

April 19, 2005

Mr. James A. Spina  
Vice President Nine Mile Point  
Nine Mile Point Nuclear Station, LLC  
P.O. Box 63  
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SUBJECT: NINE MILE POINT NUCLEAR STATION UNIT NOS. 1 AND 2 - ISSUANCE OF  
AMENDMENTS RE: REQUIREMENTS FOR MONTHLY OPERATING  
REPORTS AND OCCUPATIONAL RADIATION EXPOSURE REPORTS  
(TAC NOS. MC5727 AND MC5728)

Dear Mr. Spina:

The Commission has issued the enclosed Amendment No. 188 to Facility Operating License No. DPR-63 and Amendment No. 115 to Facility Operating License No. NPF-69 for the Nine Mile Point Nuclear Station, Unit Nos. 1 and 2 (NMP1 and NMP2). The amendments consist of changes to the Technical Specifications (TSs) in response to your application transmitted by letter dated January 24, 2005.

The amendments delete Sections 6.6.1 and 5.6.1, "Occupational Radiation Exposure Report," and Sections 6.6.4 and 5.6.4, "Monthly Operating Reports," from the NMP1 and NMP2 TSs, respectively, as described in the Notice of Availability published in the *Federal Register* on June 23, 2004 (69 FR 35067).

A copy of the related Safety Evaluation 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. 188 to DPR-63  
2. Amendment No. 115 to NPF-69  
3. Safety Evaluation

cc w/encls: See next page

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NINE MILE POINT NUCLEAR STATION, LLC (NMPNS)

DOCKET NO. 50-220

NINE MILE POINT NUCLEAR STATION, UNIT NO. 1

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 188  
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 24, 2005, 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. 188, is hereby incorporated into this license. Nine Mile Point Nuclear Station, LLC shall operate the facility in accordance with the Technical Specifications.

3. This license amendment is effective as of the date of its issuance and shall be implemented within 60 days.

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: April 19, 2005

ATTACHMENT TO LICENSE AMENDMENT NO. 188

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

356  
357

Insert Pages

356  
357

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. 115  
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 24, 2005, 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 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. NPF-69 is hereby amended to read as follows:

(2) Technical Specifications and Environmental Protection Plan

The Technical Specifications contained in Appendix A and the Environmental Protection Plan contained in Appendix B, both of which are attached hereto, as revised through Amendment No. 115 are hereby incorporated into this license. Nine Mile Point Nuclear Station, LLC shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

3. This license amendment is effective as of the date of its issuance and shall be implemented within 60 days.

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: April 19, 2005

ATTACHMENT TO LICENSE AMENDMENT NO. 115

TO FACILITY OPERATING LICENSE NO. NPF-69

DOCKET NO. 50-410

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

5.6-1  
5.6-2

Insert Pages

5.6-1  
5.6-2



SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION  
RELATED TO AMENDMENT NOS. 188 AND 115 TO  
FACILITY OPERATING LICENSE NOS. DPR-63 AND NPF-69  
NINE MILE POINT NUCLEAR STATION, LLC  
NINE MILE POINT NUCLEAR STATION, UNITS NOS. 1 AND 2  
DOCKET NOS. 50-220 AND 50-410

1.0 INTRODUCTION

By application dated January 24, 2005 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML050330471), Nine Mile Point Nuclear Station, LLC (the licensee), submitted a request for changes to the Nine Mile Point Nuclear Station, Unit Nos. 1 and 2 (NMP1 and NMP2) Technical Specifications (TSs). The requested change would delete Sections 6.6.1 and 5.6.1, "Occupational Radiation Exposure Report," and Sections 6.6.4 and 5.6.4, "Monthly Operating Reports," from the NMP1 and NMP2 TSs, respectively, as described in the Notice of Availability published in the *Federal Register* on June 23, 2004 (69 FR 35067).

2.0 REGULATORY EVALUATION

Section 182a. of the Atomic Energy Act of 1954, as amended, (the Act) requires applicants for nuclear power plant operating licenses to state TSs to be included as part of the license. The Commission's regulatory requirements related to the content of TSs are set forth in 10 CFR 50.36, "Technical specifications." The regulation requires that TSs include items in five specific categories, including (1) safety limits, limiting safety system settings, and limiting control settings; (2) limiting conditions for operation (LCOs); (3) surveillance requirements; (4) design features; and (5) administrative controls. However, the regulation does not specify the particular requirements to be included in a plant's TSs.

The Commission has provided guidance for the content of TSs in its "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors" (58 FR 39132, published July 22, 1993), in which the Commission indicated that compliance with the Final Policy Statement satisfies Section 182a. of the Act. The Final Policy Statement identified four criteria to be used in determining whether a particular item should be addressed in the TSs as an LCO. The criteria were subsequently incorporated into Section 50.36 of Title 10 of the *Code of Federal Regulations* (10 CFR) (60 FR 36593, published July 19, 1995). While the criteria specifically apply to LCOs, the Commission indicated that the intent of these criteria may be used to identify the optimum set of administrative controls in TSs. Addressing administrative controls, 10 CFR 50.36 states that they are "the provisions relating to organization and management, procedures, recordkeeping, review and audit, and reporting necessary to assure operation of the facility in a safe manner." The specific content of the administrative controls section of the TSs is, therefore, related to those programs and reports that the Commission

deems essential for the safe operation of the facility, which are not adequately covered by regulations or other regulatory requirements. Accordingly, the NRC staff may determine that specific requirements, such as those associated with this change, may be removed from the administrative controls in the TSs if they are not explicitly required by 10 CFR 50.36(c)(5) and are not otherwise necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety.

