June 6, 2005

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 NO. 1 - ISSUANCE OF AMENDMENT RE: RELOCATION OF DESIGN FEATURES FROM THE TECHNICAL SPECIFICATIONS TO THE UPDATED FINAL SAFETY ANALYSIS REPORT (TAC NO. MC4928)

Dear Mr. Spina:

The Commission has issued the enclosed Amendment No. 189 to Facility Operating License No. DPR-63 for the Nine Mile Point Nuclear Station, Unit No. 1 (NMP-1). The amendment consists of changes to the Technical Specifications in response to your application transmitted by letter dated October 22, 2004.

The amendment deletes Sections 5.3, “Reactor Vessel,” 5.4, “Containment,” and 5.6, “Seismic Design,” relocating all information, which pertains to design details, to the Updated Final Safety Analysis Report.

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 No. 50-220

Enclosures: 1. Amendment No. 189 to DPR-63
2. Safety Evaluation

cc w/encls: See next page

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Distribution:

PUBLIC	PDI R/F	R. Laufer	S. Little
P. Tam	OGC	G. Hill (2)	T. Boyce
P. Hearn	ACRS	G. Matakas, RI	

Accession Number: **ML051300235**

OFFICE	PDI-1\PM	PDI-1\LA	IROB	OGC	PDI-1/SC
NAME	PTam	SLittle	TBoyce*	GLongo	RLaufer
DATE	5/31/05	5/31/05	4/11/05	6/3/05	6/3/05

*SE transmitted by memo of 4/11/05.

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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. 189
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 October 22, 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.189, 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 90 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: June 6, 2005

ATTACHMENT TO LICENSE AMENDMENT NO. 189

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 a marginal line indicating the area of change.

Remove Pages	Insert Pages
v	v
342	342
345	345
346	346

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 189 TO FACILITY OPERATING LICENSE NO. DPR-63

NINE MILE POINT NUCLEAR STATION, LLC

NINE MILE POINT NUCLEAR STATION, UNIT NO. 1

DOCKET NO. 50-220

1.0 INTRODUCTION

By letter dated October 22, 2004 (Agencywide Document Access and Management System (ADAMS) Accession No. ML043070614), Nine Mile Point Nuclear Station, LLC (the licensee) submitted an application for amendment to the Nine Mile Point Nuclear Station, Unit No. 1 (NMP1) Technical Specifications (TSs). The amendment would delete Sections 5.3, "Reactor Vessel," 5.4, "Containment," and 5.6, "Seismic Design," relocating all information, which pertains to design details, to the Updated Final Safety Analysis Report (UFSAR). This change supports the license renewal application of NMP1, currently under review by the Nuclear Regulatory Commission (NRC) staff, by relocating the reactor vessel design lifetime (currently stated as 40 years) from TS 5.3 to the UFSAR. The NRC staff's review of the amendment application follows.

2.0 REGULATORY EVALUATION

Section 182a of the Atomic Energy Act (the Act) requires applicants for nuclear power plant operating licenses to include TSs as part of the license. The licensee provided TSs in order to maintain the operational capability of structures, systems and components that are required to protect the health and safety of the public. The Commission's regulatory requirements that are related to the content of the TSs are contained in 10 CFR 50.36, "Technical specifications," which include the following categories: (1) safety limits, limiting safety systems settings and control settings (10 CFR 50.36(c)(1)); (2) limiting conditions for operation (LCOs) (10 CFR 50.36(c)(2)); (3) surveillance requirements (SRs) (10 CFR 50.36(c)(3)); (4) design features (10 CFR 50.36(c)(4)); and (5) administrative controls (10 CFR 50.36(c)(5)).

In general, there are two classes of changes to TSs: (a) changes needed to reflect modifications to the design basis (TSs are derived from the design basis), and (b) voluntary changes to take advantage of the evolution in policy and guidance as to the required content and preferred format of TSs over time. The proposed amendment deals with only the second class of changes. In determining the acceptability of such changes, the NRC staff interprets the requirements of the current version of 10 CFR 50.36, using as a model the accumulation of generically approved guidance in the improved standard technical specification; for this review, the guidance is documented in NUREG-1433, Revision 3, "Standard Technical Specifications, General Electric Plants, BWR/4" dated June 30, 2004.

These NUREG reports incorporate the general guidance and LCO scoping criteria provided by the Commission's "Final Policy Statement on Technical Specification Improvement for Nuclear Power Reactors," published in the *Federal Register* on July 23, 1993 (58 FR 39132) and incorporated in 10 CFR 50.36 effective August 18, 1995.

Within this general framework, licensees may remove material from their TSs on two conditions: (1) the material is not required to be in the TSs based on the NRC staff interpretation of 10 CFR 50.36, including judgments about the level of detail required in the TSs, and (2) there exist suitable alternative regulatory controls for the material. Licensees may revise the remaining requirements to adopt current improved standard TS format and content provided that plant-specific review supports a finding of continued adequate safety because: (1) the change is editorial, administrative or provides clarification (i.e., no requirements are materially altered), (2) the change is more restrictive than the licensee's current requirement, or (3) the change is less restrictive than the licensee's current requirement, but nonetheless still affords adequate assurance of safety when judged against current regulatory standards. The detailed application of this general framework, and additional specialized guidance, are discussed in Section 3.0 below in the context of specific proposed changes.

