

CFR 73.55, which is backed by a security emergency diesel generator, for exterior lighting in lieu of 8-hour battery powered emergency lighting units. The licensee stated that the security lighting system is powered by an independent, uninterruptible power supply. According to the licensee, the generator backing the security lighting system is located in a separate structure from other plant area buildings and would not be affected by a fire requiring safe shutdown. The licensee stated that the generator is maintained with a fuel supply greater than 8 hours. The licensee also stated that the security lighting system, which meets the illumination requirements of 10 CFR 73.55, provides more than adequate illumination for exterior access and egress routes inside of the security protected area.

The licensee also proposed to be able to use portable lights in high radiation areas in lieu of fixed emergency lighting units with at least an 8-hour battery power supply. The exemption to permit this was requested to reduce radiation exposure to levels as low as reasonably achievable (ALARA) by eliminating emergency lighting testing and maintenance in high radiation areas. According to the licensee, the licensee's battery-powered portable lights have a wide base and are designed to be placed on the floor adjacent to the proposed work activity. The position of the lamp head can be adjusted to provide illumination necessary to perform the required work at the activity site. The lights are stored in a controlled cabinet near the activity sites, are dedicated for Appendix R safe shutdown activities, and are periodically tested. The lights have an 8-hour capacity. The licensee stated that fixed emergency lighting units are provided on the access and egress routes to the cabinet which contains the portable lights and to the entrance to the high radiation areas. According to the licensee, activities requiring the use of the portable lights are cold shutdown activities and are not time critical. In addition, the reduction of personnel radiation exposure from maintenance is in accordance with other NRC requirements. The portable lights, according to the licensee, would enable the performance in locked high radiation areas of limited non-time critical safe shutdown activities.

Finally, the licensee proposed to be able to use helmet mounted lights inside switchgear cabinets in lieu of fixed emergency lighting units specified by Section III.J of Appendix R. The licensee stated that due to space limitations and seismic qualification requirements, installation of fixed emergency lighting

units is not feasible. Emergency lighting units installed outside of the cabinets may not provide adequate lighting for the activity inside of the cabinet due to shadows cast by the operator. Activities performed inside of the cabinets requiring the use of helmet lights are limited to pulling fuses to isolate the cabinet from fire effects, according to the licensee. The helmet lights are stored inside of the Appendix R safe shutdown locker for each unit. This locker also contains the safe shutdown procedures and the locker is the first stop for the operators upon control room evacuation. The helmet mounted lights consist of a light head attached to a wide rubber band that is placed around a hardhat. A belt with two attached battery packs (each weighing about one pound) and a connector to attach the lamps to the battery completes the assembly. The helmet lights for pulling fuses inside of electrical switchgear, according to the licensee, will provide an adequate method of providing the necessary illumination to accomplish the limited activities.

III.

The underlying purpose of 10 CFR Part 50, Appendix R, Section III.J, is to provide adequate illumination to assure the capability of performing all necessary safe shutdown functions, as well as to assure personnel movement to and from the equipment and components that must be manually operated by plant personnel to effect safe shutdown during emergencies. In addition, the illumination must have a capability to allow sufficient time for normal lighting to be restored. The staff has determined that the security lighting, portable lights, and helmet lights, as described by the licensee and discussed above, satisfy the underlying purpose of 10 CFR Part 50 Appendix R, Section III.J.

IV.

In consideration of the foregoing, the Commission has determined that pursuant to 10 CFR 50.12, the exemption requested is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security. The Commission further has determined that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

Therefore, the licensee's request for an exemption from the requirements of Section III.J of Appendix R to 10 CFR

Part 50, to the extent applicable to the areas and locations described by the licensee in its application, is granted, provided the licensee's proposed alternative lighting arrangements are implemented.

Pursuant to 10 CFR 51.32, the Commission has determined that granting the above exemption will have no significant impact on the quality of the human environment (64 FR 14275).

The subject exemption is effective from the date of issuance.

