



Constellation Energy

Nine Mile Point Nuclear Station

P.O. Box 63
Lycoming, NY 13093

December 29, 2005
NMP2L 2125

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, D.C. 20555-0001

SUBJECT: Nine Mile Point Unit No. 2
Docket No. 50-410
Facility Operating License No. NPF-69

**Application to Eliminate License Condition 2.F Requiring Reporting of
Violations of Section 2.C of the Operating License**

Gentlemen:

In accordance with the provisions of Section 50.90 of Title 10 of the *Code of Federal Regulations* (10 CFR), Nine Mile Point Nuclear Station, LLC (NMPNS) is submitting a request for an amendment to the operating license for Nine Mile Point Unit 2.

The proposed amendment would delete the license condition that requires reporting of violations of other requirements (i.e., conditions listed in Section 2.C) in the operating license. The change is consistent with the notice published in the *Federal Register* on November 4, 2005, as part of the consolidated line item improvement process (CLIIP).

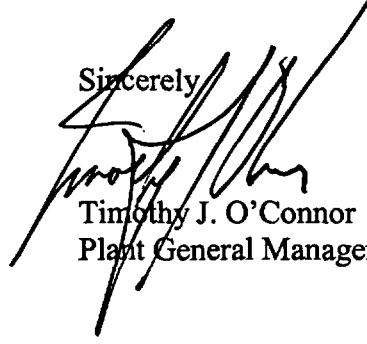
Attachment 1 provides a description of the proposed change and confirmation of applicability. Attachment 2 provides the existing operating license page marked-up to show the proposed change.

NMPNS requests approval of the proposed license amendment by June 30, 2006, with the amendment being implemented within 60 days of the approval.

In accordance with 10 CFR 50.91, a copy of this application, with attachments, is being provided to the designated New York State Official.

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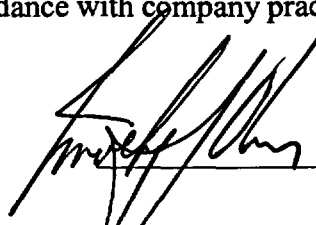
If you should have any questions regarding this submittal, please contact James Hutton, Director Licensing, at (315) 349-1041.

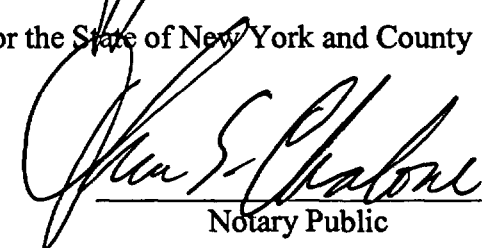
Sincerely

Timothy J. O'Connor
Plant General Manager

TJO/JJD/sac

STATE OF NEW YORK :
: TO WIT:
COUNTY OF OSWEGO :

I, Timothy J. O'Connor, being duly sworn, state that I am the Plant General Manager, and that I am duly authorized to execute and file this request on behalf of Nine Mile Point Nuclear Station, LLC. To the best of my knowledge and belief, the statements contained in this document are true and correct. To the extent that these statements are not based on my personal knowledge, they are based upon information provided by other Nine Mile Point employees and/or consultants. Such information has been reviewed in accordance with company practice and I believe it to be reliable.





Notary Public

Subscribed and sworn before me, a Notary Public in and for the State of New York and County of Oswego, this 29 day of December, 2005.

WITNESS my Hand and Notarial Seal:

12/29/05
Date



THERESA S. CHALONE
NOTARY PUBLIC, STATE OF NEW YORK
OSWEGO COUNTY REG. NO. 01CH471068
MY COMMISSION EXPIRES 12/3/06

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Attachments:

1. Description and Assessment
2. Proposed Nine Mile Point Unit 2 Operating License Changes (Mark-up)

cc: Mr. S. J. Collins, NRC Regional Administrator, Region I
Mr. L. M. Cline, NRC Senior Resident Inspector
Mr. T. G. Colburn, Senior Project Manager, NRR (2 copies)
Mr. J. P. Spath, NYSERDA

ATTACHMENT 1

Description and Assessment

1.0 INTRODUCTION

The proposed amendment would delete Section 2.F of Facility Operating License No. NPF-69 for Nine Mile Point Unit 2 (NMP2), which requires reporting of violations of the requirements in Section 2.C of the facility operating license. The availability of this operating license improvement was announced in the *Federal Register* on November 4, 2005, as part of the consolidated line item improvement process (CLIP).

2.0 DESCRIPTION OF PROPOSED AMENDMENT

Consistent with the CLIP Notice of Availability (70 FR 67202), the proposed amendment consists of deleting Section 2.F of Facility Operating License No. NPF-69. The current requirements of the license condition are as follows:

- 2.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).

The existing conditions in Section 2.C that are subject to the current reporting requirement consist of the following:

2.C(1) Maximum Power Level

Nine Mile Point Nuclear Station, LLC is authorized to operate the facility at reactor core power levels not in excess of 3467 megawatts thermal (100 percent rated power) in accordance with the conditions specified herein.

2.C(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. 100 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.

2.C(3) Fuel Storage and Handling (Section 9.1, SSER 4)

- a. Fuel assemblies, when stored in their shipping containers, shall be stacked no more than three containers high.

- b. When not in the reactor vessel, no more than three fuel assemblies shall be allowed outside of their shipping containers or storage racks in the New Fuel Vault or Spent Fuel Storage Facility.
- c. The above three fuel assemblies shall maintain a minimum edge-to-edge spacing of twelve (12) inches from the shipping container array and approved storage rack locations.
- d. The New Fuel Storage Vault shall have no more than ten fresh fuel assemblies uncovered at any one time.

2.C(4) Turbine System Maintenance Program (Section 3.5.1.3.10, SER)

The operating licensee shall submit for NRC approval by October 31, 1989, a turbine system maintenance program based on the manufacturer's calculations of missile generation probabilities. (Submitted by NMPC letter dated October 30, 1989 from C.D. Terry and approved by NRC letter dated March 15, 1990 from Robert Martin to Mr. Lawrence Burkhardt, III).

2.C(5) Inservice Inspection (Sections 5.2.4.3 and 6.6.3, SSER 5)

The operating licensee shall submit an inservice inspection program in accordance with 10 CFR § 50.55a(g)(4) for staff review by July 31, 1987.

2.C(6) Initial Startup Test Program (Section 14, SER, SSERs 4 and 5)

Any changes to the Initial Test Program described in Section 14 of the Final Safety Analysis Report made in accordance with the provisions of 10 CFR 50.59 shall be reported in accordance with 50.59(b) within one month of such change.

2.C(7) Operation with Reduced Feedwater Temperature (Section 15.1, SSER 4)

Nine Mile Point Nuclear Station, LLC shall not operate the facility with reduced feedwater temperature for the purpose of extending the normal fuel cycle. The facility shall not be operated with a feedwater heating capacity less than that required to produce a feedwater temperature of 405°F at rated steady-state conditions unless analyses supporting such operations are submitted by Nine Mile Point Nuclear Station, LLC and approved by the staff.

2.C(8) Safety Parameter Display System (SPDS) (Section 18.2, SSERs 3 and 5)

Prior to startup following the first refueling outage, the operating licensee shall have operational an SPDS that includes the revisions described in their letter of November 19, 1985. Before declaring the SPDS operational, the operating licensee shall complete testing adequate to ensure that no safety concerns exist regarding the operation of the Nine Mile Point Nuclear Station, Unit No. 2 SPDS.

2.C(9) Detailed Control Room Design Review (Section 18.1, SSERs 5 and 6)

- (a) Deleted per Amendment No. 24 (12-18-90)
- (b) Prior to startup following the first refueling outage, the operating licensee shall provide the results of the reevaluation of normally lit and nuisance alarms for NRC review in accordance with its August 21, 1986 letter.
- (c) Prior to startup following the first refueling outage, the operating licensee shall complete permanent zone banding of meters in accordance with its August 4, 1986 letter.

2.C(10) Additional Condition 1

The operating licensee is authorized by Amendment No. 91 to relocate certain Technical Specification requirements previously included in Appendix A to licensee-controlled documents, as described in Table R, Relocated Specifications and Removal of Details Matrix, attached to the NRC Staff's safety evaluation dated February 15, 2000, enclosed with the amendment. Implementation of Amendment No. 91 shall include the relocation of these requirements to the appropriate documents, which shall be completed no later than December 31, 2000. The relocations to the Updated Safety Analysis Report shall be reflected in updates completed in accordance with 10 CFR 50.71(e).

2.C(11) Additional Condition 2

The schedule for performing Surveillance Requirements (SRs) that are new or revised in Amendment No. 91 shall be as follows:

For SRs that are new in this amendment, the first performance is due at the end of the first surveillance interval that begins on the date of implementation of this amendment.

For SRs that existed prior to this amendment whose intervals of performance are being reduced, the first reduced surveillance interval begins upon completion of the first surveillance performed after implementation of this amendment.

