

August 20, 2001

Mr. John H. Mueller  
Chief Nuclear Officer  
Niagara Mohawk Power Corporation  
Nine Mile Point Nuclear Station  
Operations Building, Second Floor  
P.O. Box 63  
Lycoming, NY 13093

SUBJECT: NINE MILE POINT NUCLEAR STATION, UNIT NO. 2 - NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT UNDER EXIGENT CIRCUMSTANCES, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING (TAC NO. MB2567)

Dear Mr. Mueller:

Enclosed is a copy of a "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing" for your information. This notice relates to your application for amendment dated August 17, 2001, requesting an amendment be issued under exigent circumstances. You proposed to revise Technical Specifications Section 3.6.1.7, "Suppression Chamber-to-Drywell Vacuum Breakers," to allow an exception to the periodic functional testing requirements for two specific vacuum breakers (cycling the vacuum breakers open and closed). Specifically, the proposed change revises Surveillance Requirement 3.6.1.7.2 such that the functional testing requirement would not apply to vacuum breakers 2ISC\*RV35A and 2ISC\*RV35B for the remainder of Cycle 8 (the current operating cycle).

This notice has been forwarded to the Office of the Federal Register for publication.

Sincerely,

**/RA DSkay for/**

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

Docket No. 50-410

Enclosure: As stated

cc w/encl: See next page

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Nine Mile Point Nuclear Station  
Unit No. 2

cc:

Regional Administrator, Region I  
U. S. Nuclear Regulatory Commission  
475 Allendale Road  
King of Prussia, PA 19406

Mark J. Wetterhahn, Esquire  
Winston & Strawn  
1400 L Street, NW.  
Washington, DC 20005-3502

Resident Inspector  
Nine Mile Point Nuclear Station  
P.O. Box 126  
Lycoming, NY 13093

Gary D. Wilson, Esquire  
Niagara Mohawk Power Corporation  
300 Erie Boulevard West  
Syracuse, NY 13202

Mr. Jim Rettberg  
NY State Electric & Gas Corporation  
Corporate Drive  
Kirkwood Industrial Park  
P.O. Box 5224  
Binghamton, NY 13902-5224

Mr. William M. Flynn, President  
New York State Energy, Research,  
and Development Authority  
Corporate Plaza West  
286 Washington Avenue Extension  
Albany, NY 12203-6399

Mr. John V. Vinquist, MATS Inc.  
P.O. Box 63  
Lycoming, NY 13093

Supervisor  
Town of Scriba  
Route 8, Box 382  
Oswego, NY 13126

Mr. Paul D. Eddy  
Electric Division  
NYS Department of Public Service  
Agency Building 3  
Empire State Plaza  
Albany, NY 12223

Charles Donaldson, Esquire  
Assistant Attorney General  
New York Department of Law  
120 Broadway  
New York, NY 10271

C. Adrienne Rhodes  
Chairman and Executive Director  
State Consumer Protection Board  
5 Empire State Plaza, Suite 2101  
Albany, NY 12223-1556

UNITED STATES NUCLEAR REGULATORY COMMISSION

NIAGARA MOHAWK POWER CORPORATION

DOCKET NO. 50-410

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO  
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS  
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-69, issued to Niagara Mohawk Power Corporation (NMPC, the licensee), for operation of the Nine Mile Point Nuclear Station, Unit No. 2 (NMP2), located in Scriba, New York.

The proposed amendment would revise Technical Specification (TS) Section 3.6.1.7, "Suppression Chamber-to-Drywell Vacuum Breakers," to allow an exception to the periodic functional testing requirements for two specific vacuum breakers (cycling the vacuum breakers open and closed). Specifically, the proposed change revises Surveillance Requirement 3.6.1.7.2 such that the functional testing requirement would not apply to vacuum breakers 2ISC\*RV35A and 2ISC\*RV35B for the remainder of Cycle 8 (the current operating cycle).

The licensee found that limit switch(es) on vacuum breaker 2ISC\*RV35A began operating intermittently during the last functional test. The limit switches provide position indication to verify that vacuum breaker 2ISC\*RV35A is closed. The limit switches also provide input to a permissive logic that allows opening vacuum breaker 2ISC\*RV35B when vacuum breaker 2ISC\*RV35A is confirmed closed. An alternate pressure test method for verifying that vacuum breaker 2ISC\*RV35A is closed is available for use only if vacuum breaker 2ISC\*RV35B

can be opened. Currently, both vacuum breakers 2ISC\*RV35A and 2ISC\*RV35B are verified closed. Future performance of functional tests on vacuum breaker 2ISC\*RV35A could cause failure of the position indication, which is the normal method for verifying the vacuum breaker is closed. Furthermore, because the permissive logic inputs from vacuum breaker 2ISC\*RV35A are not operating correctly, exercising vacuum breaker 2ISC\*RV35B may not be possible in order to satisfy its functional testing requirement. Loss of the capability to exercise vacuum breaker 2ISC\*RV35B would prohibit use of the alternate pressure testing method for verifying that vacuum breaker 2ISC\*RV35A is closed.