Dated this 7th day of April 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-9170 Filed 4-12-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-220]

Niagara Mohawk Power Corporation; Nine Mile Point Nuclear Station, Unit No. 1 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-63, issued to Niagara Mohawk Power Corporation (the licensee), for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (NMP1), located in the town of Scriba, Oswego County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action would increase the number of fuel assemblies that can be stored in the NMP1 spent fuel pool (SFP) from 2776 (i.e., 1066 in the northern half of the pool and 1710 in the southern half of the pool) to 4086. The modification will be achieved by two separate campaigns. For the 1999 refueling outage (RFO15), the licensee will first replace the non-poison racks in the northern half of the pool with high density racks providing 1840 storage cells. Later, as further capacity increase is warranted, the licensee will replace the racks in the southern half of the pool with high density racks providing 2246 storage cells. The design of the new high density spent fuel storage racks incorporates Boral as a neutron absorber in the cell walls to allow for more dense storage of spent fuel.

The proposed action is in accordance with the licensee's application for amendment dated May 15, 1998, as

supplemented September 25, October 13, December 9 (two letters), 1998; January 11 and April 1, 1999.

The Need for the Proposed Action

An increase in spent fuel storage capacity is needed to reestablish full core off-load capability. Loss of that capability will occur as a result of RFO-15, currently scheduled to start April 11, 1999. Thus, after RFO-15, the licensee will replace the eight non-poison rack modules in the northern half of the NMP1 pool (which currently provides 1066 spent fuel storage locations) with new poison rack modules providing 1840 storage locations. Ultimately, additional capacity will be needed to accommodate future refueling outages. Thus, as further capacity increase is warranted by the increasing fuel inventory in the pool, the licensee will increase the capacity of the southern half of the pool (currently limited to 1,710 storage locations) so as to provide a total pool capacity for 4086 spent fuel assemblies. This capacity of 4086 storage locations is sufficient to extend full core off-load capability to at least the expiration date of the plant operating license, August 22, 2009.

Environmental Impacts of the Proposed Action

Radioactive Waste Treatment

NMP1 uses waste treatment systems designed to collect and process gaseous, liquid, and solid waste that might contain radioactive material. These radioactive waste treatment systems were evaluated in the Final Environmental Statement (FES) dated January 1974. The proposed SFP expansion will not involve any change in the waste treatment systems described in the FES.

Gaseous Radioactive Wastes

The storage of additional spent fuel assemblies in the pool is not expected to affect the releases of radioactive gases from the pool. Gaseous fission products such as Krypton-85 and Iodine-131 are produced by the fuel in the core during reactor operation. A small percentage of these fission gases is released to the reactor coolant from the small number of fuel assemblies that are expected to develop leaks during reactor operation. During refueling operations, some of these fission products enter the pool and are subsequently released into the air. Since the frequency of refueling (and therefore the number of freshly offloaded spent fuel assemblies stored in the pool at any one time) will not increase, there will be no increase in the

amounts of these types of fission products released into the atmosphere as a result of the increased pool fuel storage capacity.

The increased heat load on the pool from the storage of additional spent fuel assemblies will potentially result in an increase in the pool's evaporation rate. However, this increased evaporation rate is not expected to result in an increase in the amount of gaseous tritium released from the pool. The overall release of radioactive gases from NMP1 will remain a small fraction of the limits of 10 CFR 20.1301.

Solid Radioactive Wastes

Spent resins are generated by the processing of SFP water through the pool's purification system at NMP1. These spent resins are disposed of as solid radioactive waste ("radwaste"). The water turbulence caused by the removal and replacement operations in the pool ("reracking") may result in some resuspension of particulate matter in the pool. This could result in a temporary increase in the replacement frequency of the resin in the SFP purification system during the pool reracking operation. The licensee will use an underwater vacuum to clean the floor of the pool following removal of the old spent fuel rack modules. Vacuuming the SFP floor will remove any extraneous debris and crud and ensure visual clarity in the pool (to facilitate diving operations). Filters from this underwater vacuuming will be a source of solid radwaste. These filters and resins are collected and disposed of in accordance with existing plant radwaste procedures. Additional solid radwaste will consist of the old spent fuel rack modules themselves, as well as any interferences or pool hardware that may have to be removed from the pool to permit installation of the new rack modules. The old rack modules and removed hardware will be decontaminated, placed in shipping containers approved by the U.S. Department of Transportation, and shipped offsite to a licensed processing or disposal facility. Other than the radwaste generated during the actual reracking operation, the NRC staff does not expect that the additional fuel storage provided by the increased SFP storage capacity will result in a significant change in the generation of solid radwaste at NMP1.

