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February 11, 2009

U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTENTION: Document Control Desk

SUBJECT: Nine Mile Point Nuclear Station
Unit No. 1 Docket No. 50-220, and Unit 2 Docket No. 50-410

License Amendment Request for Adoption of TSTF-511-A Rev. 0 "Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26"

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 amendments to the Technical Specifications (TS) for Nine Mile Point Unit 1 (NMP1) and Nine Mile Point Unit 2 (NMP2).

The proposed amendments would delete those portions of TS superseded by 10 CFR Part 26, Subpart I. This change is consistent with NRC approved Revision 0 to Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler, TSTF-511-A, "Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26."

The availability of this TS improvement was announced in the **Federal Register** on December 30, 2008 (73 FR 79923) as part of the consolidated line item improvement process (CLIIP).

Attachment 1 provides an evaluation of the proposed change.

Attachment 2 provides the existing TS pages for NMP1 marked up to show the proposed change.

Attachment 3 provides the existing TS pages for NMP2 marked up to show the proposed change.

Attachment 4 provides a regulatory commitment.

NMPNS requests approval of the proposed license amendment by July 10, 2009, to support implementation of TS changes concurrent with implementation of the new 10 CFR 26, Subpart I, requirements no later than October 1, 2009.

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

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NRA

If you should have any questions regarding this submittal, please contact T. F. Syrell, Licensing Director, at (315) 349-5219.

Very truly yours,



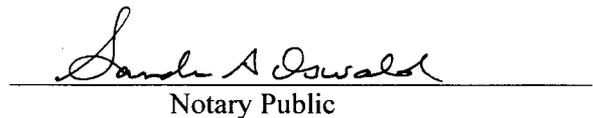
STATE OF NEW YORK :
: TO WIT:
COUNTY OF OSWEGO :

I, Keith J. Polson, being duly sworn, state that I am Vice President-Nine Mile Point, 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.



Subscribed and sworn before me, a Notary Public in and for the State of New York and County of Oswego, this 11th day of February, 2009.

WITNESS my Hand and Notarial Seal:



Notary Public

My Commission Expires:

10/25/09
Date

SANDRA A. OSWALD
Notary Public, State of New York
No. 01OS6032276
Qualified in Oswego County
Commission Expires 10-25-09

KJP/GNS

Attachments:

1. Evaluation of Proposed Change
2. Proposed Technical Specification Change for Nine Mile Point Unit 1 (Mark-Up)
3. Proposed Technical Specification Change for Nine Mile Point Unit 2 (Mark-Up)
4. List of Regulatory Commitments

cc: S. J. Collins, NRC
R. V. Guzman, NRC
Resident Inspector, NRC
J. P. Spath, NYSERDA

ATTACHMENT 1

EVALUATION OF PROPOSED CHANGE

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EVALUATION OF PROPOSED CHANGE

1.0 DESCRIPTION

The proposed amendments would delete those portions of the Nine Mile Point Unit 1 (NMP1) and Nine Mile Point Unit 2 (NMP2) Technical Specifications (TS) superseded by 10 CFR Part 26, Subpart I. This change is consistent with NRC approved Revision 0 to Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler, TSTF-511-A, "Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26." Minor differences between the proposed TS changes, and the changes proposed by TSTF-511-A are listed in section 2.0. The availability of this TS improvement was announced in the **Federal Register** on December 30, 2008 (73 FR 79923) as part of the consolidated line item improvement process (CLIIP).

2.0 PROPOSED CHANGE

Consistent with the NRC approved Revision 0 of TSTF-511, the proposed TS changes delete those portions of TS superseded by 10 CFR Part 26, Subpart I.

This application is being made in accordance with the CLIIP. Nine Mile Point Nuclear Station, LLC (NMPNS) is not proposing any material variations or deviations from the TS changes described in TSTF-511-A, Revision 0, or the NRC staff's model safety evaluation (SE) published on December 30, 2008 (73 FR 79923) as part of the CLIIP Notice of Availability. For NMP1, the relevant section of TS to be deleted is 6.2.2.d. For NMP2, the relevant section is 5.2.2.e. These differences in paragraph numbering are administrative and do not materially impact the model SE published by the NRC.

3.0 BACKGROUND

The NRC published a **Federal Register** notice (73 FR 16966, March 31, 2008) of the issuance of a final rule that amended 10 CFR Part 26. The revised regulations in 10 CFR Part 26, Subpart I, supersede working hour restrictions contained in section 6.2.2.d of the NMP1 TS and section 5.2.2.e of the NMP2 TS. The background for this application is adequately addressed by the NRC Notice of Availability published on December 30, 2008 (73 FR 79923).

