



CONNECTICUT YANKEE ATOMIC POWER COMPANY

HADDAM NECK PLANT
362 INJUN HOLLOW ROAD • EAST HAMPTON, CT 06424-3099

Docket No. 50-213
CY-05-025

RE: 10CFR 50.12

FEB 16 2005

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

Haddam Neck Plant
Request for Exemption from the Record Keeping Requirements of 10 CFR 50
Appendix A Criterion 1, 10 CFR 50 Appendix B Criterion XVII
and 10 CFR 50.59(d)(3)

In accordance with 10 CFR 50.12, Specific Exemptions, Connecticut Yankee Atomic Power Company (CYAPCO) is hereby requesting the following exemption, to the extent necessary, from the record retention requirements of:

- (1) 10 CFR 50 Appendix A Criterion 1 which requires certain records be retained "throughout the life of the unit";
- (2) 10 CFR 50 Appendix B Criterion XVII which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee; and
- (3) 10 CFR 50.59(d)(3) which requires certain records be maintained until "termination of a license issued pursuant to" Part 50.

Instead, CYAPCO proposes to eliminate these records when: 1) the nuclear power unit and associated systems no longer exist for Structures, Systems and Components (SSC) associated with safe power generation, or 2) spent nuclear fuel has been completely transferred from the spent fuel pool for SSCs associated with safe storage of fuel in the spent fuel pool and the spent fuel pool building is ready for demolition.

CYAPCO is not requesting any exemption associated with record keeping requirements for storage of spent fuel at its Independent Spent Fuel Storage Installation (ISFSI) under 10 CFR 50 or the General License requirements of 10 CFR 72.

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Background

CYAPCO is the licensee and holder of Facility Operating License No. DPR-61 for the Haddam Neck Plant (HNP). The HNP is a permanently shutdown plant and is currently undergoing decommissioning. Although permanently shutdown, this facility is still subject to all applicable rules, regulations, and orders of the U. S. NRC.

On December 5, 1996, CYAPCO notified the NRC that operations had permanently ceased and that fuel had been permanently removed from the reactor. CYAPCO submitted the HNP License Termination Plan (LTP) in July 2000 which the NRC approved in November 2002. Decommissioning of the HNP facility is approximately 70% complete. The nuclear reactor and all associated systems and components necessary for safe generation of power have been removed from the facility and disposed of off-site. In addition, the structures for safe power generation are either demolished or in an advanced state of demolition. Safety related SSCs that remain, are associated with the spent fuel pool. Transfer of the spent fuel from the spent fuel pool to the HNP ISFSI is approximately 75% complete with all the spent fuel to be transferred to the ISFSI in spring 2005.

Discussion

In order for an exemption to be granted from the requirements of 10 CFR Part 50, Appendices A and B and 10 CFR 50.59(d)(3), the licensee must show that the requirements of 10 CFR 50.12(a)(1) are met and that special circumstances, as specified in 10 CFR 50.12(a)(2), exist. As discussed below, CYAPCO's request satisfies the above standards for the regulatory exemption.

I. General Justification for Granting the Exemption Request

A. Nuclear Power Generation SSCs

The HNP power generation unit no longer exists. Its systems and components have been removed to various off-site disposal facilities or re-use applications. The structures that have not yet been fully demolished have been remediated or partially demolished to the point of rendering them useless for any application.

The general justification for eliminating records associated with these SSCs is simple and straightforward in that these SSCs no longer exist, they no longer serve, nor can they conceivably serve, any function regulated by the NRC.

While the safe power generation SSCs no longer exist, their "footprint" continues to be under NRC regulation due, primarily, to residual

radioactivity. The radiological controls (and other programmatic controls such as quality assurance) of the "footprint" and the implementation of cleanup criteria are fully covered through the current plant documents such as the updated Final Safety Analysis Report (UFSAR), which includes the HNP LTP and the Quality Assurance Program. These programmatic elements and their associated records are unaffected by the exemption request.

B. Spent Fuel and Associated SSCs

When all spent fuel has been transferred from the spent fuel pool (SFP) to the ISFSI, the SFP and its associated SSCs no longer have a safety function. All records necessary for spent fuel storage have been retained for the ISFSI. Similar to the power generation SSC records, once the SFP is drained and ready for demolition, there is no safety-significance or other regulatory value in retaining SFP SSC records. Also, similar to the power generation "footprint", the SFP SSCs "footprint" is included under the radiological control provided by the Updated FSAR, Quality Assurance Program, and other programmatic elements.

Finally, CYAPCO believes that when the NRC developed record retention requirements, there was little, if any discussion related to decommissioning facilities. In the case of Independent Spent Fuel Storage Installations (ISFSI), however, recent clarification was forthcoming. Specifically, when updating 10 CFR 72.48 requirements (72.48 is the dry fuel storage equivalent of 10 CFR 50.59), the NRC clarified the retention period for records for changes in the facility or spent fuel storage cask design to be until "... Spent fuel is no longer stored in the facility "(10 CFR 72.48(d)(3)(i). This is exactly what CYAPCO is requesting when the fuel is no longer stored in the SFP and the SFP building is ready for demolition.

C. ISFSI-SSGs and Spent Nuclear Fuel

CYAPCO is not requesting any exemption associated with retention of these records.