Liquid Radioactive Wastes

The release of radioactive liquids will not be affected directly as a result of the SFP modifications. The SFP ion exchanger resins remove soluble radioactive materials from the pool

water. When the resins are replaced, the small amount of resin sluice water that is released is processed by the radwaste system. As previously stated, the frequency of resin replacement may increase slightly during the installation of the new racks. However, the amount of radioactive liquid released to the environment as a result of the proposed SFP expansion is expected to be negligible.

Occupational Dose Consideration

Radiation Protection personnel at NMP1 will constantly monitor the doses to the workers during the SFP expansion operation. If it becomes necessary to utilize divers for the reracking operation, the licensee will equip each diver with whole-body and extremity dosimeters having remote, above surface, readouts that will be continuously monitored by Health Physics personnel. The total occupational dose to plant workers as a result of the SFP expansion operation is estimated to be between 6 and 12 person-rem. This dose estimate is comparable to doses for similar SFP modifications performed at other nuclear plants. The upcoming SFP rack installation will follow detailed procedures prepared with full consideration of ALARA (as low as is reasonably achievable) principles.

On the basis of its review of the licensee's proposal, the NRC staff concludes that the NMP1 SFP reracking operation can be performed in a manner that will ensure that doses to workers will be maintained ALARA. The estimated dose of 6 to 12 person-rem to perform the proposed SFP reracking operation is a small fraction of the annual collective dose accrued at NMP1.

Accident Considerations

In its application, the licensee evaluated the possible consequences of a fuel handling accident to determine the thyroid and whole-body doses at the site's Exclusion Area Boundary, Low Population Zone, and in the NMP1 Control Room. The proposed SFP rack installation at NMP1 will not affect any of the assumptions or inputs used in evaluating the dose consequences of a fuel handling accident and, therefore, will not result in an increase in the doses from a postulated fuel handling accident.

The NRC staff reviewed the licensee's analysis of a fuel handling accident and performed confirmatory calculations to check the acceptability of the licensee's doses. The NRC staff's calculations confirmed that the thyroid doses at the Exclusion Area Boundary, Low

Population Zone, and in the Control Room from a fuel handling accident meet the acceptance criteria and that the licensee's calculations are acceptable. The results of the NRC staff's calculations are presented in the Safety Evaluation to be issued with the license amendment.

An accidental cask drop into the pool continues to be unlikely as none of the features preventing such a drop (e.g., design and maintenance of the main hoist, the controlled cask movement path, and the hydraulic guide cylinder cask drop protection system) are affected by the proposed action. The licensee also found that the consequences of a loss of SFP cooling was acceptable in that ample time would be available for the operators to re-establish cooling before the onset of pool boiling. Evaluation of a design basis seismic event indicated the new racks would remain safe and impact-free, the structural capability of the pool would not be exceeded, and the reactor building and crane structure would continue to retain necessary safety margins. Thus, these potential accidents have no environmental consequences.

In summary, the proposed action will not increase the probability or consequences of accidents, no changes are being made to radioactive waste treatment systems or in the types of any radioactive effluents that may be released offsite, and the proposed action will not result in a significant increase in occupational or offsite radiation exposure. Accordingly the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Shipping Fuel to a Permanent Federal Fuel Storage/Disposal Facility

Shipment of spent fuel to a high-level radioactive storage facility is an alternative to increasing the onsite spent fuel storage capacity. However, the U.S. Department of Energy's (DOE's) high-level radioactive waste repository is not expected to begin receiving spent fuel until approximately 2010, at the earliest. In October 1996, the Administration did commit DOE to begin storing waste at a centralized location by January 31, 1998. However, no location has been

identified and an interim federal storage facility has yet to be identified in advance of a decision on a permanent repository. Therefore, shipping spent fuel to the DOE repository is not considered an alternative to increased onsite spent fuel storage capacity at this time.

