

## NRC DISTRIBUTION FOR PART 50 DOCKET MATERIAL

FILE NUMBER

TO: Mr. Jerome Saltzman

FROM: Niagara Mohawk Power Corp.  
Syracuse, New York  
J W Rushmore

DATE OF DOCUMENT  
3/21/77DATE RECEIVED  
3/23/77

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PROP

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One

## DESCRIPTION

## ENCLOSURE

ATTACHED FOR YOUR ACTION/INFO IS A COPY OF  
INDEMNITY/ENDORSEMENT AGREEMENT FOR PERIOD  
INDICATED.....

## PLANT NAME:

Nine Mile Point Unit No. 1

RJL

(5-P)

## FOR ACTION/INFORMATION

## INTERNAL DISTRIBUTION

REG FILE  
NRC PDR  
DINITZ (2)  
H. JORDAN  
NSIC  
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## EXTERNAL DISTRIBUTION

## CONTROL NUMBER

770840330



NIAGARA MOHAWK POWER CORPORATION

NIAGARA  MOHAWK

300 ERIE BOULEVARD, WEST  
SYRACUSE, N. Y. 13202

Regulatory

File Cy.

March 21, 1977

Mr. Jerome Saltzman, Director  
Office of Antitrust and Indemnity  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Re: Docket No. 50-220

Dear Mr. Saltzman:

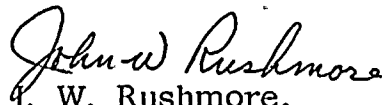
Enclosed are copies of endorsements to MAELU  
Policy No. MF-46, as listed below:

Endorsement #42 - Amendment of Definition of "Nuclear  
Energy Hazard"

Endorsement #43 - Amendment of Condition 2

Endorsement #44 - Waiver of Defenses Endorsement

Very truly yours,

  
J. W. Rushmore,  
Supervisor - Insurance  
System Risk Management

JWR/cnw

Enclosures



770840330

THE  
FEDERAL  
BUREAU OF  
INVESTIGATION  
OF THE  
DEPARTMENT OF JUSTICE  
WASHINGTON, D. C.  
20535

MEMORANDUM FOR THE DIRECTOR

SUBJECT: [Illegible]

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# NUCLEAR ENERGY LIABILITY INSURANCE

## MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS

### AMENDMENT OF DEFINITION OF "NUCLEAR ENERGY HAZARD" (Indemnified Nuclear Facility)

It is agreed that:

1. Solely with respect to an "insured shipment" to which the policy applies as proof of financial protection required by the Nuclear Regulatory Commission subdivision (2) of the definition of "nuclear energy hazard" is amended to read:
  - (2) the nuclear material is in an insured shipment which is away from any other nuclear facility and is in the course of transportation, including handling and temporary storage incidental thereto, within
    - (a) the territorial limits of the United States of America, its territories or possessions, Puerto Rico or the Canal Zone; or
    - (b) international waters or airspace provided that the nuclear material is in the course of transportation between two points located within the territorial limits described in (a) above and there are no deviations in the course of the transportation for the purpose of going to any other country, state or nation, except a deviation in the course of said transportation for the purpose of going to or returning from a port or place of refuge as the result of an emergency.
2. As used here, "financial protection," has the meaning given it in the Atomic Energy Act of 1954, as amended.

Effective Date of this Endorsement: January 1, 1977 To form a part of Policy No. MF-46

Issued to Niagara Mohawk Power Corporation

Date of Issue January 18, 1977

THIS IS TO CERTIFY THAT THIS IS A  
TRUE COPY OF ENDORSEMENT NO. 42  
MADE TO THE NUCLEAR ENERGY POLICY  
NO. 46 NO  
IN WITNESS WHEREOF THIS  
18th day of January 1977

*Richard E. Goodman*  
RICHARD E. GOODMAN, SECRETARY  
MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS

For the Subscribing Companies

MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS

By \_\_\_\_\_

Endorsement No. 42

Countersigned by \_\_\_\_\_  
AUTHORIZED REPRESENTATIVE









# NUCLEAR ENERGY LIABILITY INSURANCE

## MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS

### WAIVER OF DEFENSES ENDORSEMENT (Extraordinary Nuclear Occurrence)

The named insured, acting for himself and every other insured under the policy, and the members of the Mutual Atomic Energy Liability Underwriters agree as follows:

1. With respect to any extraordinary nuclear occurrence to which the policy applies as proof of financial protection and which
  - (a) arises out of or results from or occurs in the course of the construction, possession, or operation of the facility, or
  - (b) arises out of or results from or occurs in the course of the transportation of nuclear material to or from the facility,

the insureds and the companies agree to waive

- (1) any issue or defense as to the conduct of the claimant or the fault of of the insureds, including but not limited to:
  - (i) negligence,
  - (ii) contributory negligence,
  - (iii) assumption or risk, and
  - (iv) unforeseeable intervening causes, whether involved the conduct of a third person, or an act of God,
- (2) any issue or defense as to charitable or governmental immunity, and
- (3) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his bodily injury or property damage and the cause thereof, but in no event more than twenty years after the date of the nuclear incident.

The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action.

2. The waivers set forth in paragraph 1. above do not apply to
  - (a) bodily injury or property damage which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;
  - (b) bodily injury sustained by any claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place if benefits therefor are either payable or required to be provided under any workers' compensation or occupational disease law;
  - (c) any claim for punitive or exemplary damages, provided, with respect to any claim for wrongful death under any state law which provides for damages only punitive in nature, this exclusion does not apply to the extent that the claimant has sustained actual damages, measured by the pecuniary injuries resulting from such death but not to exceed the maximum amount otherwise recoverable under such law.



3. The waivers set forth in paragraph 1. above shall be effective only with respect to bodily injury or property damage to which the policy applies under its terms other than this endorsement; provided, however that with respect to bodily injury or property damage resulting from an extraordinary nuclear occurrence, Insuring Agreement IV, "Application of Policy," shall not operate to bar coverage for bodily injury or property damage (a) which is caused during the policy period by the nuclear energy hazard and (b) which is discovered and for which written claim is made against the insured not later than twenty years after the date of the extraordinary nuclear occurrence. Such waivers shall not apply to, or prejudice the prosecution or defense of any claim or portion of claim which is not within the protection afforded under (a) the provisions of the policy applicable to the financial protection required of the named insured; (b) the agreement of indemnification between the named insured and the Nuclear Regulatory Commission made pursuant to Section 170 of the Atomic Energy Act of 1954, as amended; and (c) the limit of liability provisions of Subsection 170 e. of the Atomic Energy Act of 1954 as amended.

Such waivers shall not preclude a defense based upon the failure of the claimant to take reasonable steps to mitigate damages.

4. Subject to all of the limitations stated in this endorsement and in the Atomic Energy Act of 1954, as amended, the waivers set forth in paragraph 1. above shall be judicially enforceable in accordance with their terms against any insured in an action to recover damages because of bodily injury or property damage to which the policy applies as proof of financial protection.
5. As used herein: "extraordinary nuclear occurrence" means an event which the Nuclear Regulatory Commission has determined to be an extraordinary nuclear occurrence as defined in the Atomic Energy Act of 1954, as amended. "financial protection" and "nuclear incident" have meanings given them in the Atomic Energy Act of 1954, as amended. "claimant" means the person or organization actually sustaining the bodily injury or property damage and also include his assignees, legal representatives and other persons or organizations entitled to bring an action for damages on account of such injury or damage.

Effective Date of this Endorsement January 1, 1977 To form a part of Policy No. MF-46

Issued to Niagara Mohawk Power Corporation

Date of Issue January 18, 1977

THIS IS TO CERTIFY THAT THIS IS A  
TRUE COPY OF ENDORSEMENT NO. 44  
MADE PART OF NUCLEAR ENERGY POLICY  
(FACILITY FORM) NO. MF 46 NO  
INSURANCE IS AFFORDED UNDER THIS  
ENDORSEMENT

For the Subscribing Companies

MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS

By Richard E. Goodman

RICHARD E. GOODMAN, SECRETARY  
MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS

Endorsement No. 44

Countersigned by \_\_\_\_\_

AUTHORIZED REPRESENTATIVE

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