3.0 TECHNICAL EVALUATION

NRC requirements at 10 CFR 50.36(c)(5) specify that, in general, TSs include design information significant to safety that has not already been addressed in complying with (c)(1), safety limits, limiting safety system settings, (c)(2), LCOs, or (c)(3), SRs. Thus, information that is adequately covered by other sections of 10 CFR 50.36, or does not meet the fairly high threshold of "significant to safety" as interpreted, for example, in the improved standard TS documents, need not be in the TSs. Control of this removed material by other regulatory means is sufficient.

3.1 Proposed Changes

3.1.1 TS Section 5.3, "Reactor Vessel"

This section lists certain design features of the reactor vessel, including the internal height, internal diameter, design lifetime, and materials of construction. The licensee proposed to relocate this information to UFSAR Section V-B.2.0, "Reactor Vessel," where the information already exists. As a result of the relocation of all the information, the entire section would be deleted.

3.1.2 TS Section 5.4, "Containment"

This section describes certain design features and parameters of the containment system, including primary containment volumes, design pressures, design temperature, and material of construction. The licensee proposed to relocate this information to the UFSAR Section VI-B, "Primary Containment - Pressure Suppression System," where the information already exists. This section also describes certain design information for the reactor building, including maximum in-leakage rates and design internal and external loading conditions. The licensee proposed to relocate this information to the UFSAR Section VI-C, "Secondary Containment -

Reactor Building," where the information already exists. As a result of the relocation of all the information, the entire section would be deleted.

3.1.3 TS Section 5.6, "Seismic Design"

This section describes details of the seismic design of the reactor building and engineered safeguards within the reactor building. The licensee proposed to relocate this information to the UFSAR, Sections III, "Building and Structures," VI-C, "secondary Containment - Reactor Building," and XVI-D, "Design of Structures, Components, Equipment, and Systems," where the information already exists. As a result of the relocation of all the information, the entire section would be deleted.

3.1.4 Page v of the Table of Contents

This page would be reprinted to show deletion of Sections 5.3, 5.4, and 5.6.

3.2 Evaluation of Proposed Changes

The design features and parameters proposed to be relocated from the TSs already exist in the UFSAR. In particular, TS Section 5.3 states that the reactor vessel design lifetime is 40 years, reflecting the life of the current license. At this time, the NRC staff is reviewing the licensee's application for license renewal. Upon favorable finding, the license may be renewed for 20 years and the reactor vessel life information would then be inaccurate. Relocating the reactor vessel life information from the TSs would preclude the need for a future amendment if and when the NMP1 operating license is renewed.

In addition to the fact that the information to be relocated already exists in the UFSAR, sufficient details involving these design features also exist, and will continue to exist, in the current TSs safety limits, limiting safety system settings, and LCOs (e.g., in TS Sections 2.2.1, 2.2.2, 3.2.0, 3.3.0, and 3.4.0) to ensure any changes involving the relocated information that may affect safety would require prior NRC review and approval. Since the design features with a potential to affect safety are sufficiently addressed by existing TS requirements, and other features, if altered or modified in accordance with 10 CFR 50.59, would not result in a significant effect on safety, the criteria of 10 CFR 50.36(c)(4) for inclusion of such information as a design feature are not met. Accordingly, the NRC staff agrees that removing these details from the TSs, while maintaining the details in the UFSAR, will not impact safe operation of the facility, since the removed details are not required in the TSs to provide adequate protection of the public health and safety.

The NRC staff reviewed the proposed changes for compliance with 10 CFR 50.36 and agreement with the guidance established in NUREG-1433 and NUREG-1434. Based on this review, the NRC staff concludes that the proposed relocation of the design features contained in TS Sections 5.3, 5.4, and 5.6 to the UFSAR is acceptable.

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 requirements with respect to installation or use of facility components located within the restricted area as defined in 10 CFR Part 20. 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 70719). 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 amendment.

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 amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: P. Hearn

Date: June 6, 2005

Nine Mile Point Nuclear Station, Unit No. 1

cc:

Mr. Michael J. Wallace
President
Nine Mile Point Nuclear Station, LLC
c/o Constellation Energy Group
750 East Pratt Street
Baltimore, MD 21202

Mr. Mike Heffley
Senior Vice President and Chief
Nuclear Officer
Constellation Generation Group
1997 Annapolis Exchange Parkway
Suite 500
Annapolis, MD 21401

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

Resident Inspector
U.S. Nuclear Regulatory Commission
P.O. Box 126
Lycoming, NY 13093

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

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

Mr. Peter R. Smith, President
New York State Energy, Research,
and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

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

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

Carey W. Fleming, Esquire
Senior Counsel
Constellation Generation Group, LLC
750 East Pratt Street, 17th Floor
Baltimore, MD 21202

Ms. Deb Katz, Executive Director
Nuclear Security Coalition
c/o Citizens Awareness Network
P.O. Box 83
Shelburne Falls, MA 01370