

October 5, 2001

Mr. T. A. Sullivan
Vice President, Operations
Entergy Nuclear Northeast
Entergy Nuclear Operations, Inc.
James A. FitzPatrick NPP
P.O. Box 110
Lycoming, NY 13093

SUBJECT: EXEMPTION FROM 10 CFR 72.212 AND 72.214, DOCKET NO. 72-12
(TAC NO. L23365)

Dear Mr. Sullivan:

This is in response to your August 24, 2001, letter requesting exemption to 10 CFR 72.212(a)2, 72.212(b)(2)(i)(A) and 72.214, pursuant to 10 CFR 72.7. The staff has also considered an exemption from 10 CFR 72.212(b)(7). In your letter, you requested an exemption from the condition in Certificate of Compliance 1014 (the Certificate), Appendix A, Surveillance Requirement 3.2.3.1 and Figure 3.2.3-1, for the HI-STORM 100 Cask System, listed in 10 CFR 72.214. This exemption would allow alternative surveillance requirements to be used rather than those specified in the HI-STORM 100 Cask System Certificate of Compliance (CoC).

Your application states that the James A. FitzPatrick Nuclear Power Plant (JAF) will lose full-core offload capability after the upcoming fall 2002 refueling outage. The exemption is needed to allow Entergy to remove spent fuel from the JAF spent fuel pool and load it into storage casks. In order to ensure full core offload capability in the JAF spent fuel pool is available after the fall 2002 refueling outage, Entergy must load three MPC 68 multi-purpose canisters and move the loaded canisters to the JAF independent spent fuel storage installation pad during the fall of 2001. On July 3, 2001, the cask designer, Holtec International (Holtec) submitted to the U.S. Nuclear Regulatory Commission (NRC) an application to amend Certificate of Compliance 1014 (HI-STORM Amendment 1). The Holtec application also includes a same request to revise the surveillance requirements. The exemption will allow Surveillance Requirement 3.2.3.1 to be modified to eliminate the reference to Figure 3.2.3.1 and instead describe the locations where surface dose measurements are to be taken. This figure shows the required surface dose rate measurement locations on a Holtec HI-STORM 100 cask. To replace the figure, the applicant added verbiage to SR 3.2.3.1, to direct users to the proper location for taking dose rate measurements necessary to demonstrate compliance with Limiting Condition for Operation (LCO) 3.2.3. The new verbiage added to SR 3.2.3.1, along with the deletion of Figure 3.2.3-1, results in the same performance of average surface dose rate measurement determinations as is currently approved.

NRC staff evaluated the public health and safety and environmental impacts of the proposed exemption and determined that the revised surface dose measurement locations are acceptable and granting the exemption would not result in any significant impacts. For this action, an Environmental Assessment and Finding of No Significant Impact have been prepared and published in the Federal Register (66 FR 50459, dated October 3, 2001). A copy of the Federal Register Notice was provided to you by letter dated September 17, 2001. Based on the foregoing considerations, the staff has determined that granting the proposed exemption from the provisions of 10 CFR 72.212(a)(2), 72.212(b)(2)(i)(A), 72.212(b)(7) and 72.214 is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Specifically, this exemption permits Entergy to deviate from the requirements of Certificate of Compliance 1014, Revision 0, Appendix A, Surveillance Requirement 3.2.3.1 and requires the following surface dose rate measurements.

A minimum of 12 dose rate measurements shall be taken on the side of the OVERPACK in three sets of four measurements. One measurement set shall be taken approximately at the cask mid-height plane, 90 degrees apart around the circumference of the cask. The second and third measurement sets shall be taken approximately 60 inches above and below the mid-height plane, respectively, also 90 degrees apart around the circumference of the cask. The average of the 12 dose rate measurements shall be compared to the limit specified in LCO 3.2.3.a.

A minimum of five (5) dose rate measurements shall be taken of the top of the OVERPACK. One dose rate measurement shall be taken at approximately the center of the lid and four measurements shall be taken at locations on the top concrete shield, approximately half way between the center and the edge of the top shield, 90 degrees apart around the circumference of the lid. The average of the five (5) dose rate measurements shall be compared to the limit specified in LCO 3.2.3.b.

A dose rate measurement shall be taken adjacent to each inlet and outlet vent duct. The average of the eight (8) inlet and outlet duct dose rates shall be compared to the limit specified in LCO 3.2.3.c.

The surface dose measurement locations specified above replace those currently specified in Certificate of Compliance 1014, Revision 0, Appendix A, Surveillance Requirement 3.2.3.1 and Figure 3.2.3.1. Entergy is hereby granted this exemption subject to the following conditions:

- (1) Entergy must perform the 10 CFR 72.212 evaluations in accordance with the terms of the general license provisions of 10 CFR Part 72, Subpart K, prior to loading any HI-STORM 100 Cask System and placing the cask on storage pads with the characteristics specified above.
- (2) Entergy must inform NRC, within 30 days, if any of the conditions of this exemption cannot be met.
- (3) Entergy must meet all other conditions of Certificate of Compliance 1014.

