



## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-410; NRC-2026-0199]**

### **Constellation Energy Generation, LLC; Nine Mile Point Nuclear Station, Unit 2; Exemption**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) issued an exemption in response to a request dated January 29, 2025, as supplemented on June 9, 2025, from Constellation Energy Generation, LLC, that authorizes leak rate testing of the main steam isolation valves at a pressure lower than the calculated peak containment internal pressure related to the Nine Mile Point, Unit 2, design basis accident loss-of-coolant accident as specified in the Technical Specifications.

**DATES:** The exemption was issued on February 3, 2026.

**ADDRESSES:** Please refer to Docket ID **NRC-2026-0199** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2026-0199**. Address questions about Docket IDs in Regulations.gov to Bridget Curran; telephone: 301-415-1003; email: [Bridget.Curran@nrc.gov](mailto:Bridget.Curran@nrc.gov). For technical questions, contact the individual listed in the “For Further Information Contact” section of this document.

- **NRC’s Agencywide Documents Access and Management System**

**(ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at

301-415-4737, or by email at [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). The exemption request, dated January 29, 2025, is available in ADAMS under Accession No. ML25029A181.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Richard V. Guzman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1030; email: [Richard.Guzman@nrc.gov](mailto:Richard.Guzman@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The text of the exemption is attached.

Dated: February 9, 2026.

For the Nuclear Regulatory Commission.

**Richard Guzman,**  
*Senior Project Manager,  
Plant Licensing Branch I,  
Division of Operating Reactor Licensing,  
Office of Nuclear Reactor Regulation.*

**Attachment – Exemption**

**NUCLEAR REGULATORY COMMISSION**

**Docket No. 50-410**

**Constellation Energy Generation, LLC**

**Nine Mile Point Nuclear Station, Unit 2**

**Exemption**

**I. Background.**

Constellation Energy Generation, LLC (CEG, the licensee), is the holder of Renewed Facility Operating License No. NPF-69, which authorizes operation of the Nine Mile Point Nuclear Station (Nine Mile Point), Unit 2, a boiling-water reactor located in Scriba, New York (6 miles northeast of Oswego, New York). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, Commission) now or hereafter in effect.

**II. Request/Action.**

By application dated January 29, 2025 (ML25029A181), as supplemented on June 9, 2025 (ML25155B825), the licensee, pursuant to 10 CFR 50.12, “Specific exemptions,” requested an exemption from the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix J, Paragraph III.C.2 to allow leak rate testing of the main steam isolation valves (MSIVs) at a reduced test pressure for Nine Mile Point, Unit 2. The licensee stated that continued compliance results in undue costs, and increased dose and industrial hazards that are significantly more than those incurred by other similarly situated plants. The application also requested a license amendment to revise Technical Specification (TS) 3.6.1.3, “Primary Containment Isolation Valves (PCIVs),” Surveillance Requirement (SR) 3.6.1.3.12, to reduce the MSIV test pressure and the associated maximum allowable leakage limit for Nine Mile Point, Unit 2. The license amendment request is addressed separately.

The regulation at 10 CFR 50.54(o) requires primary reactor containments for water-cooled power reactors, other than those for which the certifications required under

10 CFR 50.82(a)(1) or 52.110(a)(1) have been submitted, to meet the requirements of Appendix J to 10 CFR Part 50, "Leakage Rate Testing of Containment of Water-Cooled Nuclear Power Plants." Appendix J establishes containment leakage test requirements, schedules, and acceptance criteria for verifying the leak-tight integrity of the primary reactor containment and systems and components that penetrate the containment. Appendix J provides two options for meeting this requirement: Option A and Option B. In 1996 the NRC staff approved a request for the then-licensee to follow Option B. (ML011140067).

As an initial matter, the NRC staff notes that the licensee requested an exemption from Paragraph III.C.2 but that Option B does not have a Paragraph III.C.2. Option A, however, does have a Paragraph III.C.2. The equivalent Option B requirement is found in Option B, Paragraph III.B. As the licensee follows Option B, the NRC staff cannot grant the licensee an exemption from an Option A requirement. Consequently, the NRC staff is, on its own initiative, considering granting the licensee an exemption from Option B, Paragraph III.B. Given that the two provisions require the same test and the exemption does not affect the portions of the provisions that are different, the NRC staff further notes that this exemption is substantively identical to the requested exemption. This change does not change the underlying analysis; it only affects provision from which the exemption is granted. As such, the NRC staff is relying on the analysis the licensee submitted to support the original exemption request.

