

TRANSMITTAL OF MEETING HANDOUT MATERIALS FOR IMMEDIATE PLACEMENT IN THE PUBLIC DOMAIN

*This form is to be filled out (typed or hand-printed) by the person who announced the meeting (i.e., the person who issued the meeting notice). The completed form, and the attached copy of meeting handout materials, will be sent to the Document Control Desk on the same day of the meeting; under no circumstances will this be done later than the working day after the meeting.
Do not include proprietary materials.*

DATE OF MEETING

11/27/2000

The attached document(s), which was/were handed out in this meeting, is/are to be placed in the public domain as soon as possible. The minutes of the meeting will be issued in the near future. Following are administrative details regarding this meeting:

Docket Number(s)

Plant/Facility Name

TAC Number(s) (if available)

Reference Meeting Notice

ADAMS Accession No. ML003769634

Purpose of Meeting
(copy from meeting notice)

To discuss the ongoing power reactor decommissioning

rulemaking efforts

NAME OF PERSON WHO ISSUED MEETING NOTICE

David J. Wrona

TITLE

Project Manager

OFFICE

NRR

DIVISION

DLPM

BRANCH

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Distribution of this form and attachments:

Docket File/Central File

PUBLIC

DRAFT

Generic Issue Associated With Maine Yankee's Security Exemption Request

Background

Maine Yankee has requested an exemption for their Dry Cask ISFSI to substitute 10CFR73.51 specific license security requirements for the general license security requirements of 10CFR73.55.

NRR Security Branch review is essentially complete and has resulted in no technical disagreements with the exemption request. In fact, this approach reflects the Security Branch's preferred security approach for ISFSIs. Maine Yankee would retain the existing 73.55 security plan for the spent fuel pool island until after all fuel is transferred to the ISFSI.

Problem

Both OGC and the Security Branch have raised issues associated with the process for NRC approval for licensees to take such an approach. These issues are generic in nature and threaten, in part, to effectively eliminate the use of exemptions by the nuclear industry.

Issues

1. Exemptions may no longer be allowed – OGC

OGC appears to be taking the position that exemptions are not appropriate approval vehicles because they do not allow for public participation. We understand that OGC is preparing a white paper for the Commission to that effect.

Of course, exemptions are the only vehicle licensees have to obtain approval for operating in a manner not allowed by regulations. Seemingly illogically, OGC is suggesting that Maine Yankee should resubmit its application as a license amendment. Maine Yankee maintains that even if the staff were to approve the same request as a license amendment, the license amendment regulations do not allow the staff to approve licensee operation contrary to regulation.

2. ISFSI security plan changes cannot be implemented under 10CFR50.54(p) – OGC and Security Branch

Both OGC and Security Branch appear to be taking the position that once the requested changes are approved (whether through exemption or license

amendment approval), Maine Yankee may not implement the changes through a Security Plan revision under 10CFR50.54(p). Rather, the staff position is that NRC must provide prior review and approval of the Security Plan changes. Said another way, the staff position is that a licensee may not make a finding under 10CFR50.54(p) that the changes do not lessen program effectiveness, contrary to their position in Generic Letter 95-08.

Summary

In both cases, the staff appears to be assuming the role of the Commissioners by taking positions that effectively circumvent rulemakings.

With respect to exemptions (and perhaps, licensees evaluations under 10CFR50.54(p)), there are clear generic implications for all operating and decommissioning facilities.

All licensees have multiple exemptions in place. There is no other regulatory process that would allow a licensee to operate contrary to regulations. Not only would the staff's apparent position negate the ability to obtain exemptions in the future, it would cast doubt on all exemptions granted to date. As far as decommissioning, inability to obtain exemptions would eliminate DECON as an alternative and drive all decommissionings to SAFSTOR.

By effectively requiring prior staff review and approval of Security Plan changes, the staff position will lead to constipation of an already constipated process. Extending the staff logic to other provisions of 10CFR50.54 would eliminate licensee implementation of changes to the emergency plan and quality assurance program without prior staff review and approval. This is a direction opposite to that the staff has been pursuing in quality assurance.