

adopting the Action Plan criteria (for that portion of the facility to be released for unrestricted use), was submitted by June 30, 1999, NRC staff would consider such a plan as meeting the requirements of 10 CFR 20.1401(b)(3). Such an SDP was submitted by Molycorp on June 30, 1999. An NRC administrative review, documented in a letter to Molycorp dated October 19, 1999, found the SDP acceptable to begin a technical review.

Prior to approving the SDP, NRC will make findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations that the SDP complies with all applicable requirements and is protective of the public health and safety and the environment. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment. Approval of the SDP will be documented in an amendment to NRC License No. SMB-1393.

NRC hereby provides notice that this is a proceeding on an application for an amendment of a license falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, between 7:45 a.m. and 4:15 p.m., Federal workdays; or
2. By mail, telegram, or facsimile addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Molycorp Incorporated, 300 Caldwell Avenue, Washington, Pennsylvania 15301, Attention: Mr. John Daniels, and;
2. The NRC staff, by delivery to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-

2738, between 7:45 am and 4:15 p.m., Federal workdays, or by mail, addressed to Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In addition to meeting other applicable requirements of 10 CFR Part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

For further details with respect to this action the application for amendment and supporting documentation are available for inspection at NRC's Public Document Room, 2120 L Street NW., Washington, DC 20555-0001.

FOR FURTHER INFORMATION CONTACT:

LeRoy Person, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-6701, Fax: (301) 415-5398.

Dated at Rockville, Maryland, this 5th day of November 1999.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99-29839 Filed 11-15-99; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-410]

Niagara Mohawk Power Corporation; 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 2 (NMP2), located in the town of Scriba, Oswego County, New York.

The proposed amendment would change ACTION statement "d" of Technical Specification (TS) 3.6.1.2, titled "Primary Containment Leakage," and ACTION statement "b" of TS 3.6.1.7, titled "Primary Containment Purge System," to allow an alternative approach to the existing requirements contained in these statements. The alternative approach would allow isolation of a bypass leakage path and/or a purge system line by use of one closed and de-activated automatic valve, closed manual valve, or blind flange in lieu of restoring inoperable isolation valve(s) on TS Table 3.6.1.2-1, titled "Allowable Leak Rates Through Valves in Potential Bypass Leakage Paths," and/or isolation valve(s) listed in Limiting Condition for Operation (LCO) 3.6.1.7, titled "Primary Containment Purge System" to OPERABLE status. Consistent with the alternative approach provided in these ACTION statements, changes are also proposed for Definition 1.31, titled "Primary Containment Integrity" and footnote (*) of Table 3.6.1.2-1, titled "Allowable Leak Rates Through Valves in Potential Bypass Leakage Paths." The proposed changes affect valves that are purge system line isolation valves with resilient seals and/or isolation valves for potential bypass leakage paths. The proposed alternative is consistent with NUREG-1434, the Improved Standard Technical Specifications.

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:

1. 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.

The proposed change to the ACTION statements of Specifications 3.6.1.2 and 3.6.1.7 and Definition 1.31.d will allow continued operation if a potential bypass leakage path and/or a purge system line is reduced within leakage limits by one closed and de-activated automatic valve, closed manual valve, or blind flange. The proposed change to the ACTION statements also addresses the effects of isolating a bypass leakage path and/or a purge system line by requiring entry into applicable ACTION statements for the affected LCOs. Since these isolation provisions and their effects on other plant systems 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 isolation barrier would continue to satisfy the applicable leakage requirements for purge valves with resilient seals, potential bypass leakage pathways and LCO 3.6.1.2. Operation of the unit would reflect the limitations imposed by entry into applicable ACTION statements for LCOs affected by isolation of a bypass leakage path and/or a purge system line. Therefore, the radiological consequences of the proposed change to the ACTION statements are not increased when compared to the current licensing basis of NMP2. Accordingly, this change does not involve a significant increase in the consequences of an accident previously evaluated.

