CFR 50.90: Revision of Reactor Pressure Vessel Pressure-Temperature Limits and Request for Exemption from Requirements of 10 CFR 50.60 - TAC Nos. MB6687 and MB6703."

(9) NMPNS Letter to the NRC, NMP1L 1708, dated January 15, 2003, “Transmittal of Neutron Transport Calculations Benchmarking Report - TAC Nos. MB6687 and MB6703."

(10) NMPNS Letter to the NRC, NMP1L 1749 dated July 31, 2003, “Request for Additional Information (RAI) - Amendment Applicaltion Re: Pressure-Temperature Limit Curves (TAC Nos. MB6687 and MB6703).”

(11) NRC letter to NMPNS dated October 27, 2003, “Nine Mile Point Nuclear Station, Unit No. 1 - Issuance of Amendment Re: Pressure-Temperature Limit Curves and Tables (TAC No. MB6687).”

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Date: November 8, 2004

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 114 TO FACILITY OPERATING

LICENSE NO. NPF-69

NINE MILE POINT NUCLEAR STATION, LLC

NINE MILE POINT NUCLEAR STATION, UNIT NO. 2 (NMP2)

DOCKET NO. 50-410

1.0 INTRODUCTION

By letter dated January 9, 2004 (Reference 1), as supplemented by letter dated June 17, 2004 (Reference 2), Nine Mile Point Nuclear Station, LLC (NMPNS, the licensee) submitted an application for a license amendment to modify the basis for NMP2 compliance with the requirements of Appendix H to Title 10 of the *Code of Federal Regulations*, Part 50 (Appendix H to 10 CFR Part 50), "Reactor Vessel Material Surveillance Program Requirements." In the application, NMPNS requested approval to implement the Boiling Water Reactor Vessel and Internals Project (BWRVIP) reactor pressure vessel (RPV) integrated surveillance program (ISP) as the basis for demonstrating the compliance of NMP2 with the requirements of Appendix H to 10 CFR Part 50. The supplemental letter dated June 17, 2004, provided a regulatory commitment by NMPNS that did not change the scope of the January 9, 2004, application nor the Nuclear Regulatory Commission (NRC) staff's initial proposed no significant hazards consideration determination.

The BWRVIP RPV ISP was submitted for NRC staff review and approval in topical reports BWRVIP-78, "BWR Vessel and Internals Project, BWR Integrated Surveillance Program Plan," (Reference 3) and BWRVIP-86, "BWR Vessel and Internals Project, BWR Integrated Surveillance Program Implementation Plan" (Reference 4). Additional information necessary to establish the technical basis for, and proposed implementation of, the BWRVIP ISP was provided in letters from the BWRVIP to the NRC dated December 15, 2000 (Reference 5), and May 30, 2001 (Reference 6). The NRC staff approved the proposed BWRVIP ISP in a Safety Evaluation (SE) that was provided to the BWRVIP by letter dated February 1, 2002 (Reference 7). However, the NRC staff's SE stated that plant-specific information be provided by BWR licensees who wish to implement the BWRVIP ISP for their facilities. NMPNS's application cited above addressed the plant-specific information specified in the NRC staff's February 1, 2002, BWRVIP ISP SE.

2.0 REGULATORY EVALUATION

The NRC staff finds that NMPNS identified the applicable regulatory requirements. The regulatory requirements for which the NRC staff based its acceptance are described below.

Appendix H to 10 CFR Part 50 requires nuclear power plant licensees to implement RPV surveillance programs to "monitor changes in the fracture toughness properties of ferritic materials in the reactor vessel beltline region...which result from exposure of these materials to neutron irradiation and the thermal environment." Two specific alternatives are provided with regard to the design of a facility's RPV surveillance program which may be used to address the requirements of Appendix H to 10 CFR Part 50.

The first alternative is the implementation of a plant-specific RPV surveillance program consistent with the requirements of American Society for Testing and Materials (ASTM) Standard Practice E 185, "Standard Practice for Conduction Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels." In the design of a plant-specific RPV surveillance program, a licensee may use the edition of ASTM Standard Practice E 185 that was current on the issuance date of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) to which the reactor vessel was purchased, or later editions through the 1982 edition.

The second alternative provided in Appendix H to 10 CFR Part 50 is the implementation of an ISP. An ISP is defined in Appendix H to 10 CFR Part 50 as occurring when, ".....the representative materials chosen for surveillance for a reactor are irradiated in one or more other reactors that have similar design and operating features." Five specific criteria are stated in Appendix H to 10 CFR Part 50 that must be met to support approval of an ISP:

a. The reactor in which the materials will be irradiated and the reactor for which the materials are being irradiated must have sufficiently similar design and operating features to permit accurate comparisons of the predicted amount of radiation damage.

b. Each reactor must have an adequate dosimetry program.

c. There must be adequate arrangement for data sharing between plants.

d. There must be a contingency plan to assure that the surveillance program for each reactor will not be jeopardized by operation at reduced power level or by an extended outage of another reactor from which data are expected.

e. There must be substantial advantages to be gained, such as reduced power outages or reduced personnel exposure to radiation, as a direct result of not requiring surveillance capsules in all reactors in the set.