II Specific Justification for Exemptions and Special Circumstances

A. Specific Exemption is Authorized by Law

CYAPCO's exemption request to reduce retention durations is clearly authorized by law and within the Commission's authority. In fact, CYAPCO believes that the Commission would have made these clarifying changes to the regulations anyway had there been sufficient

industry experience in performing decommissioning and license termination at Part 50 facilities when the record retention rules were originally promulgated.

Similar exemptions were recently granted to Rancho Seco and Maine Yankee, which are other nuclear power plants undergoing decommissioning.

B. Specific Exemption Will Not Present an Undue Risk to the Public Health and Safety

The public health and safety are unaffected by the proposed exemption. Removal of the underlying SSCs associated with the records has been already determined by CYAPCO, in accordance with 10 CFR 50.59, to have no adverse public health and safety impact. Elimination of associated records for these SSCs can have no additional impact.

C. Specific Exemption Consistent with the Common Defense and Security

CYAPCO believes that the elimination of these records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States.

D. Special Circumstances

Further CYAPCO provides the following regulatory basis for meeting the requirements of:

10CFR 50.12(a)(2)(ii):

Application of the Regulation in the Particular Circumstances would not serve the underlying purpose of the Rule.

The common and underlying purpose for the regulations cited above is to ensure that the current license and design basis of the facility is understood, documented, preserved and retrievable. The current license basis encompasses all those elements of SSCs functionally necessary to ensure, within the boundaries of nuclear regulation, safe operation of the facility today. In order to ensure future safe operation, a license basis is maintained current by evaluating changes against up-to-date information. The terms such as "safety functions", and "safe operation" is meaningless if a facility has been dismantled and disposed of. In this case, which represents CYAPCO's nuclear power generation facility, retention of records associated with nonexistent SSCs serves no safety or regulatory purpose. Therefore, application of these record

requirements in CYAPCO's circumstances does not serve the underlying purpose of the regulations.

10CFR 50.12(a)(2)(iii):

Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted.

The records retention itself is an expensive proposition. Retention of records alone is not sufficient. They must be legible, retrievable and stored in a safe condition. This expense, of course, was understood on the part of the Commission and the Nuclear Industry for the current license basis to ensure the continued safe operation of the facility. However, what was not well understood (when the regulation was adopted) was the effect of explicit record retention durations that survived the life of a facility and no longer served an underlying safety purpose. This is the current situation at the decommissioning facilities.

CYAPCO's available record storage capacity continues to shrink as buildings are remediated, surveyed and demolished. CYAPCO is less than one year from demolishing the administrative building where many of the records are stored and retained. Retaining records associated with non-existent SSCs and a non-existent nuclear power generator is a significant hardship today as records are shuffled between buildings and administrative support personnel are reduced. It will become more of a hardship and cost increase as we must make provisions for off-site storage well in advance of building demolition.

10CFR 50.12(a)(2)(vi):

There is present any other material circumstances not considered when the regulation was adopted for which it would be in the public interest to grant an exemption.

First, the cost associated with maintaining records that serve no safety purpose can be significant, particularly for a decommissioning facility that will no longer exist within a couple of years. Decommissioning costs, including record maintenance, are paid by the ratepayers throughout the multi-state region that benefited from the power produced by the HNP when it was operating. The ratepayers deserve a cost-efficient decommissioning unencumbered by unnecessary regulatory restraints.

Second, elimination of these records ensures their future unavailability to individuals and groups interested in adversely affecting commercial nuclear facilities.

Summary

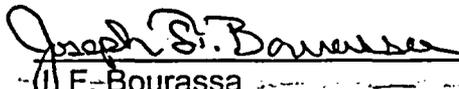
The information provided gives the NRC sufficient basis for granting an exemption from the recordkeeping requirements of 10 CFR 50 Appendix A Criterion 1, 10 CFR 50 Appendix B Criterion XVII, and 10 CFR 50.59(d)(3) for : 1) records pertaining to SSCs or activities associated with the nuclear power unit and associated support systems that no longer exist at the HNP site; and 2) records pertaining to the spent fuel pool and associated support systems for the safe storage of fuel in the spent fuel pool after all the spent nuclear fuel has been transferred from the spent fuel pool and the SFP building is ready for demolition. This exemption does not apply to any record keeping requirements for storage of the spent fuel at the HNP ISFSI under 10 CFR 50 or the general requirements of 10 CFR 72.

CYAPCO requests that the NRC approve this exemption request at your earliest convenience. CYAPCO will use the exemption, if granted, to eliminate the applicable record keeping requirements in the licensing basis documents such as the FSAR and the Quality Assurance Program.

There are no regulatory commitments contained in this submittal.

If you should have any questions regarding this submittal, please contact Mr. G. P. van Noordennen at (860) 267-3938.

Sincerely,



J. F. Bourassa Date
Director of Nuclear Safety/ Regulatory Affairs

cc: S. J. Collins, NRC Region 1 Administrator
T. B. Smith, NRC Project Manager, Haddam Neck Plant
R. R. Bellamy, Chief, Decommissioning and Laboratory Branch, NRC
Region 1
E. L. Wilds, Jr., Director, CT DEP Monitoring and Radiation Division