The proposed change to footnote (*) of Table 3.6.1.2-1 would allow the leakage rate through a penetration flow path to be the actual pathway leakage in lieu of the maximum pathway leakage, provided the penetration is isolated by one closed and de-activated automatic valve, closed manual valve, or blind flange. Since [neither] an isolated penetration nor the leakage through the isolated penetration is assumed to be the initiator of an accident, this change does not involve a significant increase in the probability of an accident previously evaluated.

While the leakage through an individual valve in a penetration can be exceeding the leakage assumed in the accident analysis, the penetration is isolated by a single active failure proof method; thus the leakage through the isolated penetration is the actual leakage through the valve or blind flange used to isolate the penetration, not the leakage through the valve with the maximum leakage. The leakage of the affected isolated penetration when combined with remaining applicable potential bypass leakage paths will continue to satisfy the leakage limits of 3.6 SCFH [standard cubic feet per hour] as stated in footnote (*) and the applicable leakage limit(s) of LCO 3.6.1.2. Therefore, this change does not involve a significant increase in the consequences of an accident previously evaluated.

2. 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.

The proposed change does not introduce any new failure modes. The proposed change allows the use of isolation barriers that

cannot be adversely affected by a single active failure such as a closed and de-activated automatic valve, closed manual valve, or blind flange. These isolation barriers are not affected by a single failure since they do not have to change state to perform their safety function. A valve which contains resilient seals that isolates a purge system line would continue to be leak tested on a periodic basis to provide early indication of resilient material seal degradation. Therefore, since the proposed change ensures that the containment boundary, isolation of potential bypass leakage paths and isolation of purge system lines with a valve that contains resilient seals is maintained by appropriate methods and appropriate ACTION(s) are entered for applicable LCOs, operation with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. 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.

This change ensures that the safety function of the primary containment and its associated bypass leakage paths and/or purge system lines is maintained and the effects of the isolation approach are properly addressed by entering applicable ACTION statements. The isolation approach which includes one closed and de-activated automatic valve, closed manual valve, or blind flange will isolate bypass leakage paths and/or purge system lines to ensure leakage is within limits and cannot be adversely affected by a single active failure. Furthermore, a benefit is gained by reducing unnecessary plant shutdown transients when compensatory measures exist to ensure that the containment boundary, isolation of potential bypass leakage paths and isolation of purge system lines with a valve that contains resilient seals is maintained. Therefore, operation in accordance with 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 December 16, 1999, 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 November 8, 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 9th day of November, 1999.

For the Nuclear Regulatory Commission.

Darl S. Hood, Sr.,

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

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-423]

Northeast Nuclear Energy Company, et al., Millstone Nuclear Power Station, Unit 3, Notice of Consideration of Approval of Application Regarding Proposed Corporate Merger and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of Facility Operating License No. NPF-49 for the Millstone Nuclear Power Station, Unit No. 3 (Millstone Unit 3), to the extent held by Central Maine Power Company (Central Maine), one of 13 joint owners of Millstone Unit 3. The indirect transfer would be to Energy East Corporation (Energy East) resulting from the planned acquisition by Energy East of CMP Group, Inc., the parent holding company of Central Maine.

According to the October 6, 1999, application by Central Maine for approval of the indirect transfer, on June 14, 1999, CMP Group, Inc., and Energy East signed a definitive agreement for the acquisition of CMP Group, Inc., by Energy East, subject to regulatory approvals. To accomplish the acquisition, EE Merger Corp., a Maine corporation that is a wholly-owned subsidiary of Energy East, will merge with and into CMP Group, Inc., with CMP Group, Inc., being the surviving corporation. Upon completion of the acquisition, CMP Group, Inc., will become a wholly-owned subsidiary of Energy East. In the event the Securities and Exchange Commission does not permit Energy East to maintain CMP Group, Inc., as an intermediate holding company under the provisions of the Public Utility Holding Company Act of 1935, as amended, Energy East would hold Central Maine directly. Northeast Utilities, the sole licensed operator of the facility, would remain as the managing agent for the 13 joint owners of the facility and would continue to have exclusive responsibility for the management, operation, and maintenance of Millstone Unit 3. The application does not propose a change