T. A. Sullivan

-3-

If you have any questions, please contact Christopher Jackson of my staff at (301) 415-2947.

Sincerely,
/RA/ original signed by Charles L. Miller for
E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No.: 72-12, 72-1014

cc: Service List

T. A. Sullivan

-3-

If you have any questions, please contact Christopher Jackson of my staff at (301) 415-2947.

Sincerely,
/RA/ original signed by Charles L. Miller for
E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No.: 72-12, 72-1014

cc: Service List

DISTRIBUTION: (Closes TAC No. L23365)

NRC File Center
EGray, RI

PUBLIC
LDoerflein, RI

SFPO r/f NMSS r/f
GVissing, NRR

NJensen, OGC
FLyons, NRR ANorris

C:\Program Files\Adobe\Acrobat 4.0\PDF Output\Exemption Issuance Letter.wpd ***see previous concurrence**no legal objection**

ADAMS:

OFC:	SFPO	SFPO	SFPO	SFPO	SFPO	OGC
NAME:	CJackson	EZiegler	JMyers	JGuttman	MDelligatti	STreby
DATE:	08/29/01	08/29/01	08/29/01	08/31/01	09/04/01	09/13/01
OFC:	SFPO	SFPO	SFPO			
NAME:	WHodges	CMiller	EWBrach			
DATE:	10/03/01	10/5/01	10/5/01			

C = COVER

E = COVER & ENCLOSURE

N = NO COPY

OFFICIAL RECORD COPY

FitzPatrick Nuclear Power Station

cc:

Mr. Jerry Yelverton
Chief Executive Officer
Entergy Operations
1340 Echelon Parkway
Jackson, MS 39213

Mr. Theodore H. Sullivan
Vice President Operations
Entergy Nuclear Operations, Inc.
James A. FitzPatrick Nuclear Power Plant
P.O. Box 110
Lycoming, NY 13093

Mr. Dan Pace
Vice President, Engineering
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Mr. John Kelly
Director - Licensing
Entergy Nuclear Operations, Inc.
4400 Hamilton Avenue
White Plains, NY 10601

Mr. George Tasick
Licensing Manager
Entergy Nuclear Operations, Inc.
James A. FitzPatrick Nuclear Power Plant
P.O. Box 110
Lycoming, NY 13093

Resident Inspector's Office
U. S. Nuclear Regulatory Commission
P.O. Box 136
Lycoming, NY 13093

Mr. Harry P. Salmon, Jr.
Director of Oversight
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Ms. Charlene D. Faison
Licensing
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Supervisor
Town of Scriba
Route 8, Box 382
Oswego, NY 13126

Charles Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, NY 10271

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Oswego County Administrator
Jack Tierney
46 East Bridge Street
Oswego, NY 13126

Mr. William M. Flynn, President
New York State Energy, Research,
and Development Authority
Corporate Plaza West
286 Washington Avenue Extension
Albany, NY 12203-6399

Mr. Arthur Zaremba, Licensing Manager
Director, Safety Assurance
Entergy Nuclear Operations, Inc.
James A. FitzPatrick Nuclear Power Plant
P.O. Box 110
Lycoming, NY 13093

Mr. Paul Eddy
Electric Division
New York State Dept. of Public Service
3 Empire State Plaza, 10th Floor
Albany, NY 12223

FitzPatrick Nuclear Power Station

cc:

Michael J. Colomb
General Manager
Entergy Nuclear Operations, Inc.
James A. FitzPatrick Nuclear Power Plant
P.O. Box 110
Lycoming, NY 13093

Mr. Michael Kansler
Sr. Vice President
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Mr. James Knubel
Vice President, Operations Support
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Mr. John M. Fulton
Assistant General Counsel
Entergy Nuclear Generation Co.
Pilgrim Station
600 Rocky Hill Road
Plymouth, MA 02360

Mr. J. Spath, Program Director
New York State Energy, Research, and
Development Authority
Corporate Plaza West
286 Washington Avenue Extension
Albany, NY 12203-6399

Mr. Ronald Schwartz
SRC Consultant
64 Walnut Drive
Spring Lake Heights, NJ 07762

Mr. Ronald J. Toole
SRC Consultant
Toole Insight
605 West Horner Street
Ebensburg, PA 15931

Mr. Charles W. Hehl
SRC Consultant
Charles Hehl, Inc.
1486 Matthew Lane
Pottstown, PA 19465