

January 4, 2005

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

SUBJECT: EXEMPTION FROM 10 CFR 72.212 AND 72.214 FOR DRY SPENT FUEL
STORAGE ACTIVITIES (TAC NO. L23714)

Dear Mr. Williamson:

This is in response to your letter dated February 25, 2004, as supplemented June 8, 2004, requesting exemptions from Title 10 of the Code of Federal Regulations (10 CFR) 72.212(a)(2), 72.212(b)(2)(i), 72.212(b)(7), and 72.214, pursuant to 10 CFR 72.7. In your letter you requested these exemptions in order to deviate from the requirements in Certificate of Compliance (CoC) No. 1015, Amendment 2, Appendix A, Technical Specifications for the NAC-UMS[®] System, Section A 5.1, Training Program, and Section A 5.5, Radioactive Effluent Control Program. These exemptions would relieve Maine Yankee Atomic Power Company (MYAPC) from the requirements to: (1) develop training modules under the systematic approach to training (SAT) that include comprehensive instructions for the operation and maintenance of the independent spent fuel storage installation (ISFSI), except for the NAC-UMS[®] Universal Storage System; and (2) submit an annual report specifying the quantity of each of the principal radionuclides released to the environment in liquid and in gaseous effluents during the previous 12 months of operation pursuant to 10 CFR 72.44(d)(3).

The U.S. Nuclear Regulatory Commission (NRC) staff has evaluated the proposed exemptions. The staff's enclosed safety evaluation report concludes that the requested exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. Accordingly, the exemptions are granted and effective immediately. These exemptions do not relieve MYAPC of any other regulatory obligations pursuant to either 10 CFR Parts 20 or 72.

The NRC staff evaluated the public health and safety and environmental impacts of the proposed exemptions and determined that granting these exemptions would not result in any significant impacts. For this action, an Environmental Assessment and Finding of No Significant Impact were prepared and published in the Federal Register (70 FR 0396, January 4, 2004). A copy of the Federal Register Notice was provided to you by letter dated December 13, 2004.

T. Williamson

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If you have any questions, please contact me or Stewart Brown of my staff at 301-415-8500. Any future correspondence related to this action should reference Docket 72-30 and TAC No. L23714.

Sincerely,

/RA/

Larry W. Camper, Deputy Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket Nos.: 72-30, 72-1015, and 50-309

Enclosure: Safety Evaluation

cc: Mailing List

T. Williamson

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SAFETY EVALUATION REPORT
Docket No. 72-30
Maine Yankee Atomic Power Station
Independent Spent Fuel Storage Installation

1.0 **Summary**

By letter dated February 25, 2004, as supplemented June 8, 2004, the Maine Yankee Atomic Power Company (MYAPC) requested exemptions from Title 10 of the Code of Federal Regulations (10 CFR) 72.212(a)(2), 72.212(b)(2)(i), 72.212(b)(7), and 72.214, pursuant to 10 CFR 72.7. MYAPC requested these exemptions in order to deviate from the requirements in Certificate of Compliance (CoC) No. 1015, Amendment 2, Appendix A, Technical Specifications for the NAC-UMS[®] System, Section A 5.1, Training Program, and Section A 5.5, Radioactive Effluent Control Program. The exemptions would relieve MYAPC from the requirements to: (1) develop training modules under the systematic approach to training (SAT) that include comprehensive instructions for the operation and maintenance of the independent spent fuel storage installation (ISFSI), except for the NAC-UMS[®] Universal Storage System; and (2) submit an annual report pursuant to 10 CFR 72.44(d)(3).

The NRC has evaluated the information provided by MYAPC to support its request for these exemptions and concluded in the discussion below that the proposed exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

2.0 **Discussion**

In accordance with the provision of 10 CFR 72.7, “[t]he Commission may, upon application by an interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.” By letter dated February 25, 2004, as supplemented June 8, 2004, MYAPC requested exemptions from 10 CFR 72.212(a)(2), 72.212(b)(2)(i), 72.212(b)(7), and 72.214, pursuant to 10 CFR 72.7. MYAPC requested exemptions in order to deviate from the requirements in CoC No. 1015, Section A 5.1, Training Program, and Section A 5.5, Radioactive Effluent Control Program.

2.1 Training Program

CoC No. 1015; Appendix A, Technical Specifications for the NAC-UMS System, Amendment No. 2; Section A5.1, Training Program, requires the following:

A training program for the NAC-UMS[®] Universal Storage System shall be developed under the general licensee’s systematic approach to training (SAT). Training modules shall include comprehensive instructions for the operation and maintenance of

the NAC-UMS[®] Universal Storage System and the independent spent fuel storage installation (ISFSI).

