

September 10, 2004

Mr. Thomas L. Williamson, Director
Nuclear Safety and Regulatory Affairs
Maine Yankee Atomic Power Company
321 Old Ferry Road
Wiscasset, ME 04578-4922

SUBJECT: RESPONSE TO MAINE YANKEE ATOMIC POWER COMPANY'S LETTER
DATED JUNE 15, 2004 (TAC NOS. L23739 AND L23741)

Dear Mr. Williamson:

I am responding to your letter dated June 15, 2004. In that letter the Maine Yankee Atomic Power Company (MYAPC) requested the U.S. Nuclear Regulatory Commission (NRC or Commission) reapprove Certificate of Compliance (CoC) No. 1015 for the NAC-UMS Universal Storage System spent fuel storage cask design in MYAPC's name. MYAPC also requested that NRC issue a CoC for the UMS Universal Transport Cask Package, based on the UMS Safety Analysis Report for the Universal Transport Cask (UMS-SAR), submitted by NAC International Inc., (NAC) to support its application for CoC No. 9270. We have completed our evaluation of MYAPC's request and have the following conclusions:

MYAPC's request for reapproval of CoC No. 1015:

CoC No. 1015 (which is currently issued to NAC, the cask vendor) approves use of the NAC-UMS cask design for storage of spent fuel in accordance with the conditions specified in the CoC and its appendices. The general license issued under 10 CFR 72.210 authorizes holders of 10 CFR Part 50 licensees to use this approved cask subject to the conditions specified by 10 CFR 72.212, and in conformity with the regulations in 10 CFR Part 72 applicable to general licensees. Under the provisions of 10 CFR 72.212(a)(3), "[i]n the event that a cask vendor does not apply for a cask model reapproval under 10 CFR 72.240, any cask user or user's representative may apply for a cask design reapproval." NAC in its letter dated July 15, 2004, pointed out that "[c]learly this condition precedent to the cask user's ability to apply for reapproval has not been satisfied here as the NAC-UMS Certificate Expiration Date is November 20, 2020." Thus, the provision of 10 CFR 72.212(a)(3) that would allow a cask user or a cask user's representative to apply for cask design reapproval of CoC No. 1015 is not available to MYAPC at this time. Therefore, NRC is denying MYAPC's request for cask design reapproval of CoC No. 1015.

MYAPC's request for approval of a transportation CoC based on CoC No. 9270:

CoC No. 9270 (which is currently issued to NAC) approves the Model UMS Universal Transport Cask Package for use as a package for the transport of spent nuclear fuel. Under the general license conditions of 10 CFR 71.12, any licensee of the Commission may use this package to transport, or deliver to a carrier for transport, licensed material, in conformity with the terms and conditions of the certificate and applicable 10 CFR Part 71 regulations. MYAPC, pursuant to 10 CFR 71.31, submitted an application for approval of a radioactive material package design

previously approved under CoC No. 9270. MYAPC requested that a new CoC be issued to MYAPC for the existing term of CoC No. 9270, which is due to expire on October 31, 2007. MYAPC also requested that the contents of the new CoC be limited to the casks being used under MYAPC's general license. MYAPC stated that it intends to perform purchasing, handling, shipping, storage, cleaning, assembling, inspection, testing, operation, maintenance, repair, design, and modification activities under the authority of the new transport CoC.

MYAPC to support its request referenced NAC's UMS-SAR in lieu of submitting its own SAR to meet the requirements for a package description in 10 CFR 71.33 and for a package evaluation in 10 CFR 71.35. Based on letters to the NRC from NAC dated July 15 and 30, 2004, it appears that MYAPC neither owns nor controls the information provided in the UMS-SAR. In addition, it is not apparent that MYAPC has access to all the design, engineering, and testing information relied upon by NAC in development of the UMS-SAR.

It is NRC's normal practice when issuing a CoC under the provisions of Part 71 to include in the CoC, by reference, certain information such as design drawings, operating procedures, and the acceptance and maintenance program. Thus, should a safety issue arise that requires the CoC issued to MYAPC to be amended, MYAPC may not be able to revise certain portions of its CoC because MYAPC neither owns nor controls the information. In addition to the information submitted in the UMS-SAR, NAC submitted proprietary information upon which the NRC based its decision to issue CoC No. 9270 (see NRC letters to NAC dated December 1, 1999, January 17, April 12, and April 17, 2001, January 16, and February 20, 2002). Because this information is being withheld from public disclosure MYAPC may not be able to respond to certain safety issues should they develop after the issuance of a CoC to MYAPC.

Thus, NRC is denying MYAPC's application for a CoC under the provisions of 10 CFR Part 71. NRC is taking this action because MYAPC's application did not demonstrate that MYAPC would have ability to perform all of its obligations as a Part 71 certificate holder due to its lack of ownership and control of, or access to, information provided by NAC to support NAC's application for CoC No. 9270 and to design, engineering, and testing information that was necessary to develop and support the UMS-SAR. Further, MYAPC's application did not demonstrate that the MYAPC organization has access to the necessary technical information supporting the UMS design such that they could analyze and make changes to the packaging should a safety issue develop.

Should you have any questions related to these decisions please do not hesitate to contact me at telephone number (301) 415 -8531.

Sincerely,

/RA/

Stewart W. Brown, Senior Project Manager
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

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Sincerely,
 /RA/
 Stewart W. Brown, Senior Project Manager
 Licensing Section
 Spent Fuel Project Office
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Docket Nos.: 50-309, 71-9270, and 72-30

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