As described in Option B, Paragraph I, the purposes of these tests are to ensure that (1) leakage through these containments or systems and components penetrating these containments does not exceed allowable leakage rates specified in the technical specifications, and (2) integrity of the containment structure is maintained during its service life. Option B, Paragraph III.B of 10 CFR Part 50, Appendix J, requires licensees to perform Type C pneumatic tests to measure containment isolation valve leakage rates to ensure the integrity of the overall containment system as a barrier to fission product release to reduce the risk from reactor accidents. The MSIVs are a type of containment

isolation valve. The tests required by Option B, Paragraph III.B must demonstrate that the sum of the leakage rates at accident pressure of Type B tests, and pathway leakage rates from Type C tests, is less than the performance criterion ( $L_a$ ) with margin, as specified in the Technical Specification. Option B, Paragraph II defines  $L_a$  as the maximum allowable leakage rate at pressure  $P_a$  as specified in the Technical Specifications. Option B, Paragraph II, defines  $P_a$  as the calculated peak containment internal pressure related to the design basis loss-of-coolant accident as specified in the Technical Specifications. This exemption, if granted, would, in effect, allow the licensee to perform the Type C tests for the MSIVs at the requested reduced pressure rather than at  $P_a$ . According to the licensee, testing at the reduced pressure allows the test conditions to be reliably established while maintaining conservatism in the measurement of valve leakage.

The technical analysis necessary to support the proposed change to associated surveillance requirement (TS SR 3.6.1.3.12) and the associated maximum allowable leakage limit for Nine Mile Point, Unit 2 is documented in a separate safety evaluation for the related license amendment request (ML26008A004).

### **III. Discussion.**

Pursuant to 10 CFR 50.12(a), the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security and (2) special circumstances are present. Under 10 CFR 50.12(a)(2), special circumstances are present when at least one of the following six conditions are met:

- (i) Application of the regulation in the particular circumstances conflicts with other rules or requirements of the Commission; or
- (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying

purpose of the rule; or

- (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated; or
- (iv) The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the grant of the exemption; or
- (v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation; or
- (vi) There is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption. If such condition is relied on exclusively for satisfying the special circumstances requirement, the exemption may not be granted under the Executive Director for Operations has consulted with the Commission.

**A. The Exemption is Authorized by Law**

If granted, the exemption would authorize leak testing of the MSIVs at a pressure lower than the calculated peak containment internal pressure related to Nine Mile Point, Unit 2's design basis accident loss-of-coolant accident as specified in the Technical Specifications (Pa). Pursuant to 10 CFR 50.12(a), the NRC may grant exemptions from the requirements of 10 CFR part 50, including Appendix J, when the exemptions are authorized by law. An exemption is authorized by law when it is not expressly prohibited by statute or regulation. The NRC staff has determined that no provisions in law expressly prohibit or otherwise restrict the NRC staff from granting the exemption. Accordingly, the NRC staff concludes that the exemption is authorized by law.

**B. The Exemption Presents no Undue Risk to Public Health and Safety**

Type C pneumatic tests used to measure containment isolation valve leakage rates, including MSIVs, are performed to verify the integrity of the overall containment

system as a barrier to fission product release and to reduce the risk associated with postulated reactor accidents. The Nine Mile Point, Unit 2 MSIVs are designed with an angled orientation in the main steam lines to enhance sealing capability in the direction of postulated accident conditions. Testing between the MSIVs is an NRC-acceptable testing method and provides conservative results. Testing the inboard valve in the reverse direction is conservative because the direction of pressurization applies a force opposite to the valve seating forces. In addition, due to the orientation of the MSIVs, testing the outboard valves in the direction of postulated accident conditions results in pressurization forces that act in the direction of the valve seating forces and, therefore, provide enhanced sealing. These are the directions in which the Nine Mile Point, Unit 2 inboard and outboard MSIVs are tested.

As seen in non-public operating experience, testing of the inboard and outboard MSIVs by pressurizing the volume between the valves at full test pressure lifts the disc of the inboard valve, due to the orientation of the inboard MSIV, resulting in a meaningless test. By pressurizing the volume between the valves at a reduced pressure of greater than or equal to 25 psig, lifting the disc of the inboard valve is avoided. Based on the above-mentioned operating experience, this approach ensures a satisfactory test of the outboard MSIV in the same direction as under LOCA conditions to confirm that the leak rate is within the maximum pathway leakage conditions. Based on its technical judgement, the NRC staff determined that this operating experience is relevant here because it involves the same types of valves with this orientation. In its exemption request, the licensee stated that when leak rate testing is performed at a reduced pressure, it would conservatively assign the total measured leakage through both valves to the penetration. This is conservative because it means the licensee will assign the combined leakage value to each valve, leading to a higher measured leakage than if both valves were measured separately and had their individual leakages assigned to them. Further, this procedure is consistent with the TS surveillance requirement, which the NRC staff reviewed in the related license amendment request mentioned above.

Therefore, based on the above, the proposed exemption to allow MSIV leak rate testing at a reduced pressure enables the licensee to obtain valid and reliable test results while maintaining a conservative determination of leakage through the valves. Therefore, the NRC staff finds that conducting MSIV leak rate testing at a reduced test pressure of greater than or equal to 25 psig ensures the operability of the MSIVs and their capability to maintain containment isolation integrity under postulated accident conditions. Accordingly, based on the considerations discussed above, the NRC staff concludes that the proposed exemption would not result in an undue risk to the public health and safety.