The impetus for the monthly operating report (MOR) came from the 1973-1974 oil embargo. Regulatory Guide 1.16, Revision 4, "Reporting of Operating Information--Appendix A Technical Specifications," published for comment in August 1975, identifies operating statistics and shutdown experience information that was desired in the operating report at that time. In the mid-1990s, the NRC staff assessed the information that is submitted in the MOR and determined that while some of the information was no longer used by the NRC staff, the MOR was the only source of some data used in the NRC Performance Indicator (PI) Program of that time period (see NRC Generic Letter (GL) 97-02, "Revised Contents of the Monthly Operating Report). Beginning in the late 1990s, the NRC developed and implemented a major revision to its assessment, inspection, and enforcement processes through its Reactor Oversight Process (ROP). The ROP uses both plant-level PIs and inspections performed by NRC personnel. In conjunction with the development of the ROP, the NRC developed the Industry Trends Program (ITP). The ITP provides the NRC a means to assess overall industry performance using industry level indicators and to report on industry trends to various stakeholders (e.g., Congress). Information from the ITP is used to assess the NRC's performance related to its goal of having "no statistically significant adverse industry trends in safety performance." The ITP uses some of the same PIs as the PI Program from the mid-1990s and, therefore, the NRC has a continuing use for the data provided in MORs. The NRC also uses some data from the MORs to support the evaluation of operating experience, licensee event reports, and other assessments performed by the NRC staff and its contractors.

The reporting requirements for the MOR include challenges to the safety/relief valves. The reporting of challenges to the safety/relief valves was included in TSs based on the guidance in NUREG-0694, "[Three Mile Island] TMI-Related Requirements for New Operating Licensees." The industry proposed and the NRC accepted the elimination of the reporting requirements in TSs for challenges to safety/relief valves in Revision 4 to TSTF-258, "Changes to Section 5.0, Administrative Controls." The NRC staff's acceptance of TSTF-258 and subsequent approval of plant-specific adoptions of TSTF-258 is based on the fact that the information on challenges to relief and safety valves is not used in the evaluation of the MOR data, and that the information needed by the NRC is adequately addressed by the reporting requirements in 10 CFR 50.73, "Licensee event reports."

Licensees are required by TSs to submit annual occupational radiation exposure reports (ORERs) to the NRC. These reports, developed in the mid-1970s, supplement the reporting requirements currently defined in 10 CFR 20.2206, "Reports of individual monitoring," by providing a tabulation of data by work areas and job functions. The NRC included data from the ORERs in its annual publication of NUREG-0713, "Occupational Radiation Exposure at Commercial Nuclear Power Reactors and Other Facilities," through the year 1997, but no longer includes the data in that or other reports.

### 3.0 TECHNICAL EVALUATION

#### 3.1 Monthly Operating Reports (Section 6.6.4 for NMP1, Section 5.6.4 for NMP2)

As previously mentioned, the administrative requirements in the TSs are reserved for "the provisions relating to organization and management, procedures, recordkeeping, review and audit, and reporting necessary to assure operation of the facility in a safe manner." The current use of the information from the MORs is not related to reporting on or confirming the safe operation of specific nuclear power plants. Instead, the data is used by the NRC to assess and communicate with stakeholders regarding the overall performance of the nuclear industry. Data related to PIs for specific plants are reported to the NRC as part of the ROP. The NRC staff has determined that the MORs do not meet the criteria defined for requirements to be included in the administrative section of TSs and the reporting requirement may, therefore, be removed.

Although the MORs do not satisfy the criteria for inclusion in TSs, the NRC staff nevertheless has a continuing need to receive the data in order to compile its reports on industry trends and to support other evaluations of operating experience. In addition, information such as plant capacity factors that are reported in the MORs are useful to the NRC staff and are frequently asked for by agency stakeholders.

The NRC staff interacted with licensees, industry organizations, and other stakeholders during the development of the Consolidated Data Entry (CDE) program (currently being developed and maintained by the Institute of Nuclear Power Operations), regarding the use of an industry database like CDE to provide data currently obtained from MORs. These discussions also involved the related Revision 1 to TS Task Force No. 369 (TSTF-369), "Removal of Monthly Operating Report and Occupational Radiation Exposure Report." As described in Section 4 of this safety evaluation (SE), the licensee is making a regulatory commitment to continue to provide the data identified in GL 97-02, following the removal of the TS requirement to submit MORs, and will, therefore, continue to meet the needs of the NRC staff for the ITP and other evaluations. The use of an industry database such as CDE is more efficient and cost-effective for both the NRC and licensees than would be having the NRC staff obtain the needed information from other means currently available. Should a licensee fail to satisfy the regulatory commitment to voluntarily provide the information, the NRC could obtain the information through its inspection program (similar to the process described in NRC Inspection Procedure 71150, "Discrepant or Unreported Performance Indicator Data") with the licensee being charged for the time spent by the NRC staff.