For SRs that existed prior to this amendment that have modified acceptance criteria, the first performance is due at the end of the first surveillance interval that began on the date the surveillance was last performed prior to the implementation of this amendment.

For SRs that existed prior to this amendment whose intervals of performance are being extended, the first extended surveillance interval begins upon

completion of the last surveillance performed prior to the implementation of this amendment.

2.C(11a) Additional Condition 3

The operating licensee shall be capable of establishing containment hydrogen monitoring within 90 minutes of initiating emergency core cooling (safety injection) following a loss of coolant accident.

2.C(12) On the closing date(s) of the transfer of the NMPC, RG&E, CHGEC, and NYSEG interests in NMP-2 to it, Nine Mile Point Nuclear Station, LLC shall: (1) obtain from the transferors then transferring their interests all of their accumulated decommissioning trust funds for NMP-2, and (2) receive a parent company guarantee pursuant to 10 CFR 50.75(e)(1)(iii)(B) (to be updated annually) in a form acceptable to the NRC and in an amount which, when combined with the decommissioning trust funds for NMP-2 that have been transferred, equals or exceeds the total amounts for NMP LLC's then resulting total ownership share of NMP-2, respectively, pursuant to 10 CFR 50.75(b) and (c).

2.C(13) The decommissioning trust agreement for NMP-2, at the time any subject direct transfer is effected and thereafter, is subject to the following:

- a. The decommissioning trust agreement must be in a form acceptable to the NRC.
- b. With respect to the decommissioning trust funds, investments in the securities or other obligations of Constellation Energy Group, Inc., New Controlled, or their affiliates, successors, or assigns, are and shall be prohibited. Except for investments tied to market indexes or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are and shall be prohibited.
- 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.

2.C(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.

2.C(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.

2.C(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.

3.0 BACKGROUND

The background for this application is adequately addressed by the NRC Notice of Availability published on November 4, 2005 (70 FR 67202) and the Notice of Opportunity to Comment published on August 29, 2005 (70 FR 51098).

4.0 REGULATORY REQUIREMENTS AND GUIDANCE

The applicable regulatory requirements and guidance associated with this application are adequately addressed by the NRC Notice of Availability published on November 4, 2005 (70 FR 67202) and the Notice of Opportunity to Comment published on August 29, 2005 (70 FR 51098).

5.0 TECHNICAL ANALYSIS

Nine Mile Point Nuclear Station, LLC (NMPNS) has reviewed the safety evaluation (SE) published on August 29, 2005, as part of the CLIIP Notice of Opportunity to Comment. NMPNS has concluded that the justifications presented in the SE prepared by the NRC staff are applicable to NMP2 and justify this amendment of the facility operating license for NMP2.

6.0 REGULATORY ANALYSIS

A description of this proposed change and its relationship to applicable regulatory requirements and guidance was provided in the NRC Notice of Opportunity to Comment published on August 29, 2005 (70 FR 51098).

7.0 NO SIGNIFICANT HAZARDS CONSIDERATION

NMPNS has reviewed the proposed no significant hazards consideration determination published on August 29, 2005 (70 FR 51098), as part of the CLIIP Notice of Opportunity to Comment. NMPNS has concluded that the proposed determination presented in the notice is applicable to NMP2 and the determination is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

8.0 ENVIRONMENTAL EVALUATION

NMPNS has reviewed the environmental evaluation included in the model SE published on August 29, 2005 (70 FR 51098), as part of the CLIIP Notice of Opportunity to Comment. NMPNS has concluded that the staff's findings presented in that evaluation are applicable to NMP2 and the evaluation is hereby incorporated by reference for this application.

9.0 PRECEDENT

This application is being made in accordance with the CLIIP. NMPNS is not proposing variations or deviations from the changes described in the NRC staff's model SE published on August 29, 2005 (70 FR 51098).

10.0 REFERENCES

1. *Federal Register* Notice of Opportunity to Comment on Model Safety Evaluation on Elimination of Typical License Condition Requiring Reporting of Violations of Section 2.C of Operating License Using the Consolidated Line Item Improvement Process, August 29, 2005 (70 FR 51098).
2. *Federal Register* Notice of Availability of Model Application Concerning Elimination of Typical License Condition Requiring Reporting of Violations of Section 2.C of Operating License Using the Consolidated Line Item Improvement Process, November 4, 2005 (70 FR 67202).

ATTACHMENT 2

**PROPOSED NINE MILE POINT UNIT 2 OPERATING LICENSE CHANGES
(MARK-UP)**

- 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.

~~Deleted~~
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).