

# YANKEE ATOMIC ELECTRIC COMPANY

Telephone (413) 424-5261



49 Yankee Road, Rowe, Massachusetts 01367

December 6, 2004  
BYR 2004-0139

Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Reference: License No. DPR-3 (Docket No. 50-029)

Subject: Yankee Atomic Request for Relief from 10 CFR 50.70(b)(1)

Yankee Atomic Electric Company (YAEC) completed the transfer of its spent fuel and GTCC waste to the onsite Independent Spent Fuel Storage Installation (ISFSI) in June 2003, and is continuing with implementation of the subsequent phases of decommissioning at the Yankee Rowe site. Numerous structures and onsite buildings have been demolished, including the Services Building that previously housed the office reserved exclusively for NRC inspection personnel. As a result, site office space is now limited primarily to that of temporary trailers that are being occupied by site operations and support personnel as well as NRC inspection personnel when they are onsite. The existing office space will be further reduced as subsequent decommissioning phases are completed and temporary trailers are moved off site commensurate with a reduction in the workforce.

In view of the current and upcoming site housing situation, it is no longer practical to provide exclusive office space for NRC inspection personnel on a full-time basis. Therefore, YAEC requests relief from the 10 CFR 50.70(b)(1) requirement for each licensee, upon request by the Director, Office of Nuclear Reactor Regulation, to provide rent-free space for the exclusive use of Commission inspection personnel. Further details on the basis and justification for this request for relief are provided in the Attachment.

It is should be noted that YAEC intends to continue to provide exclusive office space for NRC inspection personnel on an as-needed basis when those personnel are onsite. However, in its effort to minimize the need for any additional office space as it enters the demobilization phase of the project, YAEC desires to utilize the designated NRC office space for Yankee Rowe operations and support staff when the NRC inspection personnel are not onsite.

The Commission's approval of this request for relief from the referenced regulatory requirement will grant YAEC a reprieve from the logistical and financial hardships associated with maintaining office space at the Yankee Rowe site for the exclusive use of NRC inspection personnel.

N.J. MSSOI

Should you require any additional information or need further clarification regarding this request, please contact me at 413-424-2363.

Very truly yours,

YANKEE ATOMIC ELECTRIC COMPANY

Gerry van Noordennen  
Gerry van Noordennen  
Regulatory Affairs Manager

Attachment: Request for Relief from the Requirements of 10 CFR 50.70(b)(1) to Provide Office Space for the Exclusive Use of Commission Inspection Personnel

cc: Mr. S. Collins, NRC, Region I Administrator  
Mr. R. Bellamy, NRC Region I, Chief, Laboratory and Decommissioning Branch  
Mr. J. Hickman, NRC/NMSS Senior Project Manager  
Mr. J. Kotten, NRC Region 1 Inspector

ATTACHMENT

REQUEST FOR RELIEF FROM SPECIFIC REQUIREMENTS OF 10 CFR 50.70(b)(1)  
TO PROVIDE OFFICE SPACE FOR THE EXCLUSIVE USE OF  
COMMISSION INSPECTION PERSONNEL

I. RELIEF REQUEST

Regulatory Basis

Yankee Atomic Electric Company (YAEC) hereby requests relief from the following 10 CFR 50.70(b)(1) requirements:

"Each licensee and each holder of a construction permit shall upon request by the Director, Office of Nuclear Regulation, provide rent-free office space for the exclusive use of the Commission inspection personnel. Heat, air conditioning, light, electrical outlets and janitorial services shall be furnished by each licensee and each holder of a construction permit. The office shall be convenient to and have full access to the facility and shall provide the inspector both visual and acoustic privacy."

Nature of Request

YAEC specifically requests that the Director, Office of Nuclear Regulation (NRR), withdraw the request for YAEC, as licensee, to provide office space for the exclusive use of Commission inspection personnel as specified in 10 CFR 50.70(b)(1) above.

II. BACKGROUND

Historic Regulatory Action

The 10 CFR 50.70 regulations were amended in the late 1970's to facilitate implementation of the NRC's resident inspection program. The intent of the inspection program was to place full-time resident inspectors at selected sites of nuclear power reactors that were either under construction or in operation, and at selected sites of fuel cycle facilities where reactor fuel was either being fabricated or processed. The rulemaking that implemented the resident inspection program included provisions for onsite rent-free, exclusive office space in order to accommodate a full-time NRC inspector and support staff. Accordingly, the NRC assigned a full-time resident inspector to the site of the operating Yankee Rowe nuclear power reactor, and YAEC (licensee) responded to the rulemaking by providing the appropriate accommodations for the resident NRC inspector.