As noted above, the NRC staff approved the proposed BWRVIP ISP in an SE that was issued to the BWRVIP by letter dated February 1, 2002 (Reference 7). In that letter, all of the criteria cited above for approval of an ISP were addressed either completely or partially. For those criteria that could not be fully addressed in that letter, plant-specific information would be needed from licensees who wish to implement the BWRVIP for their facilities. As stated in Reference 7:

> [L]icensees who wish to participate in the BWR ISP must provide, for NRC staff review and approval, information which defines how they will determine RPV and/or surveillance capsule fluences based on the dosimetry data which will be available for their facilities. This information must be submitted concurrently with each licensee's submittal to replace their existing plant-specific surveillance program with the BWR ISP as part of their facility's licensing basis. The information submitted must be sufficient for the staff to determine that:
>
> (1) RPV and surveillance capsule fluences will be established...based on the use of an NRC-approved fluence methodology that will provide acceptable results based on the available dosimetry data,
>
> (2) If one methodology is used to determine the neutron fluence values for a licensee's RPV and one or more different methodologies are used to establish the neutron fluence values for the ISP surveillance capsules which "represent" that RPV in the ISP, the results of these differing methodologies are compatible (i.e., within acceptable levels of uncertainty for each calculation).

Regulatory Guide (RG) 1.190, "Calculational and Dosimetry Methods for Determining Pressure Vessel Neutron Fluence," describes methods and assumptions acceptable to the NRC staff for determining the pressure vessel neutron fluence. The guide is intended to ensure the accuracy and reliability of the fluence determination required by General Design Criteria 14, 30, and 31 of Appendix A to 10 CFR Part 50, "General Design Criteria for Nuclear Power Plants."

This plant-specific information was required by the NRC staff to ensure that, for an ISP, Criterion b from Appendix H to 10 CFR Part 50 could be met by each facility and to confirm that data that would be shared as part of the BWRVIP ISP could be effectively utilized by each licensee for the monitoring of RPV embrittlement for its facility.

3.0 TECHNICAL EVALUATION

In the application, NMPNS submitted information for NMP2 that is responsive to both items (1) and (2) of the NRC staff's February 1, 2002 BWRVIP ISP SE (Reference 7). Regarding item (1), NMPNS proposed to add a new paragraph to the NMP2 USAR, stating:

> Subsequent to the above-described initial and power uprate calculations, reactor vessel neutron fluence has been evaluated using a method in accordance with the recommendations of Regulatory Guide (RG) 1.190, "Calculational and Dosimetry Methods for Determining Pressure Vessel Neutron Fluence," dated March 2001. Future evaluations of reactor vessel fluence will be completed using a method in accordance with the recommendations of RG 1.190 (as noted in Reference 13). NRC approval of the Unit 2 neutron fluence calculational methodology is documented in Reference 14.

NMPNS has used the methodology described in its letter of August 15, 2003 (Reference 8), to calculate the most recent fluence values. This calculation was performed to support revisions to the NMP2 RPV pressure-temperature limit curves that were submitted to the NRC in

Reference 8. As noted in Reference 8, details regarding the fluence methodology were included in reports provided to the NRC in NMPNS letters dated March 8, 2001, and January 15, 2003 (References 9 and 10). Supplemental information was submitted in NMPNS letter dated July 31, 2003 (Reference 11). The NRC-approved plant-specific methodology is in accordance with the recommendations of RG 1.190 and was approved by the NRC in a letter dated October 27, 2003 (Reference 12).

Regarding item (2), NMPNS submitted a regulatory commitment in its June 17, 2004, letter, stating:

> In the event that the neutron fluence methodologies used to establish neutron fluence values for the ISP surveillance capsules that represent the NMP1 and NMP2 RPVs in the ISP differ from the NRC-approved NMPNS neutron fluence methodology, the results of the differing methodologies will be evaluated and resolved to assure that the results are compatible.

Thus, RPV surveillance capsules tested under the BWRVIP ISP will have their fluences determined by the use of a methodology that is consistent with the attributes of RG 1.190 and has been approved by the NRC staff. The NRC staff has concluded that any two (or more) different fluence methodologies will provide "compatible" (as defined in Reference 7) results provided that each methodology is consistent with the attributes of RG 1.190 and has been approved by the NRC staff. The NRC staff has concluded that the inclusion of both statements above in the NMP2 USAR is sufficient to address both items (1) and (2) from Reference 7.

