

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
NIAGARA MOHAWK POWER CORPORATION ) Docket No. 50-410  
(Nine Mile Point Nuclear Station )  
Unit 2) )

EXEMPTION

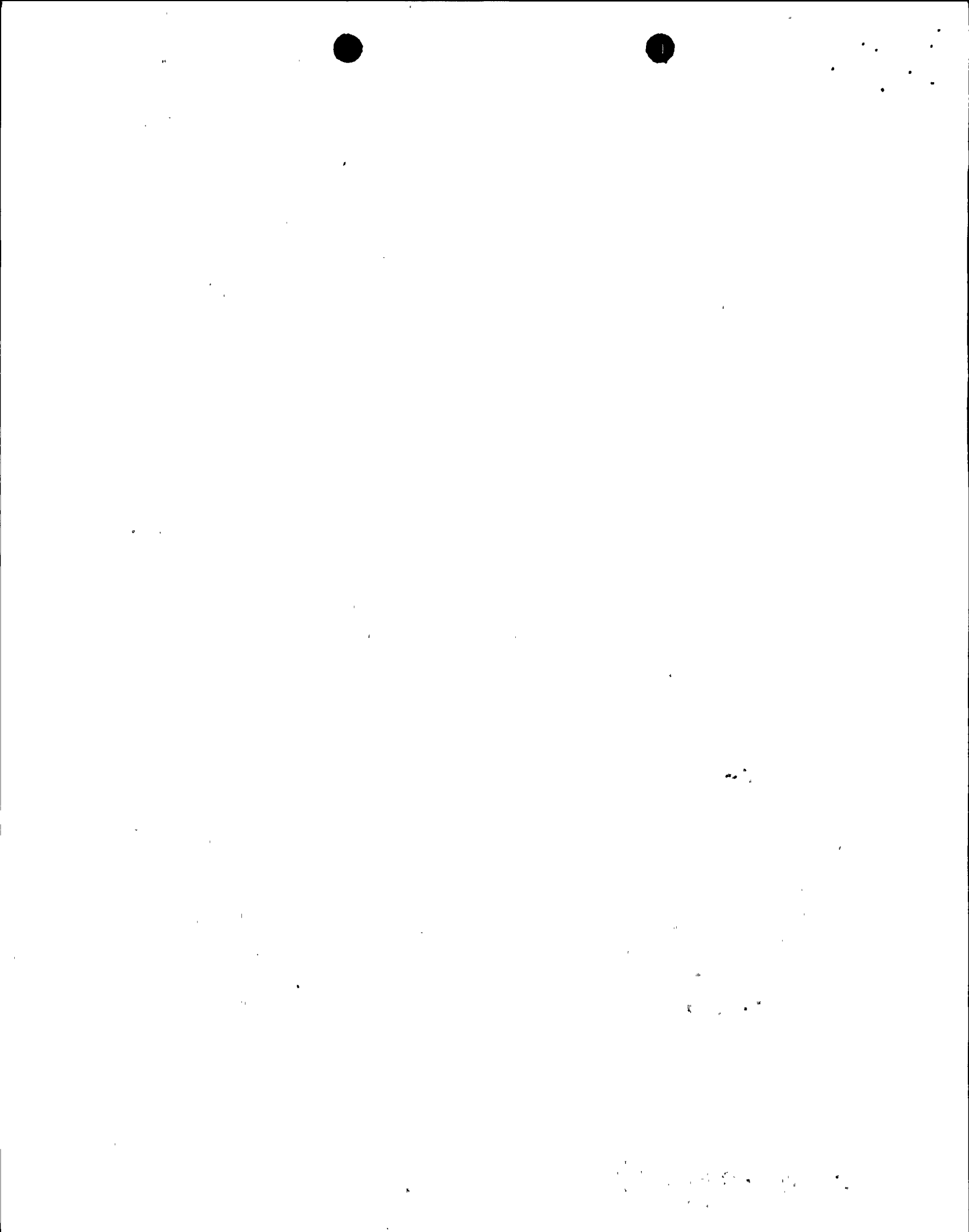
I.