### Cessation of Operations at Yankee Rowe

On February 27, 1992, YAES submitted its "Certification of Permanent Cessation of Power Operations and Permanent Removal of Fuel from the Reactor" in accordance with 10 CFR 50.82(a)(1)(i) and (ii). Once the submittal was docketed, YAES no longer had authority to operate the Yankee Rowe reactor or to place fuel in the reactor vessel. On the basis of the permanent shutdown condition of the reactor, the NRC subsequently eliminated the Yankee Rowe resident inspector position and converted to the region-based inspection program which has continued to the present.

Although the NRC inspector's office at Yankee Rowe is only utilized a small fraction of the time, YAES has continued to provide dedicated office space for regional and headquarters inspectors throughout the period of spent fuel transfer to the Independent Spent Fuel Storage Installation (ISFSI) and during the course of continuing decommissioning. Once the Services Building that previously housed the NRC inspector's office was demolished in late 2003, exclusive office space for the inspector was, and continues to be, provided in one of the temporary onsite trailers.

As decommissioning progresses, and temporary trailers are removed from the site commensurate with demobilization of the workforce, office space at the Yankee Rowe site will become more limited. Accordingly, it will not be practical in the upcoming phase of decommissioning for YAES to continue to provide exclusive office space for Commission inspection personnel on a full-time basis. YAES does intend, however, to provide Commission inspection personnel with adequate facilities and both visual and acoustic privacy on an as-needed basis.

### III. JUSTIFICATION FOR GRANTING RELIEF

The bases for granting relief from the requirements of 10 CFR 50.70(b)(1) are implicit in the requirements for granting exemptions, which are specified in 10 CFR 50.12 as follows:

"The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are--authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security."

Accordingly, the relief being requested is based on the following:

- The requested relief from the regulations is authorized by law. The regulation cited in the request is contained within 10 CFR Part 50. The request involves only relief from the NRR Director's request for exclusive office space for inspection personnel pursuant to 10 CFR 50.70(b)(1).

- The requested relief will not present an undue risk to public health and safety. NRC inspection personnel will be provided with appropriate support facilities to ensure proper and efficient execution of their inspection (safety oversight) function. Performance of inspection personnel duties will not be impeded by the absence of exclusive-use office space.
- The requested relief is consistent with the common defense and security, and will not decrease the effectiveness of security or safeguards associated with the safe storage of radioactive material at the Yankee Rowe site.
- The purpose of the rule is not served by applying the requirements of 10 CFR 50.70(b)(1) at a site in the advanced stages of decommissioning and ISFSI operation. The regulations of 10 CFR 50.70 were developed to implement a resident inspection program at operating nuclear power plants, and were not intended to apply to the decommissioning phase. The resident inspection program, and its requirement for full-time office space for inspection and support staff, is not applicable to the particular circumstances of the Yankee Rowe decommissioning and ISFSI operation.
- In complying with the requirements of 10 CFR 50.70(b)(1) pursuant to the NRR Director's request, YAEC will incur costs that exceed those anticipated when the regulation was adopted. That is, YAEC's continuing to provide exclusive use office space for NRC inspection personnel will necessitate an expenditure of funds for the implementation of a requirement that was never contemplated to apply to the decommissioning phase of a nuclear power plant, during which safety risks and corresponding NRC oversight are significantly reduced.

#### IV. CONCLUSION

YAEC concludes that its request for relief from the 10 CFR 50.70(b) requirement to provide exclusive office space for Commission inspection personnel is justified. This conclusion derives from the fact that the requested relief meets the specific requirements of 10 CFR 50.12, is authorized by law, will not present an undue risk to public health and safety, and is consistent with common defense and security. Applying the requirements of 50.70(b)(1) to Yankee Rowe decommissioning and ISFSI operations will not serve the underlying purpose of the rule, and will result in costs that are significantly in excess of those contemplated when the regulation was adopted.

YAEC will continue to provide NRC inspection personnel with adequate facilities to ensure the performance of their duties during their inspections at the Yankee Rowe site. The inspector's office will be convenient to and have full access to the facility, and will provide the inspector both visual and acoustic privacy.

V. ENVIRONMENTAL IMPACT

The proposed relief from the requirements of 10 CFR 50.70(b)(1) will not affect the type or quantity of radioactive or non-radioactive effluents entering the environment, and will not have an adverse impact on the environment.