4.0 TECHNICAL ANALYSIS

NMPNS has reviewed the SE published on December 30, 2008 (73 FR 79923) as part of the CLIIP Notice of Availability. NMPNS has concluded that the technical justifications presented in the SE prepared by the NRC staff are applicable to NMP1 and NMP2.

10 CFR Part 26, Subpart I, supersedes existing worker fatigue guidance. 10 CFR Part 26, Subpart I, distinguishes between work hour controls and fatigue management and strengthens the requirements for both. Under the new rule, work hour restrictions include not only work hour limitations for rolling 24-hour, 48-hour, and 7-day periods, but also include a required minimum break between work periods and varying required minimum days off.

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EVALUATION OF PROPOSED CHANGE

Additionally, Subpart I confines the use of waivers (deviations from restrictions) to situations where overtime is necessary to mitigate or prevent a condition adverse to safety or necessary to maintain the security of the facility. Subpart I also strengthens reporting requirements. Finally, the new rule's work hour control scope includes certain operating and maintenance personnel, as well as individuals directing those operating and maintenance personnel, health physics and chemistry personnel who are a part of the on-site emergency response organization minimum shift complement, the fire brigade member who is responsible for understanding the effects of fire and fire suppressants on safe shutdown capability, and certain security personnel.

The proposed change removes working hour limits imposed in the Technical Specifications in order to support compliance with 10 CFR Part 26, Subpart I. Work hour controls and fatigue management requirements have been incorporated into the NRC's regulations; therefore, it is unnecessary to have work hour control requirements in the Technical Specifications.

Removal of the Technical Specification requirements will be performed concurrently with the implementation of the 10 CFR Part 26, Subpart I, requirements, even if the rule change is implemented prior to the October 1, 2009 deadline. Along with this License Amendment request (LAR), NMPNS has made a commitment to comply with 10 CFR Part 26 concurrently with the implementation of the Technical Specification changes.

5.0 REGULATORY SAFETY ANALYSIS

5.1 NO SIGNIFICANT HAZARDS DETERMINATION

NMPNS has reviewed the no significant hazards determination published on December 30, 2008 (73 FR 79923) as part of the CLIP Notice of Availability. NMPNS has concluded that the determination presented in the notice is applicable to NMP1 and NMP2. NMPNS has evaluated the proposed changes to the TS using the criteria in 10 CFR 50.92 and has determined that the proposed changes do not involve a significant hazards consideration. An analysis of the issue of no significant hazards consideration is presented below:

Criterion 1: The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Removal of the Technical Specification requirements will be performed concurrently with the implementation of the 10 CFR Part 26, Subpart I, requirements. The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. Worker fatigue is not an initiator of any accident previously evaluated. Worker fatigue is not an assumption in the consequence mitigation of any accident previously evaluated.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

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EVALUATION OF PROPOSED CHANGE

Criterion 2: The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Working hours will continue to be controlled in accordance with NRC requirements. The new rule allows for deviations from controls to mitigate or prevent a condition adverse to safety or as necessary to maintain the security of the facility. This ensures that the new rule will not unnecessarily restrict working hours and thereby create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3: The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. The proposed change does not involve any physical changes to the plants or alter the manner in which plant systems are operated, maintained, modified, tested, or inspected. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shutdown the plants and to maintain the plants in a safe shutdown condition.

Removal of plant-specific Technical Specification administrative requirements will not reduce a margin of safety because the requirements in 10 CFR Part 26 are adequate to ensure that worker fatigue is managed.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, NMPNS concludes that the proposed change presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of "no significant hazards consideration" is justified.

5.2 APPLICABLE REGULATORY REQUIREMENTS/CRITERIA

A description of the proposed TS change and its relationship to applicable regulatory requirements was provided in the NRC Notice of Availability published on December 30, 2008

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EVALUATION OF PROPOSED CHANGE

(73 FR 79923). NMPNS has reviewed the NRC staff's model SE published on December 30, 2008 (73 FR 79923) as part of the CLIIP Notice of Availability and concluded that the regulatory evaluation section is applicable to NMP1 and NMP2.

The proposed change eliminates the plant-specific Technical Specification administrative controls on working hours. The Technical Specification guidance has been superseded by 10 CFR Part 26. 10 CFR Part 26, Subpart I, "Managing Fatigue," contains requirements for managing worker fatigue at operating nuclear power plants.