NMPNS proposed to revise Section 5.3.1.6.1 of the NMP2 USAR with the following wording:

> In Reference 6, the NRC approved Unit 2 participation in the BWR Vessel and Internals Project (BWRVIP) Integrated Surveillance Program (ISP), as described in BWRVIP-78 (Reference 3) and BWRVIP-86-A (Reference 4). The NRC approved the ISP for the industry in their safety evaluation dated February 1, 2002 (Reference 5). The ISP meets the requirements of 10 CFR 50, Appendix H. Participation in the ISP replaces the Unit 2 plant-specific vessel material surveillance program.
>
> The current surveillance capsule withdrawal schedule for Unit 2 representative materials is based on the latest NRC-approved version of BWRVIP-86 (Reference 4). No capsules from the Unit 2 vessel are included in the ISP. Capsules from other plants will be removed and specimens will be tested in accordance with the ISP implementation plan. The results from these tests will provide the necessary data to monitor embrittlement of the Unit 2 vessel.

The NRC staff found that the above proposed wording is adequate to convey the licensee's intent to implement the BWRVIP ISP as the method for demonstrating the compliance of NMP2 with the requirements of Appendix H to 10 CFR Part 50.

3.1 Summary of Evaluation

Based on the above, the NRC staff concludes that the BWRVIP ISP can be implemented for NMP2 as the basis for demonstrating the facility's continued compliance with the requirements

of Appendix H to 10 CFR Part 50. As part of the implementation and documentation of the licensee's intent to utilize the BWRVIP RPV ISP for this purpose, the amendment will authorize the licensee, through a new License Condition 2. C.(16), to revise the NMP2 USAR per the requirements of 10 CFR 50.71, and as presented in the licensee's January 9, 2004, submittal.

3.2 Correction of Administrative Errors

By letter dated October 28, 2004, the NRC staff issued administrative changes to, among other things, revise License Condition 2.E of the operating license. Subsequent to that, the NRC staff became aware of a number of inadvertent administrative errors. These errors will be corrected through the same amendment.

4.0 STATE CONSULTATION

In accordance with the Commission's regulations, the New York State official was notified of the proposed issuance of the amendment. The State official had no comments.

5.0 ENVIRONMENTAL CONSIDERATION

The amendment changes a surveillance requirements. The NRC staff has determined that the amendment involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration, and there has been no public comment on such finding (69 FR 7524). Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendments.

6.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (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 amendments will not be inimical to the common defense and security or to the health and safety of the public.

7.0 REFERENCES

1. P. E. Katz (NMPNS) to U.S. NRC Document Control Desk, "Nine Mile Point Nuclear Station, License Amendment Request: Revision to the Reactor Pressure Vessel Material Surveillance Program," January 9, 2004.

2. J. A. Spina (NMPNS) to U.S. NRC Document Control Desk, "License Amendment Requests Concerning Revision to the Reactor Pressure Vessel Material Surveillance Programs-Response to Request for Additional Information (TAC Nos. MC1758 and MC1759)," June 17, 2004.

3. C. Terry (BWRVIP) to U.S. NRC Document Control Desk, “Project No. 704 - BWR Vessel and Internals Project, BWR Integrated Surveillance Program Plan (BWRVIP-78),” December 22, 1999.

4. C. Terry (BWRVIP) to U.S. NRC Document Control Desk, “Project No. 704 - BWRVIP-86: BWR Vessel and Internals Project, BWR Integrated Surveillance Program Implementation Plan,” EPRI Technical Report 1000888, December 22, 2000.

5. C. Terry (BWRVIP) to U.S. NRC Document Control Desk, “PROJECT NO. 704 - BWRVIP Response to NRC Request for Additional Information Regarding BWRVIP-78,” December 15, 2000.

6. C. Terry (BWRVIP) to U.S. NRC Document Control Desk, “PROJECT NO. 704 - BWRVIP Response to Second NRC Request for Additional Information on the BWR Integrated Surveillance Program,” May 30, 2001.

7. W. H. Bateman (USNRC) to C. Terry, “Safety Evaluation Regarding EPRI Proprietary Reports “BWR Vessel and Internals Project, BWR Integrated Surveillance Program Plan (BWRVIP-78)” and “BWRVIP-86: BWR Vessel and Internals Project, BWR Integrated Surveillance Program Implementation Plan,” February 1, 2002.

8. NMPNS Letter to the NRC, NMP2L 2096 dated August 15, 2003, "License Amendment Request Pursuant to 10 CFR 50.90: Revision of Reactor Pressure Vessel Pressure-Temperature Limits."

9. NMPNS Letter to the NRC, NMP2L 2015 dated March 8, 2001, "10 CFR50, Appendix H Reactor Vessel Material Surveillance Program Requirements, Report of Test Results."

10. NMPNS Letter to the NRC, NMP1L 1708 dated January 15, 2003, "Transmittal of Neutron Transport Calculations Benchmarking Report (TAC Nos. MB6687 and MB6703)."

11. NMPNS Letter to the NRC, NMP1L 1749 dated July 31, 2003, "Request for Additional Information (RAI) - Amendment Application Re: Pressure-Temperature Limit Curves (TAC Nos. MB6687 and MB6703)."

12. NRC Letter to NMPNS dated October 27, 2003, "Nine Mile Point Nuclear Station, Unit No. 1- Issuance of Amendment Re: Pressure-Temperature Limit Curves and Tables (TAC No. MB6687).”

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