Shipping Fuel to a Reprocessing Facility

Reprocessing of spent fuel from the Nine Mile Point Nuclear Station is not a viable alternative since there are no operating commercial reprocessing facilities in the United States. Therefore, spent fuel would have to be shipped to an overseas facility for reprocessing. However, this approach has never been used and it would require approval by the Department of State as well as other entities. Additionally, the cost of spent fuel reprocessing is not offset by the salvage value of the residual uranium; reprocessing represents an added cost.

Shipping Fuel to Another Utility or Site or to the NMP2 Spent Fuel Pool for Storage

The shipment of fuel to another utility or transferring NMP1 spent fuel to the NMP2 spent fuel pool for storage would provide short-term relief from the storage problem at NMP1. The Nuclear Waste Policy Act of 1982 and 10 CFR Part 53, however, clearly place the responsibility for the interim storage of spent fuel with each owner or operator of a nuclear plant. The NMP2 spent fuel pool has been designed with capacity to accommodate NMP2 and, therefore, transferring spent fuel from NMP1 to the NMP2 pool would create fuel storage capacity problems for NMP2. The shipment of fuel to another site or transferring it to NMP2 is not an acceptable alternative because of increased fuel handling risks and additional occupational radiation exposure, as well as the fact that no additional storage capacity would be created.

Alternatives Creating Additional Storage Capacity

Alternative technologies that would create additional storage capacity include rod consolidation, dry cask storage, modular vault dry storage, and constructing a new pool. Rod consolidation involves disassembling the spent fuel assemblies and storing the fuel rods from two or more assemblies into a stainless steel canister that can be stored in the spent fuel racks. Industry experience with rod consolidation is currently limited, primarily due to concerns for potential gap activity release due to rod breakage, the potential for increased fuel cladding

corrosion due to some of the protective oxide layer being scraped off, and because the prolonged consolidation activity could interfere with ongoing plant operations. Dry cask storage is a method of transferring spent fuel, after storage in the pool for several years, to high capacity casks with passive heat dissipation features. After loading, the casks are stored outdoors on a seismically qualified concrete pad. Concerns for dry cask storage include the potential for fuel or cask handling accidents, potential fuel clad rupture due to high temperatures, the need for special security provisions, and high cost. Vault storage consists of storing spent fuel in shielded stainless steel cylinders in a horizontal configuration in a reinforced concrete vault. The concrete vault provides missile and earthquake protection and radiation shielding. Due to large space requirements, a vault secured area for NMP1 would have to be located outside the secured perimeter of the plant site. Concerns for vault dry storage include security, land consumption, eventual decommission of the new vault, the potential for fuel or clad rupture due to high temperatures, and high cost. The alternative of constructing and licensing a new fuel pool is not practical for NMP1 because such an effort would require about 10 years to complete and would be the most expensive alternative.

The alternative technologies that could create additional storage capacity involve additional fuel handling with an attendant opportunity for a fuel handling accident, involve higher cumulative dose to workers effecting the fuel transfers, require additional security measures, are significantly more expensive, and would not result in a significant improvement in environmental impacts compared to the proposed reracking modifications.

Reduction of Spent Fuel Generation

Generally, improved usage of the fuel and/or operation at a reduced power level would be an alternative that would decrease the amount of fuel being stored in the pool and thus increase the amount of time before full core off-load capacity is lost. With extended burnup of fuel assemblies, the fuel cycle would be extended and fewer offloads would be necessary. This is not an alternative for resolving the loss of full-core offload capability that will occur as a result of the NMP1 refueling outage scheduled to begin about April 11, 1999, because the spent fuel to be transferred to the pool for storage has now almost completed its operating history in the core. For many years now, NMP1 has been

operating on the basis of 24-month refueling cycles, with core designs and fuel management schemes optimized accordingly. Operating the plant at a reduced power level would not make effective use of available resources, and would cause unnecessary economic hardship on the licensee and its customers. Therefore, reducing the amount of spent fuel generated by increasing burnup further or reducing power is not considered a practical alternative.