**C. The Exemption is Consistent with the Common Defense and Security**

As discussed above, the exemption would permit leak testing of the MSIVs at a pressure lower than the calculated peak containment pressure. This change in MSIV test pressure is not related to security considerations. The exemption would not alter any site security features, procedures, staffing, or other security-related matters. Therefore, the exemption does not affect the common defense and security, and the NRC staff concludes that the exemption is consistent with the common defense and security.

**D. Special Circumstances**

The regulation under 10 CFR 50.12(a)(2) states, in part, that “[t]he Commission will not consider granting an exemption unless special circumstances are present,” and describes, in 10 CFR 50.12(a)(i) through (vi), the conditions under which special circumstances exist. In Section II of the licensee’s exemption request, the licensee stated that two of the six special circumstances listed in 10 CFR 50.12(a)(2) are applicable to the exemption, as follows:

- 10 CFR 50.12(a)(2)(ii): Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.
- 10 CFR 50.12(a)(2)(iv): The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the

grant of the exemption;

The underlying purpose of 10 CFR part 50, Appendix J, Option B is to ensure that (a) leakage through these containments or systems and components penetrating these containments does not exceed allowable leakage rates specified in the technical specifications; and (b) integrity of the containment structure is maintained during its service life.

Operating experience has shown that, due to the orientation of the MSIVs, testing at the inboard and outboard valves simultaneously at Pa by pressurizing the volume between the valves does not accurately reflect the isolation capabilities of the valves. The inability to achieve proper testing conditions when pressurizing between the inboard and outboard valves at Pa necessitates reperforming the leak rate testing. This is done by conducting the tests in the accident direction at Pa to accurately evaluate individual valve performance which leads to additional occupational radiation exposure.

In contrast, non-public industry operating experience, discussed when assessing whether there is an undue risk to public health and safety, has demonstrated that simultaneous testing of the inboard and outboard MSIVs by pressurizing the volume between the valves at a reduced pressure of 25 psig is effective in establishing proper test conditions. This means that testing at 25 psig is sufficient to ensure that (a) leakage through these containments or systems and components penetrating these containments does not exceed allowable leakage rates specified in the technical specifications; and (b) integrity of the containment structure is maintained during its service life. Therefore, requiring the MSIV test pressure at Pa is not necessary to achieve the underlying purpose of the 10 CFR Part 50, Appendix J.

Because compliance with the requirement to perform MSIV leak rate testing at the peak calculated containment internal pressure is not necessary to achieve the underlying purpose of the rule, the NRC staff finds that the special circumstances specified in 10 CFR 50.12(a)(2)(ii) are present. Accordingly, the NRC staff concludes that special circumstances exist to support the granting of the exemption. Since the

presence of one special circumstance is sufficient to support the granting of an exemption under 10 CFR 50.12(a)(2), the NRC staff did not further evaluate whether the special circumstances described in 10 CFR 50.12(a)(2)(iv) are present.

#### **E. Environmental Considerations**

A categorical exclusion for inspection and surveillance requirements is provided in 10 CFR 51.22(c)(25)(vi)(C), provided that the criteria in 10 CFR 51.22(c)(25)(i) through (v) are satisfied. In its review of the exemption request, and for the reasons discussed when concluding that there would be no undue risk to the public health and safety, the NRC staff determined that, pursuant to 10 CFR 51.22(c)(25), granting the exemption: (i) does not involve a significant hazards consideration because it does not result in a significant reduction in a margin of safety, create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant increase in the probability or consequences of an accident previously evaluated; (ii) would not result in a significant change in the types or significant increase in the amounts of effluents that may be released offsite, because the exemption does not alter or create additional pathways for effluent release; (iii) would not result in a significant increase in individual or cumulative occupational or public radiation exposure, because the exemption does not introduce new or increased radiological hazards; (iv) would not result in significant construction impacts, because the exemption does not involve construction activities; and (v) would not increase the potential for or consequences of radiological accidents. Based on the above, NRC determined that the exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(25). Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with this exemption request.

#### **IV. Conclusions.**

Accordingly, the NRC staff has determined that, pursuant to 10 CFR 50.12, the 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. Also, special

circumstances are present. Therefore, the NRC staff hereby grants CEG an exemption from the requirement of 10 CFR Part 50, Appendix J, Option B, Paragraph III.B to allow leak rate testing of the MSIVs at a reduced test pressure at Nine Mile Point, Unit 2.

This exemption is effective upon issuance.

Dated: February 3, 2026.

For the Nuclear Regulatory Commission.

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Aida Rivera-Varona, Acting Director,  
Division of Operating Reactor Licensing,  
Office of Nuclear Reactor Regulation.

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