The only significant changes resulting from the adoption of TSTF-369 are that the information will be provided quarterly instead of monthly (although the operating data will still be divided by month) and the form of the reporting will be from a consolidated database such as CDE instead of in correspondence from individual licensees. The change of reporting frequency to quarterly has some advantages for both the NRC staff and licensees, since it will coincide with the collection and submission of the ROP PI data. In terms of the specific method used to transmit the data to the NRC, the licensee has committed (see Section 4.0 below) to provide data identified in GL 97-02 on a quarterly basis. The NRC staff believes that the most efficient process for licensees and the NRC will be for all licensees to use a system such as CDE. Such systems have advantages in terms of improved data entry, data checking, and data verification and validation. The NRC will recognize efficiency gains by having the data from all plants reported using the same computer software and format. Although the data may be transmitted

to the NRC from an industry organization maintaining a database such as CDE, the licensee provides the data for the system and remains responsible for the accuracy of the data submitted to the NRC for its plant(s). The public will continue to have access to the data through official agency records accessible through ADAMS.

The content requirements for the NMP2 MOR currently include information on challenges to the safety/relief valves. As discussed in the previous section, the NRC staff has documented in its approval of TSTF-258 and related plant-specific amendments that the reporting of challenges to safety/relief valves may be removed from TSs since the information needed by the NRC is adequately addressed by the reporting requirements in 10 CFR 50.73, "Licensee event report." The NRC staff finds it acceptable to remove the requirement to report challenges to safety/relief valves along with the other reporting requirements associated with the MOR.

### 3.2 Occupational Radiation Exposure Reports (Section 6.6.1 for NMP1, Section 5.6.1 for NMP2)

The information that the NRC staff needs regarding occupational doses is provided by licensees in the reports required under 10 CFR Part 20. The data from the Part 20 reports are sufficient to support the NRC trending programs, radiation related studies, and preparation of reports such as NUREG-0713. Accordingly, the NRC's limited use of the ORER submitted pursuant to the existing TS requirements no longer warrants the regulatory burden imposed on licensees. Therefore, the NRC staff finds it acceptable that Sections 6.6.1 (for NMP1) and 5.6.1 (for NMP2) are being deleted and the ORER will no longer be submitted by the licensee.

## 4.0 VERIFICATIONS AND COMMITMENTS

In order to efficiently process incoming license amendment applications, the NRC staff requested each licensee requesting the changes addressed by TSTF-369 using the consolidated line item improvement process (CLIIP) to address the following plant-specific regulatory commitment.

Each licensee should make a regulatory commitment to provide to the NRC using an industry database the operating data (for each calendar month) that is described in GL 97-02 "Revised Contents of the Monthly Operating Report," by the last day of the month following the end of each calendar quarter. The regulatory commitment will be based on use of an industry database (e.g., the industry's CDE program, currently being developed and maintained by the Institute of Nuclear Power Operations).

The licensee has made a regulatory commitment to provide to the NRC using an industry database the operating data (for each calendar month) that is described in GL 97-02 "Revised Contents of the Monthly Operating Report," by the last day of the month following the end of each calendar quarter. The regulatory commitment will be based on use of an industry database (e.g., the industry's CDE program, currently being developed and maintained by the Institute of Nuclear Power Operations). This regulatory commitment will be implemented to prevent any gaps in the monthly operating statistics and shutdown experience provided to the NRC (i.e., data for all months will be provided using one or both systems (MORs and CDE)).

The NRC staff finds that reasonable controls for the implementation and for subsequent evaluation of proposed changes pertaining to the above regulatory commitments can be

provided by the licensee's administrative processes, including its commitment management program. The NRC staff has agreed that Nuclear Energy Institute 99-04, Revision 0, "Guidelines for Managing NRC Commitment Changes," provides reasonable guidance for the control of regulatory commitments made to the NRC staff (see Regulatory Issue Summary 2000-17, "Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff," dated September 21, 2000). The NRC staff notes that this amendment establishes a voluntary reporting system for the operating data that is similar to the system established for the ROP PI Program. Should the licensee choose to incorporate a regulatory commitment into the final safety analysis report or other document with established regulatory controls, the associated regulations would define the appropriate change control and reporting requirements.

## 5.0 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.

## 6.0 ENVIRONMENTAL CONSIDERATION

The amendments relate to changes in recordkeeping, reporting, or administrative procedures or requirements. Accordingly, the amendments meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(10). 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.

## 7.0 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.

Principal Contributor: Based on CLIP SE published on June 23, 2004 (69 FR 35067)

Date: April 19, 2005

Nine Mile Point Nuclear Station, Unit Nos. 1 and 2

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