

August 10, 2000

MEMORANDUM TO: Susan F. Shankman, Deputy Director
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

FROM: Timothy J. McGinty, Senior Project Manager /S/ /RA/
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

SUBJECT: SUMMARY OF JULY 28, 2000, MEETING WITH NAC INTERNATIONAL
AND MAINE YANKEE ON POSSIBLE OPTIONS FOR THE NAC-UMS
MAINE YANKEE AMENDMENT REVIEW AND RULEMAKING
SCHEDULES (TAC NO. L22979)

On July 28, 2000, representatives of the Nuclear Regulatory Commission (NRC), NAC International, Inc. (NAC) and Maine Yankee met to discuss possible options for the NAC-UMS Maine Yankee amendment review and rulemaking schedules. An attendance list is included as Attachment 1. No handouts were provided at the meeting. This meeting was noticed on July 26, 2000.

On July 27, 2000, NAC responded to the staff's June 29, 2000, request for additional information (RAI) concerning the Maine Yankee review. At the start of the meeting, NAC requested completion of the NRC technical review by the end of August 2000, rather than the October 3, 2000, completion date identified in NRC's July 20, 2000, schedule letter. NAC provided detailed background information on the course of the review since the initial submittal in July 1999, including: (1) extensive NRC/NAC interactions in February and March 2000 to resolve remaining issues pertinent to the review, (2) the impacts on the review of the development and issuance of the May 2000 Revision No. 1 to Interim Staff Guidance No. 11 concerning the storage and transportation of high burnup fuels, (3) NAC's decision to submit, on April 18, 2000, a revised NAC-UMS Maine Yankee amendment request to accommodate extended vacuum drying and helium backfill times for lower heat loads, and (4) the staff's early June notification to NAC of potential technical issues and schedule impacts associated with the review of the revised request.

NAC maintained that their decision to continue to pursue the revised amendment, reflected in a June 16, 2000, letter to NRC, was contingent upon the completion of the NRC review by the end of August 2000, as discussed in a June 14, 2000, conference call. NAC further suggested that the recent RAI could have been avoided by the staff, that review schedules should be realistic rather than conservative, and urged the staff to reconsider the published review schedule. NAC also stated that the public comment period for normal rulemaking amendments to approve cask designs should be 30 days, vice 75 days, that such amendments should be

effective immediately upon publication in the Federal Register, and that the current schedules for such rulemakings could be shortened by about 5 months.

Maine Yankee characterized the delay associated with completing the review of the revised amendment, including the issuance of the RAI, as unnecessary. Maine Yankee noted that the issuance of an RAI appeared to be a departure from the process used to rectify the remaining outstanding issues prior to the April 18, 2000, revised request. Maine Yankee was interested in the NRC review and rulemaking process going forward, as it relates to their loading schedule.

NRC noted, in response to NAC's and Maine Yankee's stated positions regarding the events that occurred prior to this meeting, that: (1) it is not the role and purpose of the public comment process for rulemaking to amend the cask design under consideration, (2) NAC thus made the decision to revise the Maine Yankee amendment request, resulting in the April 18, 2000, submittal, (3) the staff does not agree with some of NAC's and Maine Yankee's recollections regarding previous teleconference interactions with the staff, and that all parties should seek future improvements based on this experience, (4) that the standard normal rulemaking template for a Part 72 cask amendment, applied to this application, would take approximately 11 months from the completion of the preliminary safety evaluation report and that the 75 day public comment period derives from U.S. North American Free Trade Agreement (NAFTA) obligations, and (5) a petition from the Nuclear Energy Institute has been received requesting significant changes to the NRC's generic cask design approval process.

At this point, the meeting moved on to focus on the various options to complete the safety review of the revised amendment request and complete the rulemaking activities.

NRC indicated that, predicated on: (1) a complete and accurate response to the staff's June 29, 2000, RAI, and (2) no additional technical issues raised by the NAC response to the staff's RAI, the staff will complete the technical review and forward the preliminary SER and CoC for rulemaking by September 15, 2000. This date is earlier than October 3, 2000, the date in the staff's July 20, 2000, schedule, and is a result of a re-apportionment of the resources necessary to complete the review.

With regard to the rulemaking options, NRC stated that its rulemaking schedule, based on completing the technical review on September 15, 2000, will result in issuing the Federal Register for either a direct final or normal proposed rulemaking process on January 11, 2001. The possible schedules for the direct final or normal proposed rulemaking process are as follows:

Direct Final: If a direct final rulemaking path is followed and no significant adverse comments are received, this will result in an effective date for the amendment of March 28, 2001, or 75 days after publication in the Federal Register. This would support Maine Yankee's loading schedule which is planned to start in April, 2001. If significant adverse comments are received, the amendment approval could not be published in the Federal Register until July 20, 2001, and would become effective 30 days later.