Thus, failure of the limit switch would require NMP2 to be placed in Mode 3 within 84 hours and Mode 4 within the following 24 hours due to a loss of position indication for verifying vacuum breaker 2ISC\*RV35A is closed and the inability to perform a pressure test. The degradation of the limit switches was observed during the last functional testing surveillance conducted on July 30, 2001. The limit switches are located in the drywell and cannot be accessed for repair or replacement during power operation due to the inerted environment. Per the TSs, the next functional test of the vacuum breakers must be performed by September 6, 2001 (31 days plus 25 percent).

The licensee stated that the limit switches for the vacuum breakers are currently replaced every other refueling outage (RFO). The limit switches for vacuum breakers 2ISC\*RV35A and 2ISC\*RV35B were replaced during the last RFO7. The eight vacuum breakers had all passed their 31-day functional tests since RFO7 with no evidence of impending failure until the last tests on July 30, 2001. Therefore, there was no prior indication that the limit switches would degrade.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Proper functioning of the suppression chamber-to-drywell vacuum breakers is required for accident mitigation. Failure of the vacuum breakers is not assumed as an accident initiator for any accident previously evaluated. Therefore, any potential failure of a vacuum breaker to perform when necessary will not affect the probability of an accident previously evaluated.

During a LOCA [loss-of-coolant accident], the vacuum breakers are assumed to initially be closed to limit drywell-to-suppression chamber bypass leakage and must be capable of reclosing following a suppression pool swell event. The vacuum breakers open to prevent an excessive negative differential pressure across the suppression chamber-to-drywell boundary. The proposed change will not affect the capability of the vacuum breakers to perform their open and closed safety functions. Therefore, all four vacuum breaker pairs will remain operable and available to mitigate the consequences of a LOCA. Accordingly, the proposed amendment will not significantly increase the consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The suppression chamber-to-drywell vacuum breakers are used to mitigate the potential consequences of an accident. The proposed change does not affect the capability of the vacuum breakers to perform their open and closed safety functions. Thus, the initial conditions assumed in the accident analysis are not affected. Since the vacuum breakers have demonstrated high reliability, proper functioning of the four vacuum

breaker pairs is assured in order to satisfy the current accident analysis. The proposed amendment does not involve a change to plant design and does not involve any new modes of operation or testing methods. Accordingly, the vacuum breakers will continue to perform their accident mitigation safety functions as previously evaluated. Therefore, operation with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The deferral of functional testing for one vacuum breaker pair for the remainder of Cycle 8 is not risk significant, in that the increase in core damage frequency and large early release frequency were found to be less than  $10^{-8}/\text{yr}$ . The vacuum breakers are not modified by the proposed amendment. Reviews of vacuum breaker failure history show that the vacuum breakers have a high reliability to open or close when necessary. Thus, both vacuum breakers in each of the four vacuum breaker lines are expected to remain available to perform their accident mitigation safety functions. Furthermore, the 14-day surveillance that verifies the vacuum breakers are closed will continue to be performed to ensure a potential bypass leakage path is not present. Accordingly, all four vacuum breaker pairs are considered operable. The accident analysis assumptions for the closed safety functions of the vacuum breakers are satisfied when at least one vacuum breaker in each of the four vacuum breaker lines are fully closed and capable of reclosing following a suppression pool swell event. The additional vacuum breaker in each line satisfies the single failure criterion. The open safety function of the vacuum breakers is satisfied when three of the four vacuum breaker pairs open during a design basis accident. The fourth vacuum breaker pair satisfies the single failure criterion. Since all of the vacuum breakers are considered operable and available to perform their open and closed safety functions, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that

failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the FEDERAL REGISTER a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 24, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555

Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site <http://www.nrc.gov/NRC/CFR/index.html>. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1-800-397-4209, 301-415-4737 or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must

consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 17, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, <http://www.nrc.gov/NRC/ADAMS/index.html>. If you do not have access to

ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1-800-397-4209, 301-415-4737 or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 20th day of August 2001.

FOR THE NUCLEAR REGULATORY COMMISSION

***/RA/***

Donna M. Skay, Project Manager, Section 1  
Project Directorate I  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation