

YANKEE ATOMIC ELECTRIC COMPANY

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

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

Subject: 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, Yankee Atomic Electric Company (YAEC) is hereby requesting the following exemption, for records pertaining to systems, structures, or components (SSCs) and/or activities associated with the nuclear power generating unit, Spent Fuel Pit, and associated support systems, from the 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.

YAEC is not requesting any exemption from the record keeping requirements for SSCs and activities related to storage of spent fuel at the Independent Spent Fuel Storage Installation (ISFSI) under 10 CFR 50 or the General License requirements of 10 CFR 72.

Background

YAEC is the licensee and holder of Facility Operating License No. DPR-3, for the Yankee Nuclear Power Station (YNPS) in Rowe, Massachusetts. YNPS is permanently shut down and is currently undergoing decommissioning. Although permanently shutdown, this facility is still subject to all applicable rules, regulations, and orders of the USNRC.

On February 26, 1992, a decision was made by YAEC's Board of Directors to permanently cease power operations at YNPS. This decision was based upon the following two factors:

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1. Economic analyses indicated that shutdown of the plant before expiration of the NRC operating license in July 2000 could produce a substantial savings to electricity producers.
2. Significant regulatory uncertainty existed concerning the timing and cost of completion of the NRC's review of the integrity of the YNPS Reactor Pressure Vessel.

On August 5, 1992, the NRC amended the YNPS Facility Operating License to a possession only status.

The YNPS Decommissioning Plan was submitted on March 29, 1994, and received final approval in October 28, 1996. In May 1997, YAEC submitted to the NRC for approval a License Termination Plan (LTP) for YNPS, pursuant to 10CFR50.82(a)(9). The initial YNPS LTP employed a survey methodology based upon the "Manual for Conducting Radiological Surveys in Support of License Termination," also referred to as the NUREG-5849 methodology. Subsequently the NRC, jointly with the DOD, DOE, and EPA, approved an alternate survey methodology documented in the "Multi-Agency Radiation Survey and Site Investigation Manual" (NUREG-1575) or MARSSIM. In May 1999, YAEC advised the NRC that it intended to adopt the MARSSIM methodology and withdrew its previously submitted LTP application. The current LTP, submitted in November 2003 and approved in July 2005, is written to reflect the MARSSIM methodology, as well as appropriate regulatory guidance made available since the previous LTP submittal.

Transfer of the spent fuel from the Spent Fuel Pit (SFP) to the ISFSI was completed in June 2003. With the exception of the greater than class C waste stored at the ISFSI, the reactor and all associated systems and components, including those associated with storage of spent fuel in the SFP, have been removed from the facility and disposed of offsite. In addition, the structures housing these systems and components have been demolished. Physical work associated with the decommissioning of YNPS (including final status survey) is scheduled to be completed in the third quarter of 2006.

Discussion

In order for an exemption to be granted, the requirements of 10 CFR 50.12(a)(1) must be shown to be met and special circumstances, as specified in 10 CFR 50.12(a)(2), must exist. As discussed below, YAEC's request satisfies the above standards for this regulatory exemption request.

I. General Justification for Granting the Exemption Request

A. Nuclear Power Generation SSCs

The YNPS power generation unit no longer exists. Its related SSCs have been removed to various offsite disposal facilities or re-use applications. The associated structures have been fully demolished.

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

Although these SSCs no longer exist, their “footprint” continues to be under NRC regulation due primarily to the presence of residual radioactivity. The radiological controls (and other programmatic controls, such as quality assurance) governing the “footprint” and the implementation of cleanup criteria and final status survey are fully covered through the current plant documents such as the Final Safety Analysis Report (FSAR), which includes the Yankee Rowe LTP and the Yankee Decommissioning Quality Assurance Program. These programmatic elements and their associated records are not affected by the exemption request.

B. Spent Fuel Pit and Associated SSCs

All spent fuel has been transferred from the Spent Fuel Pit (SFP) to the ISFSI, and the SFP and its associated SSCs have been demolished and removed from the site. All records necessary for continued spent fuel storage have been retained for the ISFSI. The justification for eliminating records associated with the SFP and associated SSCs is the same as that for the power generation SSCs—these SSCs no longer exist onsite, and they no longer serve, nor can they conceivably serve, any function regulated by the NRC. As is the case with the power generation SSCs, current plant documents govern the radiological and programmatic controls on the SFP “footprint” and implement cleanup and final status survey. These programmatic elements and their associated records are not affected by the exemption request.

YAEC believes that when the NRC developed record retention requirements, there was little, if any, discussion related to the applicability of these requirements to decommissioning facilities. In the case of Independent Spent Fuel Storage Installations (ISFSI), however, clarification was forthcoming. Specifically, when updating 10 CFR 72.48 requirements (10 CFR 72.48 is the dry fuel storage equivalent of 10 CFR 50.59), the NRC clarified the retention period for records related to changes in the facility or spent fuel storage cask design to be until “...[s]pent fuel is no longer stored in the facility,” as provided in 10 CFR 72.48(d)(3)(i).

YAEC’s exemption request is consistent with the approach taken in 10 CFR 72.48(d)(3)(i) as it seeks to reduce the retention period of SFP-related documents, because fuel is no longer stored in the SFP, and the SFP SSCs and associated building has been demolished.

C. ISFSI SSCs and Spent Nuclear Fuel

YAEC 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

YAEC's exemption request to reduce retention durations is clearly authorized by law and within the Commission's authority. Similar exemptions have been granted to other decommissioning nuclear plants, namely Rancho Seco, Connecticut Yankee and Maine Yankee.

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

The public health and safety are not affected by the proposed exemption. Removal of the SSCs, associated with this request, has been already been evaluated and determined by YAEC to have no adverse impact on public health and safety. Elimination of associated records for these SSCs will have no additional impact.

C. Specific Exemption Consistent with the Common Defense and Security

YAEC believes that the elimination of these records is administrative in nature and is consistent with the common defense and security. Elimination of recordkeeping requirements and subsequent destruction of these records ensures that they will not be available to individuals and groups interested in adversely affecting commercial nuclear facilities.

D. Special Circumstances

Further YAEC 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. In order to ensure future safe operation, the license basis is maintained current by evaluating changes against up-to-date information. Terms such as "safety function" and "safe operation" are meaningless, once the facility has been dismantled and disposed of. In the case of YNPS, retention of records associated with nonexistent SSCs serves no safety or regulatory purpose. Therefore, application of these record requirements in YAEC'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 expensive, and records retention alone is not sufficient to meet regulatory requirements. Records must also be maintained legible, retrievable and in a safe condition, which adds to the expense. 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 surpassed the life of a facility and no longer served an underlying safety purpose. This is the current situation at the decommissioning facilities.

YAEC is less than one year from demolishing the Administrative Building where many of the records are stored and retained. Retaining records associated with SSCs that no longer exist is a significant hardship today, as locations available to store these records and administrative support personnel are reduced. The hardship and costs will increase, as YAEC 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 without a commensurate benefit. Decommissioning costs, including record maintenance, are paid by the ratepayers throughout the multi-state region that benefited from the power produced by YNPS when it was operating. The ratepayers deserve a cost-efficient decommissioning unencumbered by unnecessary regulatory restraints.

Second, destruction of these records ensures that they will not be available 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 generating unit and associated support systems that no longer exist at the Yankee Rowe site; and 2) records pertaining to the spent fuel pool and associated support systems. This exemption does not apply to any record keeping requirements for storage of the spent fuel at the Yankee Rowe ISFSI under 10 CFR 50 or the general requirements of 10 CFR 72.

YAEC requests that the NRC approve this exemption request at your earliest convenience. YAEC 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.

If you should have any questions regarding this submittal, please contact me at (413) 424-2209.

Very truly yours,

YANKEE ATOMIC ELECTRIC COMPANY

A handwritten signature in black ink, appearing to read "Rocky Benner", written in a cursive style.

Rocky Benner
Decommissioning Manager

cc: S. Collins, NRC Region I Administrator
M. Miller, Chief, Decommissioning Branch, NRC Region I
J. Hickman, NRC Project Manager