MYAPC has requested that it be exempted from the requirement to develop, under its SAT program, modules that include comprehensive instructions for the operation and maintenance of the ISFSI. MYAPC has not requested to be exempted from the requirement to develop, under its SAT program, modules for the NAC-UMS[®] Universal Storage System. MYAPC stated that it has developed training modules which include comprehensive instructions for the operation and maintenance of the NAC-UMS[®] Universal Storage System. Further, MYAPC stated that the NAC-UMS[®] Universal Storage System includes all of the structures, systems, components (SSCs) important to safety for the ISFSI based on definition, *Structures, systems, and components important to safety*, provided in 10 CFR 72.3. MYAPC considers the following SSCs not-important-to-safety based on this definition: the concrete pads, earthen berm, heating and air conditioning systems, electrical distribution, building and yard lighting, fencing and barriers, intrusion detection and alarm systems, and the domestic water and sewer systems.

MYAPC proposed an alternative to developing training modules, which includes comprehensive instructions for the operation and maintenance for SSCs, it considered not-important-to-safety under its SAT program. MYAPC proposes that for activities associated with operation and maintenance of ISFSI SSCs that are not-important-to-safety, it would provide training and instructions in accordance with manufacturers' instructions and MYAPC approved procedures. MYAPC notes that providing training that is less complex and less labor intense in lieu of training developed under its SAT program would be less costly. However, MYAPC will continue training, under its SAT program, for the NAC-UMS[®] Universal Storage System.

MYAPC noted that granting this exemption would produce no additional risk to the public health and safety. Finally, MYAPC noted that the alternative form of training that would be provided, for those SSCs considered not-important-to-safety, is less costly. MYAPC also noted that the requested exemption would result in a savings for MYAPC's ratepayers and thus the requested exemption is in the public interest.

The staff has reviewed MYAPC's exemption request and agrees with MYAPC that the current wording of Section A5.1 requires ISFSI SSCs considered not-important-to-safety to be included in MYAPC's SAT program. The staff also agrees that requiring MYAPC to develop training modules for the ISFSI under a higher cost program does not provide a commensurate increase in safety. The staff agrees that MYAPC's alternative training program for the ISFSI governs only SSCs not important to safety. The staff finds that exempting MYAPC from the requirement that MYAPC develop, under its SAT program, training modules that include comprehensive instructions for the operation and maintenance of the ISFSI, except for the NAC-UMS[®] Universal Storage System, will not reduce safety.

2.2 Radioactive Effluent Control Program

CoC No. 1015; Appendix A, Technical Specifications for the NAC-UMS System, Amendment No. 2; Section A5.5, Radioactive Effluent Control Program, Item c. requires the following:

An annual report shall be submitted pursuant to 10 CFR 72.44(d)(3).

MYAPC has requested that it be exempted from this requirement. Subparagraph 72.44(d)(3) requires licensees to submit annual reports to the Commission that specify the quantity of each of the principal radionuclides released to the environment in liquid and in gaseous effluents during the previous 12 months of operation. MYAPC notes that the NAC-UMS® Universal Storage System is a sealed and leak-tight spent fuel storage system. Therefore, there should be no releases to the environment in either liquid or in gaseous effluents from normal operation. Further MYAPC notes that routine radiological surveys at the ISFSI will continue to be performed in accordance with 10 CFR Part 20 requirements and direct radiation from the facility is routinely measured and reported in the Annual Radiological Environmental Operating Report.

MYAPC notes: (1) that granting this exemption would produce no additional risk to the public health and safety; (2) the requested exemption is administrative, therefore it does not endanger life or property or the common defense and security; and (3) not having to provide this 10 CFR 72.44(d)(3) annual report will reduce cost, and hence is in the public interest.

The staff has reviewed MYAPC's exemption request and agrees with MYAPC that the administrative cost associated with generating and submitting an annual effluent monitoring report for a facility with no liquid or gaseous effluents is not justified. Further, the staff has determined that there would be no reduction in safety if an exemption from this requirement were granted, based on the continued 10 CFR Part 20 requirements.

3.0 **Conclusion**

The Commission has set forth its views on the application of regulations in the Agency's Strategic Plan. One of the effectiveness strategies provided to the staff is to improve NRC regulation by eliminating unnecessary requirements. The staff, based on its review, has determined that the requirements in Section A 5.1, Training Program, to develop training modules under the SAT, that include comprehensive instructions for the operation and maintenance of the ISFSI, except for the NAC-UMS® Universal Storage System; and Section A 5.5, Radioactive Effluent Control Program, to submit an annual report pursuant to 10 CFR 72.44(d)(3) are unnecessary requirements for MYAPC. Thus, granting the requested exemptions from these requirements will not reduce safety at the Maine Yankee ISFSI. Also, granting these exemptions is authorized by law and will not endanger life or property or the common defense and defense and security and are otherwise in the public interest.