

June 6, 2006

Ms. Alice C. Carson
Licensing Manager
Yankee Atomic Electric Company
49 Yankee Road
Rowe, MA 01367

SUBJECT: EXEMPTION FROM 10 CFR 72.212 AND 72.214 FOR DRY SPENT FUEL
STORAGE ACTIVITIES (TAC NO. L23937)

Dear Ms. Carson:

This is in response to your letter dated January 9, 2006, 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. 1025, Amendment 3, Appendix A, Technical Specifications for the NAC-MPC System, Section A 5.1, Training Program, and Section A 5.4, Radioactive Effluent Control Program. These exemptions would relieve Yankee Atomic Electric Company (YAEC) from the requirements to: (1) develop training modules under the systems approach to training (SAT) program that include comprehensive instructions for the operation and maintenance of the independent spent fuel storage installation (ISFSI), except for the NAC-MPC 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) or 10 CFR 50.36(a)."

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 YAEC 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 (71 FR 32377, June 5, 2006). A copy of the Federal Register Notice was provided to you by letter dated May 24, 2006.

A. Carson

- 2 -

If you have any questions, please contact me at (301) 415-8560 or Stewart Brown of my staff at 301-415-8531. Any future correspondence related to this action should reference Docket 72-31 and TAC No. L23937.

Sincerely,

/RA/

William H. Ruland, Deputy Director
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket Nos.: 72-31, 72-1025, and 50-29

Enclosure: Safety Evaluation

cc: Mailing List

A. Carson

- 2 -

If you have any questions, please contact me at (301) 415-8560 or Stewart Brown of my staff at 301-415-8531. Any future correspondence related to this action should reference Docket 72-31 and TAC No. L23937.

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William H. Ruland, Deputy Director
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Enclosure: Safety Evaluation

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SAFETY EVALUATION REPORT
Docket No. 72-31
Yankee Atomic Electric Station
Independent Spent Fuel Storage Installation

1.0 Summary

By letter dated January 9, 2006, the Yankee Atomic Electric Company (YAEC) 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. YAEC requested these exemptions in order to deviate from the requirements in Certificate of Compliance (CoC) No. 1025, Amendment 3, Appendix A, Technical Specifications for the NAC-MPC System, Section A 5.1, Training Program, and Section A 5.4, Radioactive Effluent Control Program. The exemptions would relieve YAEC from the requirements to: (1) develop training modules under the systems approach to training (SAT) program that include comprehensive instructions for the operation and maintenance of the independent spent fuel storage installation (ISFSI), except for the NAC-MPC System; and (2) submit an annual report "pursuant to 10 CFR 72.44(d)(3) or 10 CFR 50.36(a)."

The NRC has evaluated the information provided by YAEC 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 January 9, 2006, YAEC 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. YAEC requested exemptions in order to deviate from the requirements in CoC No. 1025, Section A 5.1, Training Program, and Section A 5.4, Radioactive Effluent Control Program.

2.1 Training Program

CoC No. 1025; Appendix A, Technical Specifications for the NAC-MPC System, Amendment No. 3; Section A 5.1, Training Program, requires the following:

A training program for the NAC-MPC SYSTEM shall be developed under the general licensee's Systems Approach to Training Program. Training modules shall include comprehensive instructions for all activities related to the NAC-MPC SYSTEM and the independent spent fuel storage installation (ISFSI).

YAEC 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. YAEC has not requested to be exempted from the requirement to develop, under its SAT program, modules for the NAC-MPC System. YAEC stated that it has developed training modules, which include comprehensive instructions for the operation and maintenance of the NAC-MPC System. Further, YAEC stated that the NAC-MPC 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. YAEC considers the following SSCs not-important-to-safety based on this definition: the heating and air conditioning systems, electrical distribution system, lighting, fencing and barriers, intrusion detection and alarm systems, and cask temperature and area radiation monitoring and alarm systems.

YAEC 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. YAEC 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 YAEC approved procedures. YAEC 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, YAEC will continue training, under its SAT program, for the NAC-MPC System.

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

The staff has reviewed YAEC's exemption request and agrees with YAEC that the current wording of Section A 5.1 requires ISFSI SSCs considered not-important-to-safety to be included in YAEC's SAT program. The staff also agrees that requiring YAEC to develop training modules for the ISFSI under a higher cost program does not provide a commensurate increase in safety. The staff agrees that YAEC's alternative training program for the ISFSI governs only SSCs not important to safety. The staff finds that exempting YAEC from the requirement that YAEC develop under its SAT program training modules that include comprehensive instructions for the operation and maintenance of the ISFSI except for the NAC-MPC System will not reduce safety.

2.2 Radioactive Effluent Control Program

CoC No. 1025; Appendix A, Technical Specifications for the NAC-MPC System, Amendment No. 3; Section A 5.4, Radioactive Effluent Control Program, Item c. requires the following:

An annual report shall be submitted pursuant to 10 CFR 72.44(d)(3) or 10 CFR 50.36(a).

YAEC 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. Subparagraph 10 CFR 50.36(a) requires each applicant for a license authorizing operation of a production or utilization facility to include in its application proposed technical specifications. Whereas 10 CFR 50.36a requires licensees to submit annual reports to the Commission that specify the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 12 months.

YAEC notes that the NAC-MPC 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 YAEC 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.

YAEC 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 annual report will reduce cost, and hence is in the public interest.

The staff has reviewed YAEC's exemption request and agrees with YAEC 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 program, which include comprehensive instructions for the operation and maintenance of the ISFSI, except for the NAC-MPC System; and Section A 5.4, Radioactive Effluent Control Program, to submit an annual report "pursuant to 10 CFR 72.44(d)(3) or 10 CFR 50.36(a)" are unnecessary requirements for YAEC. Thus, granting the requested exemptions from these requirements will not reduce safety at the Yankee Nuclear Power Station 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.