Normal proposed: If the normal proposed rulemaking path is followed, it would result in publication in the Federal Register on September 5, 2001, and become effective 30 days later.

Maine Yankee requested a copy of the staff's internal steps and dates for the rulemaking options, questioning why it takes the staff so long to complete a rulemaking. NRC did not provide the detailed rulemaking schedule information at the meeting, however, NRC did state that it would evaluate Maine Yankee's request and will respond appropriately based on that evaluation.

Maine Yankee and NAC also requested to be notified, as soon as possible, when the staff determines whether the direct final or normal proposed rulemaking process will be initiated. NRC indicated that both Maine Yankee and NAC will be notified when that decision is made, and that the staff will endeavor to make that decision as soon as possible. NAC asked to be involved in that decision, rather than having it decided and then announced.

Maine Yankee also inquired about seeking an exemption to 72.212 and 72.214 which would allow the scheduled loading to commence if the amendment rulemaking was not completed and effective by April 2001. NRC indicated that, based on the staff's previous experience in granting an exemption for storing burnable poison rod assemblies as contents in the VSC-24 cask design used at Arkansas Nuclear One (ANO), that such a process would take approximately 90 days. NRC indicated that Maine Yankee's basis and justification for such an exemption would need to be comprehensively identified, and would obviously be different than ANO's full-core off-load operational basis. The staff indicated that no decision with regard to an exemption request would be made, until such a request was submitted.

The meeting concluded with Maine Yankee summarizing their requests, as stated earlier. Maine Yankee asked for a letter from NRC rescinding the staff's June 29, 2000, RAI #4-2, and was informed that the NRC completed this item on July 25, 2000. Maine Yankee, also in conclusion, inquired as to what redress they have to repair adverse aspects that have occurred due to NRC staff inefficiencies and lack of management control.

The staff disagrees with Maine Yankee's request for redress. The staff maintains that any adverse impacts are due to Maine Yankee's and NAC's failure to ensure that the original application considered all aspects of the requested spent fuel contents, including operational limitations within the application on time frames for loading operations. The staff was prepared to forward its preliminary safety evaluation report and Certificate of Compliance for a normal proposed rulemaking in May 2000, in support of Maine Yankee's April 2001 loading schedule. NAC and Maine Yankee made the decision, in April 2000, to make a significant change to the application to accommodate reduced heat loads (and thus longer loading time frames).

Furthermore, the staff notes that the original NAC-UMS design is scheduled to be approved for use by general licensees in Fall 2000. Once the NAC-UMS cask design is added to the list of approved casks under 10 CFR 72.214, Maine Yankee will be authorized to load a significant portion of its spent fuel pool into the NAC-UMS. The staff estimates that of the 60 NAC-UMS casks necessary to load all of the spent fuel in Maine Yankee's pool, 27 of those casks do not need approval of the amendment to be authorized and could be loaded in the Spring 2001. Regarding the reduced heat load aspects of the late-stage change to the amendment request,

the staff notes (1) the significant amount of utility involvement in the multi-year NAC-UMS and NAC Multi-Purpose Canister (MPC) reviews, which resulted in similar design bases loading time restrictions, and (2) that NAC has not requested a change to the existing design bases heat load time restrictions for either the NAC-MPC or NAC-UMS. As such, the staff has reasonably concluded that NAC and their prospective cask design users have considered the operational restrictions associated with design bases heat loads and found them to be adequate for actual use without relief.

During the course of the meeting, no regulatory decisions were requested or made.

Docket No.: 72-1015

Attachment: 1. Attendance List

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July 28, 2000, Meeting between NAC International
and Nuclear Regulatory Commission

ATTENDANCE LIST

<u>Name</u>	<u>Affiliation</u>
Tim McGinty	NRC/SFPO
M. Wayne Hodges	NRC/SFPO
E. William Brach	NRC/SFPO
E. Easton	NRC/SFPO
Eric Leeds	NRC/SFPO
Jack Guttman	NRC/SFPO
Christopher Jackson	NRC/SFPO
Patricia Eng	NRC/SFPO
Allen Howe	NRC/IMNS
Steven Lewis	NRC/OGC
Mike Meisner	Maine Yankee
Paul Plante	Maine Yankee
Ed Davis	NAC International
Tom Thompson	NAC International
Mike Callahan	GSI
Geoff Quinn	Bechtel