

From: Christopher Jackson
To: McGinty, Tim
Date: Tue, Jul 25, 2000 2:17 PM
Subject: Exemption to Part 72 to permit use of unapproved cask (prior to rulemaking)

Tim,

I have looked over the precedent regarding permitting the use of an unapproved cask design prior to the completion of rulemaking and have come up with the following information. The recent ANO BPRA exemption is the most applicable example.

We will need to issue to Maine Yankee an exemption to 10 CFR 72.212(a)(2) which limits general licenses to approved cask designs and 10 CFR 72.214 which lists the approved cask designs. Based on past cases, the turnaround appears to be about two months and includes the publication of an EA in the FR. The past cases have been limited to small amendments like permitting fuel inserts or minor changes to CoC conditions. There have been no cases of an exemption being granted for something as large as the MY amendment. However, there is no reason to believe that the same process that was used before can not be used for a MY. It appears that the bases for the need for exemptions have all been to maintain the ability to fully offload the core. This is not the case for MY, however, I expect that they would be able to identify the need for the exemption in the request.

As a result, I believe that if the direct final rulemaking approach fails and we are left with the notice of proposed rulemaking approach, an exemption is an option that is available to MY. If MY requests an exemption with the bases for the need some time soon after the NRC issues the safety evaluation, but no later than February 1, 2001, the staff could reasonably approve the exemption by April 1, 2001.

Please call me with any questions,
Christopher Jackson

CC: Brochman, Philip, Leeds, Eric

C/73