10 CFR 50.36 provides, among other things, the regulatory requirements for the content in the Administrative Controls section of the Technical Specifications. The inclusion of requirements to control working hours and manage fatigue is not required to be in the Administrative Controls by 10 CFR Part 50.36. Because the requirement to control working hours and manage fatigue is provided in 10 CFR Part 26, Subpart I, it is unnecessary for the Technical Specifications to contain similar controls.

6.0 ENVIRONMENTAL CONSIDERATION

NMPNS has reviewed the environmental evaluation included in the SE published on December 30, 2008 (73 FR 79923) as part of the CLIIP Notice of Availability. NMPNS has concluded that the staff's findings presented in that evaluation are applicable to NMP1 and NMP2. The proposed amendments change recordkeeping, reporting, or administrative procedures. 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 REFERENCES

1. **Federal Register** Notice, Final Rule 10 CFR Part 26, published on March 31, 2008 (73 FR 16966)
2. TSTF-511-A, Revision 0, "Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26"
3. **Federal Register** Notice, Notice of Availability, published on December 30, 2008 (73 FR 79923)

ATTACHMENT 2

**PROPOSED TECHNICAL SPECIFICATION CHANGE
FOR NINE MILE POINT UNIT 1 (MARK-UP)**

- c. A specified corporate officer shall have corporate responsibility for overall plant nuclear safety and shall take any measures needed to ensure acceptable performance of the staff in operating, maintaining, and providing technical support to the plant to ensure nuclear safety.
- d. The individuals who train the operating staff, carry out radiation protection, or perform quality assurance functions may report to the appropriate onsite manager; however, these individuals shall have sufficient organizational freedom to ensure their independence from operating pressures.

6.2.2 Unit Staff

The unit staff organization shall include the following:

- a. At least two non-licensed operators shall be assigned when the unit is in the power operating condition; and at least one non-licensed operator shall be assigned when the unit is in the hot shutdown, cold shutdown, or refueling conditions. In addition, if the process computer is out of service for greater than 8 hours, at least three non-licensed operators shall be assigned when the unit is in the power operating, hot shutdown, cold shutdown, or refueling conditions.
- b. Shift crew composition may be less than the minimum requirements of 10 CFR 50.54(m)(2)(i) and Specification 6.2.2.a for a period of time not to exceed 2 hours in order to accommodate unexpected absence of on-duty shift crew members provided immediate action is taken to restore the shift crew composition to within the minimum requirements.
- c. An individual qualified to implement radiation protection procedures shall be on site when fuel is in the reactor. The position may be vacant for not more than 2 hours, in order to provide for unexpected absence of on-duty personnel, provided immediate action is taken to fill the required position.
- d. ~~Deleted~~
~~Administrative procedures shall be developed and implemented to limit the working hours of personnel who perform safety related functions (e.g., licensed SROs, licensed Reactor Operators (ROs), key radiation protection personnel, auxiliary operators, and key maintenance personnel).~~
~~The controls shall include guidelines on working hours that ensure adequate shift coverage shall be maintained without routine heavy use of overtime.~~

Any deviation from the above guidelines shall be authorized in advance by the plant manager or the plant manager's designee, in accordance with approved administrative procedures, with documentation of the basis for granting the deviation. Routine deviation from the working hour guidelines shall not be authorized.

Controls shall be included in the procedures to require a periodic independent review be conducted to ensure that excessive hours have not been assigned.

- e. As a minimum, either the Manager Operations or the General Supervisor Operations shall hold an SRO license.
- f. The Shift Technical Advisor (STA) shall provide advisory technical support to the shift supervision in the areas of thermal hydraulics, reactor engineering, and plant analysis with regard to the safe operation of the unit. In addition, the STA shall meet the qualifications specified by the Commission Policy Statement on Engineering Expertise on Shift.

6.3 Unit Staff Qualifications

- 6.3.1 Each member of the unit staff, with the exception of the operator license applicants and the radiation protection manager, shall meet or exceed the minimum qualifications of ANSI N18.1-1971 for comparable positions. The radiation protection manager shall meet or exceed the qualifications of Regulatory Guide 1.8, September 1975. The education and experience eligibility requirements for operator license applicants, and changes thereto, shall be those previously reviewed and approved by the NRC; specifically, those referenced in letter NMP1L 2184, dated December 20, 2007, and described in applicable station training procedures.
- 6.3.2 For the purpose of 10 CFR 55.4, a licensed Senior Reactor Operator (SRO) and a licensed Reactor Operator (RO) are those individuals who, in addition to meeting the requirements of Specification 6.3.1, perform the functions described in 10 CFR 50.54(m).