Niagara Mohawk Power Corporation (NMPC or the licensee) is the holder of Facility Operating License No. NPF-69, which authorizes operation of Nine Mile Point Nuclear Station, Unit 2 (the facility or NMP2), at a steady-state reactor power level not in excess of 3323 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Oswego County, New York. The license provides, among other things, that it is subject to all rules, regulations, and Orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II.

Section III of Appendix J to 10 CFR Part 50 requires the development of a program to conduct periodic leak testing of the primary reactor containment and related systems and components, and components penetrating the primary containment pressure boundary. The interval between local leak rate tests for Type B tests is specified by Section III.D.2 to be no greater than 2 years.

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III.

By letter dated May 28, 1993, NMPC requested a one-time only schedular exemption until the end of the 1993 refueling outage (currently scheduled to begin on October 1, 1993) from the requirements of 10 CFR Part 50, Appendix J, Section III.B., regarding Type B tests of the expansion bellows in four Traversing Incore Probe containment penetrations (2NMT\*Z31A, C, D, and E). The requested exemption would permit continued reactor operation as well as other activities (e.g., maintenance and refueling operations, surveillance tests, etc.) until the end of the 1993 refueling outage. Otherwise, the required testing would require a plant shutdown solely to perform the required leak tests.

IV.

Section III.D.2 of Appendix J to 10 CFR Part 50 states that Type B tests shall be performed during reactor shutdowns for refueling, at an interval not to exceed 2 years. However, due to an oversight, the expansion bellows in the four penetrations have not been Type B tested to date. These bellows cannot be Type B tested during reactor operations. Therefore, to preclude a reactor shutdown solely to perform the required tests, the licensee has requested a one-time exemption from the leak test requirements of 10 CFR Part 50, Appendix J, until the 1993 refueling outage when these bellows will be Type B tested as required by the regulations.

The 2-year interval requirement for Type B testing is intended to be often enough to preclude significant deterioration between tests and long enough to permit the tests to be performed during routine plant outages. Leak



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rate testing of containment penetrations during plant shutdown is preferable because of the lower radiation exposures to plant personnel. Furthermore, some containment penetrations, including the four subject penetrations, cannot be tested at power. For those penetrations that cannot be tested during power operation, or for which testing at power would yield unnecessary radiation exposure of personnel, the Commission staff believes the increase in confidence of containment integrity following a successful test is not significant enough to justify the hardships and costs associated with a plant shutdown specifically to perform the required tests prior to the 1993 refueling outage.

V.

The Commission has determined that pursuant to 10 CFR 50.12(a)(1) this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii) and (iii) are present justifying the exemption; namely, that: (1) application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule and (2) compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted.

The underlying purpose of Section III.D.2 of Appendix J to 10 CFR Part 50 is to provide an interval short enough to prevent serious deterioration from occurring between tests and long enough to permit testing to be performed during regular plant outages. For containment penetrations, such as the four subject penetrations, that cannot be tested at power, the

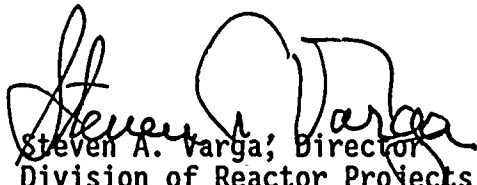


increased confidence in containment integrity following successful testing is not significant enough to justify a plant outage solely to perform the tests prior to the 1993 refueling outage. A plant shut down solely to perform the required test would be an undue hardship. The licensee has presented information accepted by the Commission, which gives a high degree of confidence that the components affected by this exemption will not degrade to an unacceptable extent. The details of the NRC staff's review of the licensee's exemption request are discussed in a safety evaluation dated August 11, 1993. Acceptable leakage limits are defined in Section III.B.3(a) of Appendix J to 10 CFR Part 50.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (58 FR 37759).

This Exemption is effective upon issuance and shall expire at the end of the 1993 refueling outage which is currently scheduled to begin on October 1, 1993.

FOR THE NUCLEAR REGULATORY COMMISSION

  
Steven A. Varga; Director  
Division of Reactor Projects - I/II  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,  
this 11 day of August 1993



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