The No-Action Alternative

The NRC staff also considered denial of the proposed action, (i.e., the "no-action" alternative). Denial of the application would result in no significant change in current environmental impacts. The environmental impacts of the proposed action and the alternative actions are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Nine Mile Point Nuclear Station, Unit No. 1.

Agencies and Persons Consulted

In accordance with its stated policy, on April 7, 1999, the NRC staff consulted with the New York State official, Jack Spath of the New York State Research and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated May 15, 1998, as supplemented by letters dated September 25, October 13, December 9 (two letters), 1998; January 11 and April 1, 1999. These letters are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document room located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 7th day of April 1999.

For the Nuclear Regulatory Commission.

S. Singh Bajwa,

Chief, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-9172 Filed 4-12-99; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23772; 812-11540]

The Goldman Sachs Group, Inc., et al.; Notice of Application

April 7, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(3) of the Act.

SUMMARY OF THE APPLICATION:

Applicants request an order to amend a prior order ("Prior Order") relating to certain registered investment companies advised by the Goldman Advisers, as defined below, and one or more other investment advisers ("Unaffiliated Advisers").¹ The Prior Order permits the portion of the portfolio of these registered investment companies advised by an Unaffiliated Adviser ("Unaffiliated Portion") to engage in certain principal and brokerage transactions with and to purchase certain securities from Goldman, Sachs & Co. ("Goldman Sachs") or a member of an underwriting syndicate in which Goldman Sachs is a principal underwriter. The requested order would permit the Unaffiliated Portion to purchase equity or debt securities issued by The Goldman Sachs Group, Inc. ("Goldman Sachs, Inc.") or an affiliated person of Goldman Sachs, Inc. ("Goldman Securities"), subject to the limits in rule 12d3-1 under the Act. **APPLICANTS:** Goldman Sachs, Inc., Goldman Sachs, Goldman Sachs Asset Management ("GSAM"), Liberty Investment Management ("Liberty"), Goldman Sachs Asset Management International ("GSAMI"), and Goldman Sachs Funds Management, L.P. ("GSFM"); The Diversified Investors Funds Group, Diversified Investors Portfolios, the Managers Funds, the Hirtle Callaghan Trust, EAI Select Managers Equity Fund, and the Seasons Series Trust (collectively, the "Funds").

¹ *Goldman Sachs & Co., et al.*, Investment Company Act Release Nos. 22858 (Oct. 17, 1997) (notice) and 22887 (Nov. 13, 1997) (order).

GSAM, Liberty, GSAMI, GSFM, and any other entities controlling, controlled by, or under common control with Goldman Sachs that serve as investment advisers to the Funds are collectively referred to as the "Goldman Advisers."

FILING DATES: The application was filed on April 6, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 28, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Applicants, 85 Broad Street, New York, NY 10004.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942-0517, or Nadya B. Roytblat, Assistant Director, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549-0102 (tel. 202-942-8090).

Applicants' Representations

1. Goldman Sachs, Inc. is a newly created entity that owns The Goldman Sachs Group, L.P. ("Goldman Sachs Group"), the parent holding company of Goldman Sachs. Goldman Sachs is registered as a broker-dealer under the Securities Exchange Act of 1934 and an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). GSAMI and GSFM are under common control with Goldman Sachs and are investment advisers registered under the Advisers Act. GSAM is an operating division of Goldman Sachs, and Liberty is an operating division of GSFM.

2. The Funds, open-end management investment companies registered under the Act, are organized as Massachusetts business trusts, or in the case of The Hirtle Callaghan Trust, as a Delaware