

Nuclear Regulatory Commission,  
Washington, DC 20555, (301) 415-7516.

Dated at Rockville, Maryland, this 25th day  
of April 1995.

For the Nuclear Regulatory Commission.

**James F. McDermott,**

*Secretary, Executive Resources Board.*

[FR Doc. 95-10728 Filed 5-1-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-410]

**Niagara Mohawk Power Corp. (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/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.D.1.(a) of Appendix J to 10 CFR Part 50 requires the performance of three Type A containment integrated leakage rate tests (ILRTs), at approximately equal intervals during each 10-year service period of the primary containment. The third test of each set shall be conducted when the plant is shutdown for the 10-year inservice inspection of the primary containment.

**III**

By letter dated March 9, 1995, NMPC requested temporary relief for NMP2 from the requirement to perform a set of three Type A tests at approximately equal intervals during each 10-year service period of the primary containment. The requested exemption would permit a one-time interval extension of the second Type A test by approximately 18 months (from the April 1995 refueling outage, to the late 1996 refueling outage).

The licensee's request cites the special circumstances of 10 CFR 50.12, paragraph (a)(2)(ii), as the basis for the exemption. The existing Type B and C testing programs are not being modified by this request and will continue to effectively detect containment leakage caused by the degradation of active

containment isolation components as well as containment penetrations. The licensee has analyzed the results of the previous Type A tests performed at NMP2. Two Type A tests (including the preoperational test) have been conducted from 1986 to date with no failures. Therefore, application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

**IV**

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 states that a set of three Type A leakage rate tests shall be performed at approximately equal intervals during each 10-year service period.

The licensee proposes an exemption to this section which would provide a one-time interval extension for the second Type A test by approximately 18 months. The Commission has determined, for the reasons discussed below, 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), are present justifying the exemption; namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of the requirement to perform Type A containment leak rate tests at approximately equal intervals during the 10-year service period, is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or becoming unknown. The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The NRC staff has noted that the licensee has a good record of ensuring a leak-tight containment. All Type A tests have passed with significant margin and the licensee has noted that the results of the Type A testing have been confirmatory of the Type B and C tests which will continue to be performed. The licensee stated in its submittal that a visual internal and external inspection of the mechanical and structural integrity of the containment shell is completed during every refueling outage. The NRC staff considers these inspections provide an important added level of confidence

in the continued integrity of the containment boundary.

The NRC staff has also made use of the information in a draft staff report, NUREG-1493, which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG-1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is 3 percent of all failures. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks. The NMP2 experience has also been consistent with these results as previously noted.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded 1.OL<sub>a</sub>. Of these, only nine were not due to Type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than 2L<sub>a</sub>; in one case the leakage was found to be approximately 2L<sub>a</sub>; in one case the as-found leakage was less than 3L<sub>a</sub>; one case approached 10L<sub>a</sub>; and in one case the leakage was found to be approximately 21L<sub>a</sub>. For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to L<sub>a</sub> (approximately 200L<sub>a</sub>, as discussed in NUREG-1493). Therefore, based on these considerations, it is unlikely that an extension of one cycle for the performance of the Appendix J, Type A test at NMP2 would result in significant degradation of the overall containment integrity. As a result, the application of the regulation in these particular circumstances is not necessary to

achieve the underlying purpose of the rule.

Based on generic and plant specific data, the NRC staff finds the basis for the licensee's proposed exemption to allow a one-time exemption to permit a scheduler extension for NMP2 of one cycle for the performance of the Appendix J, Type A test, provided that the visual containment inspection is performed, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (60 FR 17374).

This Exemption is effective upon issuance and shall expire at the completion of the late 1996 refueling outage.

Dated at Rockville, Maryland, this 24th day of April 1995.

For the Nuclear Regulatory Commission.

**Steven A. Varga,**

*Director, Division of Reactor Projects—I/II,  
Office of Nuclear Reactor Regulation.*

[FR Doc. 95-10729 Filed 5-1-95; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50-336]**

**Northeast Nuclear Energy Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-21, issued to the Northeast Nuclear Energy Company (NNECO/the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2, located in New London County, Connecticut.

The proposed amendment would revise the Technical Specification (TS) 3.1.2.4, "Charging Pumps—Operating," by adding a note that indicates that the provisions of TS 3.0.4 and 4.0.4 are not applicable for entry into MODE 4 from MODE 5.

Currently Millstone Unit 2 is in an extended shutdown, but is scheduled to start up in the near future. The current TS 3.1.2.3 limits Millstone Unit No. 2 to only one charging pump and one high pressure safety injection (HPSI) pump for MODES 4 and 6. TS 3.1.2.4 requires that two charging pumps be operable in MODES 1, 2, 3 and 4. The ACTION statement requires that if one charging pump is operable, that an additional charging pump must be restored to an operable status or the unit must be shut down. TS 3.0.4 prohibits entrance into

an operational MODE when the limiting condition for operation (LCO) is not met and the ACTION statement requires a shutdown. Similarly, TS 4.0.4 prohibits entry into an operational MODE if the Surveillance Requirement cannot be met. The proposed change would permit Millstone Unit 2 to enter MODE 4 as planned. Exigent action is justified in order to avoid an unnecessary delay in reactor startup.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards (SHC) consideration, which is presented below:

\* \* \* The proposed changes do not involve a SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed technical specification change will require that a second charging pump be returned to service within four hours of entering MODE 4 or prior to entering MODE 3, which ever occurs first. The addition of the footnote indicating that Technical Specifications 3.0.4 and 4.0.4 are not applicable for entry into MODE 4 from MODE 5 will allow for the testing and subsequent return to service of a charging pump that was required to be inoperable in MODE 5. The testing is necessary to restore the pump to operable status.

The need to restrict charging pump availability in MODE 5 is for LTOP protection. The restriction contained in the Technical Specification 3.1.2.4 to have a maximum of two charging pumps operable when the RCS [reactor coolant system] is less than 300°F is provided for the boron dilution analysis. Maximizing charging pump flow is desirable from shutdown risk management schemes. However, all three events, LTOP [low-temperature overpressure protection], boron dilution, and shutdown risk management must be integrated to maximize overall safety. The short (less than 4 hours) delay in verifying the operability of the

second charging pump after entry into MODE 4 does not significantly affect the overall risk. The technical specification as proposed, balances all three events and will allow the plant to operate.

The addition of the proposed footnote to Technical Specification 3.1.2.4 will not significantly increase the probability or consequences of an accident previously evaluated. The charging systems safety related functions are not being impacted by the proposed change.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not alter or affect the design, function, failure MODE, or operation of the plant. The proposed change will allow NNECO to perform the required operability tests to support the restoration of a charging pump to an operable status.

3. Involve a significant reduction in a margin of safety.

The proposed modification will allow for the restoration of a second charging pump to support plant operation in MODES 1, 2, 3, and 4. Testing of the charging pump is necessary to verify operability of the pump. Sufficient flow is provided by the remaining available pumps to address shutdown risk issues. This proposed change will not negatively impact the LTOP evaluation or boron dilution analysis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom