

January 10, 2000

NR-058

Mr. John H. Mueller
Chief Nuclear Officer
Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station
Operations Building, Second Floor
P. O. Box 63
Lycoming, NY 13093

SUBJECT: NINE MILE POINT NUCLEAR STATION, UNIT NO. 2 - NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING (TAC NO. MA7768)

Dear Mr. Mueller:

Enclosed is a copy of a "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing" for your information. This notice relates to your application for amendment dated December 28, 1999. In the application you proposed to revise the reactor vessel material coupon withdrawal schedule specified in Technical Specifications (TS) Table 4.4.6.1.3-1, entitled "Reactor Vessel Material Surveillance Program - Withdrawal Schedule."

This notice has been forwarded to the Office of the Federal Register for publication.

Sincerely,

Original signed by:

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-410

Enclosure: As stated

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**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

WASHINGTON, D.C. 20555-0001

January 10, 2000

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Chief Nuclear Officer
Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station
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Lycoming, NY 13093

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Sincerely,

A handwritten signature in black ink, appearing to read "Peter S. Tam".

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-410

Enclosure: As stated

cc w/encl: See next page

**Nine Mile Point Nuclear Station
Unit No. 2**

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U. S. Nuclear Regulatory Commission
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Nine Mile Point Nuclear Station
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Albany, NY 12203-6399**

**Mr. John H. Mueller
Chief Nuclear Officer
Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station
Operations Building, Second Floor**

UNITED STATES NUCLEAR REGULATORY COMMISSION**NIAGARA MOHAWK POWER CORPORATION****DOCKET NO. 50-410****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. NPF-69 issued to Niagara Mohawk Power Corporation (the licensee) for operation of the Nine Mile Point Nuclear Station, Unit No. 2 (NMP2) located in Scriba, Oswego County, New York.

The proposed amendment would revise the reactor vessel material coupon withdrawal schedule specified in Technical Specifications (TS) Table 4.4.6.1.3-1, entitled "Reactor Vessel Material Surveillance Program - Withdrawal Schedule." The current surveillance schedule requires the withdrawal of capsule number 1 at 10 effective full-power years (EFPY). The revised surveillance schedule requires the withdrawal of capsule number 1 at 8 EFPY. The existing TS 4.0.2 requires each surveillance requirement to be performed within the specified time interval with a maximum allowable extension not to exceed 25% of the surveillance interval. Thus, the revised surveillance schedule, together with the existing TS 4.0.2, will require the withdrawal of capsule number 1 between 8 EFPY and 10 EFPY (i.e., during the upcoming refueling outage Refueling No. 7 (RFO7), estimated at 8.7 EFPY).

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.

The Commission has made a proposed determination 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 consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

- (1) The proposed change revises TS Table 4.4.6.1.3-1, titled "Reactor Vessel Material Surveillance Program - Withdrawal Schedule." The current reactor vessel material surveillance program schedules the withdrawal of capsule number 1 at 10 EFPY. The revised schedule would require withdrawal of capsule number 1 at 8 EFPY. Removal of the surveillance capsule in RF07, for testing at an estimated 8.7 EFPY, satisfies the requirements of the NMP2 surveillance program. NMP2 satisfies the criteria in Section III.C of Appendix H to 10 CFR 50 (integrated surveillance program). Compliance with the criteria of Section III.C ensures that the effect of neutron irradiation on the NMP2 reactor vessel beltline materials will be monitored throughout the life of the plant. Therefore, this change will not significantly increase the consequences of any previously evaluated accident. Since the reactor vessel surveillance specimen capsules and the results of analyses performed on the specimens contained therein are not assumed to be initiators of any design basis accident or transient, this change does not involve a significant increase in the probability of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

- (2) The proposed change does not introduce any new failure modes. Removal of the surveillance capsule in RF07, for testing at an estimated 8.7 EFPY, satisfies the requirements of the NMP2 surveillance program. NMP2 satisfies the criteria in Section III.C of Appendix H (integrated surveillance program). Compliance with the Section III.C criteria ensures that the effect of neutron irradiation on the NMP2 reactor vessel beltline materials will be monitored throughout the life of the plant. Therefore, this proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

- (3) Removal of the surveillance capsule in RF07 for testing at an estimated 8.7 EFPY, satisfies the requirements of the NMP2 surveillance program. NMP2 satisfies the criteria in Section III.C of Appendix H (integrated surveillance program). Compliance with the 10 CFR 50, Appendix H, Section III.C criteria ensures that the effect of neutron irradiation on the NMP2 reactor vessel beltline materials will be monitored throughout the life of the plant. Therefore, the proposed amendment will not involve a significant reduction in a margin of safety.

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 30 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 30-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 30-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 and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page

number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By February 14, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the

possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 28, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible

electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site
(<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 10th day of January 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink that reads "Peter S. Tam". The signature is written in a cursive style with a large, stylized initial "P".

**Peter S. Tam, Senior Project Manager, Section 1
Project Directorate 1
Division of Licensing Project Management
Office of Nuclear Reactor Regulation**