

1. Leland H. Brooks is prohibited for five years from the date of this order from engaging in NRC licensed activities. NRC-licensed activities are those that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Leland H. Brooks is currently involved with another employer in NRC-licensed activities, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

3. For the five-year period after the above prohibition period has expired, Mr. Brooks shall notify the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, within 20 days of the first time he accepts an offer for employment in NRC-licensed activities, as defined in Paragraph IV.1 above. In the notification, he will include a statement of his commitment to comply with regulatory requirements and address why the NRC should have confidence that he will comply with regulatory requirements, and the name, address and telephone number of his employer or entity where he will be involved in licensed activities.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Brooks of good cause.

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In accordance with 10 CFR 2.202, Mr. Brooks must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this order within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Brooks, or any other such person adversely affected, relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear

Regulatory Commission, *Attn.*: Chief, Rulemaking and Adjudications Staff, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to Mr. Brooks if the answer or hearing request is by a person other than Mr. Brooks. If a person other than Mr. Brooks requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Brooks or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i) Mr. Brooks may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order, on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for a hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. **AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.**

Dated at Rockville, Maryland this 24th day of July 1998.

For the Nuclear Regulatory Commission.

William D. Travers,

Deputy Executive Director for Regulatory Effectiveness.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 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 1, located in Oswego County, New York.

The proposed amendment would change Technical Specification (TS) 3.4.2.3 regarding reactor coolant chemistry in accordance with a report by Electrical Power Research Institute, Inc. (EPRI) TR-103515-R1, "BWR Water Chemistry Guidelines, 1996 Revision," also known as Boiling Water Reactor Vessel and Internals Project (BWRVIP)-29. Specifically, the amendment would define new conductivity limits in TS 3.2.3a (when reactor coolant is 200 degrees F or more and reactor thermal power is no more than 10%), and in TS 3.2.3b (when reactor thermal power exceeds 10%). The new conductivity limits would be 1 micro-mho/cm, which is less than the existing limits of 2 micro-mho/cm and 5 micro-mho/cm. The chloride ion limit in TS 3.2.3a, 0.1 ppm, would remain at this value but would be designated as 100 ppb. The chloride ion limit in TS 3.2.3b would be changed from 0.2 ppm to 20 ppb. Sulfate ion limits would be added to TS 3.2.3a and TS 3.2.3b at 100 ppb and 20 ppb, respectively. The proposed change to TS 3.2.3a would require that the reactor coolant water shall not exceed these new limits specified in TS 3.2.3a for conductivity, chloride ion, or sulfate ion for more than 24 hours when the coolant temperature is equal to or greater than 200 degrees F and the reactor thermal power is no more than 10 percent, or a shutdown shall be initiated within 1 hour and the reactor shall be shutdown and reactor coolant temperature reduced to below 200 degrees F within 10 hours. Similarly, TS 3.2.3b would require that the reactor coolant water not exceed the new limits specified in TS 3.2.3b for more than 24 hours when reactor thermal power exceeds 10 percent, or a shutdown shall be initiated within 1 hour and the reactor shall be shutdown and reactor coolant temperature reduced to less than 200 degrees F within 10 hours. TS

3.2.3c would be changed to state: "In no case shall the reactor coolant exceed the following limits at the specified conditions or a shutdown shall be initiated within 1 hour and the reactor shall be shutdown and reactor coolant temperature be reduced to less than 200 degrees F within 10 hours: (1) With reactor coolant temperature at or above 200 degrees F, the conductivity has a maximum limit of 5 micro-mho/cm, or (2) With reactor coolant temperature at or above 200 degrees F and reactor thermal power no more than 10 percent, the maximum limit of chloride or sulfate ion concentration is 200 ppb, or (3) With reactor thermal power greater than 10 percent, the maximum limit of chloride or sulfate ion concentration is 100 ppb." Existing TS 3.2.3d would be revised to require that "If the continuous conductivity monitor is inoperable for more than 7 days, a shutdown shall be initiated within 1 hour and the reactor shall be shutdown and reactor coolant temperature be reduced to below 200 degrees F within 24 hours". A new TS 3.2.3e would be added to require that "If the ability to analyze a sample for both chloride and sulfate ions is lost for more than 24 hours, coincident with reactor water conductivity being more than 0.19 micro-mho/cm for more than 24 hours, a shutdown shall be initiated within 1 hour and the reactor shall be shutdown and reactor coolant temperature reduced to below 200 degrees F within 24 hours." A new TS 3.2.3f would be added to require that "If the ability to analyze for conductivity and chloride and sulfate ion concentration is lost for more than 24 hours, a shutdown shall be initiated within 1 hour and the reactor shall be shutdown and reactor coolant temperature reduced to below 200 degrees F within 10 hours." TS 4.2.3 would be revised to add that the samples taken and analyzed for conductivity and chloride ion content are also to be analyzed for sulfate ion content. The sampling frequency specified in TS 4.2.3 would be increased from "at least 3 times per week with a maximum time of 96 hours between samples" to "daily." TS Bases 3/4.2.3 would also be changed to reflect that the purpose of TS 3/4.2.3 is to limit intergranular stress corrosion cracking crack growth rates to values consistent with Nine Mile Point Unit 1 (NMP1) core shroud analyses in accordance with an NRC letter dated May 8, 1997, and to describe the NMP1 operating philosophy of maintaining levels (averaged over an operating cycle) for conductivity, chloride and sulfate concentration to values that ensure the

crack growth rate is bounded by the core shroud analysis.

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 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes to the conductivity and chloride ion action levels and the addition of sulfate ion levels in reactor water chemistry are being made to make the TS and TS Bases consistent with the values used in the core shroud vertical weld cracking evaluations. These new values reflect NMPC's [Niagara Mohawk Power Corporation's] commitment to Table 4-4 of the "Electric Power Research Institute (EPRI) BWR Water Chemistry Guidelines—1996 Revision" (TR-103515-R1, BWRVIP-29) and are equal to or more restrictive than the present TS values. No physical modification of the plant is involved and no changes to the methods in which plant systems are operated are required. None of the precursors of previously evaluated accidents are affected and therefore, the probability of an accident previously evaluated is not increased. These changes to the coolant chemistry TS provide more restrictive limits. No new failure modes are introduced. Therefore, these changes will not involve a significant increase in the consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 1, 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 changes to the conductivity and chloride ion action levels and the addition of sulfate ion levels in reactor water chemistry are being made to make the TS and TS Bases consistent with the values used in the core shroud vertical weld cracking evaluations. The new values reflect NMPC's commitment to Table 4-4 of the EPRI BWR water chemistry guidelines, and are equal to or more restrictive than the present TS values.

No physical modification of the plant is involved and no changes to the methods in which plant systems are operated are required. The changes do not introduce any new failure modes or conditions that may create a new or different accident. Therefore, these changes do 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 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The changes to the conductivity and chloride ion action levels and the addition of sulfate ion levels in reactor water chemistry are being made to make the TS and TS Bases consistent with the values used in the core shroud vertical weld cracking evaluations. These new values reflect NMPC's commitment to Table 4-4 of the EPRI BWR water chemistry guidelines, and are equal to or more restrictive than the present TS values. No physical modification of the plant is involved and no changes to the methods in which plant systems are operated are required. The changes do not adversely affect any physical barrier to the release of radiation to plant personnel or the public. Therefore, these changes do 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 September 10, 1998, 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 at the local public document room located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126. 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 July 16, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, 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. This notice supersedes a previous notice (62 FR 40851, published July 30, 1997) which was based upon an amendment request dated July 2, 1997. The request dated July 2, 1997 was superseded in its entirety by the amendment request dated July 16, 1998.

Dated at Rockville, Maryland, this 5th day of July, 1998.

For the Nuclear Regulatory Commission.
Darl S. Hood,

Senior Project Manager, Project Directorate I-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

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