6.4 Procedures

- 6.4.1 Written procedures and administrative policies shall be established, implemented and maintained that meet or exceed the requirements and recommendations of Sections 5.1 and 5.3 of ANSI N18.7-1972 and cover the following activities:
 - a. The applicable procedures recommended in Regulatory Guide 1.33, Appendix A, November 3, 1972;

ATTACHMENT 3

**PROPOSED TECHNICAL SPECIFICATION CHANGE
FOR NINE MILE POINT UNIT 2 (MARK-UP)**

5.2 Organization (continued)

5.2.2 Unit Staff

The unit staff organization shall include the following:

- a. At least two non-licensed operators shall be assigned when the unit is in MODE 1, 2, or 3; and at least one non-licensed operator shall be assigned when the unit is in MODE 4 or 5. In addition, if the process computer is out of service for greater than 8 hours, at least three non-licensed operators shall be assigned when the unit is in MODE 1, 2, 3, 4, or 5.
- b. At least one licensed Reactor Operator (RO) shall be present in the control room when fuel is in the reactor. In addition, while the unit is in MODE 1, 2, or 3, at least one licensed Senior Reactor Operator (SRO) shall be present in the control room.
- c. Shift crew composition may be less than the minimum requirement of 10 CFR 50.54(m)(2)(i) and Specification 5.2.2.a for a period of time not to exceed 2 hours in order to accommodate unexpected absence of on-duty shift crew members provided immediate action is taken to restore the shift crew composition to within the minimum requirements.
- d. An individual qualified to implement radiation protection procedures shall be on site when fuel is in the reactor. The position may be vacant for not more than 2 hours, in order to provide for unexpected absence of on-duty personnel, provided immediate action is taken to fill the required position.

Deleted
e. Administrative procedures shall be developed and implemented to limit the working hours of unit staff who perform safety related functions (e.g., licensed SROs, licensed ROs, key radiation protection personnel, auxiliary operators, and key maintenance personnel).

Adequate shift coverage shall be maintained without routine heavy use of overtime. The objective shall be to have operating personnel work an 8 to 12 hour day, nominal 40 hour week, while the unit is operating. However, in the event that unforeseen problems require substantial amounts of overtime to be used, or during extended periods of

(continued)

5.2 Organization

5.2.2 Unit Staff (continued)

shutdown for refueling, major maintenance, or major plant modification, on a temporary basis the following guidelines shall be followed:

1. An individual should not be permitted to work more than 16 hours straight, excluding shift turnover time;
2. An individual should not be permitted to work more than 16 hours in any 24 hour period, nor more than 24 hours in any 48 hour period, nor more than 72 hours in any 7 day period, all excluding shift turnover time;
3. A break of at least 8 hours should be allowed between work periods, including shift turnover time; and
4. Except during extended shutdown periods, the use of overtime should be considered on an individual basis and not for the entire staff on a shift.

Any deviation from the above guidelines shall be authorized in advance by the plant manager or a designee, in accordance with approved administrative procedures, or by higher levels of management, in accordance with established procedures and with documentation of the basis for granting the deviation.

Controls shall be included in the procedures such that individual overtime shall be reviewed monthly by a specified corporate officer or a designee to ensure that excessive hours have not been assigned. Routine deviation from the above guidelines is not authorized.

- f. The operations supervisors shall hold an SRO license.
 - g. The Shift Technical Advisor (STA) shall provide advisory technical support to the shift supervision in the areas of thermal hydraulics, reactor engineering, and plant analysis with regard to the safe operation of the unit. In addition, the STA shall meet the qualifications specified by the Commission Policy Statement on Engineering Expertise on Shift.
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ATTACHMENT 4

LIST OF REGULATORY COMMITMENTS

ATTACHMENT 4

LIST OF REGULATORY COMMITMENTS

REGULATORY COMMITMENT	DUE DATE
Removal of Nine Mile Point Unit 1 Technical Specification 6.2.2.d and Nine Mile Point Unit 2 Technical Specification 5.2.2.e requirements will be performed concurrently with the implementation of the 10 CFR Part 26, Subpart I, requirements.	No later than October 1, 2009