



June 8, 2006

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852-2738

Serial No. 05-634
NSS&L/PRW R0
Docket No. 50-245
License No. DPR-21

DOMINION NUCLEAR CONNECTICUT, INC.
MILLSTONE POWER STATION UNIT 1
REQUEST FOR EXEMPTION FROM THE RECORD KEEPING
REQUIREMENTS OF 10 CFR 50.59(D)(3), 10 CFR 50.71((C), 10 CFR 50
APPENDIX A CRITERION 1, AND 10 CFR 50 APPENDIX B CRITERION XVII

In accordance with 10 CFR 50.12, "Specific Exemptions," Dominion Nuclear Connecticut, Inc. (DNC) is hereby requesting an exemption from the record retention requirements of:

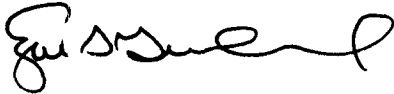
- 10 CFR 50.59(d)(3) which requires certain records be maintained until "termination of a license issued pursuant to" Part 50;
- 10 CFR 50.71(c) which requires records required by the regulations, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license;
- 10 CFR 50 Appendix A Criterion 1 which requires certain records be retained "throughout the life of the unit"; and
- 10 CFR 50 Appendix B Criterion XVII which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee.

In a letter dated July 21, 1998, Northeast Nuclear Energy Company, the Millstone Power Station licensee at that time, certified that Millstone Power Station Unit 1 (MPS1) had permanently ceased operations and that fuel was permanently removed from the reactor in accordance with the provisions of 10 CFR 50.82(a)(1)(ii). Therefore, DNC proposes to eliminate record retention requirements for MPS1 structures, systems and components (SSCs) associated with safe power generation that have been de-energized, disabled, and abandoned in place or removed from the unit. Examples of such records include procedures, strip charts, other recorder charts, and radiographs. Plant procedures would dictate specifically which records would be retained and which records would be identified for disposal to ensure operation of remaining operating systems is properly documented.

DNC is not requesting an exemption associated with record keeping requirements for storage of spent fuel in the MPS1 spent fuel pool or for systems required to support the safe storage of spent fuel.

If you should have any questions regarding this submittal, please contact Mr. Paul R. Willoughby at (804) 273-3572.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene S. Grecheck". The signature is fluid and cursive, with a long horizontal stroke at the end.

Eugene S. Grecheck
Vice President – Nuclear Support Services

Attachment

Commitments made in this letter: None

cc: U.S. Nuclear Regulatory Commission
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ATTACHMENT

**REQUEST FOR EXEMPTION FROM
RECORD KEEPING REQUIREMENTS**

**DOMINION NUCLEAR CONNECTICUT, INC.
MILLSTONE POWER STATION UNIT 1**

**REQUEST FOR EXEMPTION FROM
RECORD KEEPING REQUIREMENTS**

Exemption Request

In accordance with 10 CFR 50.12, "Specific Exemptions," Dominion Nuclear Connecticut, Inc. (DNC) is hereby requesting an exemption from the record retention requirements of:

- 10 CFR 50.59(d)(3) which requires certain records be maintained until "termination of a license issued pursuant to" Part 50;
- 10 CFR 50.71(c) which requires records required by the regulations, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license;
- 10 CFR 50 Appendix A Criterion 1 which requires certain records be retained "throughout the life of the unit"; and
- 10 CFR 50 Appendix B Criterion XVII which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee.

In a letter dated July 21, 1998, Northeast Nuclear Energy Company, the Millstone Power Station licensee at that time, certified that Millstone Power Station Unit 1 (MPS1) had permanently ceased operations and that fuel was permanently removed from the reactor in accordance with the provisions of 10 CFR 50.82(a)(1)(ii). Therefore, DNC proposes to eliminate the record retention requirements listed above for MPS1 structures, systems and components (SSCs) associated with safe power generation that have been de-energized, disabled, and abandoned in place or removed from the unit.

DNC is not requesting an exemption associated with record keeping requirements for storage of spent fuel in the MPS1 spent fuel pool or for systems required to support the safe storage of spent fuel.

Background

DNC is the licensee for Facility Operating License No. DPR-21 for MPS1. In a letter dated July 21, 1998, Northeast Nuclear Energy Company, the MPS1 licensee at that time, certified that MPS1 had permanently ceased power operations and that fuel had been permanently removed from the reactor. Although permanently shutdown, this facility is still subject to all applicable rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC).

Decommissioning of the MPS1 facility is in progress using a modified SAFSTOR approach in which the decontamination and dismantlement activities may be completed during or after the SAFSTOR period. The modified SAFSTOR decommissioning approach is described in detail in the MPS1 Post Shutdown Decommissioning Activities Report (PSDAR).

Safety related SSCs and SSCs important to safety remaining at MPS1 are associated with the spent fuel pool island where the MPS1 spent fuel is stored. Other than non-essential systems supporting the balance of plant facilities, the remaining plant equipment has been de-energized, disabled and abandoned in place or removed from the unit and can no longer be used for power generation.

In accordance with 10 CFR 50.82, DNC has up to sixty years to complete the decommissioning process once it is certified that power operations have ceased. The current schedule for MPS1 license termination is related to the termination of the license for Millstone Power Station Unit 2 (MPS2), which received approval for its renewed license on November 28, 2005. With approval of the renewal of its license, MPS2 will operate until 2035. There would be sufficient time following expiration of the MPS2 license to complete the MPS1 decommissioning activities. Consistent with the MPS1 Post Shutdown Decommissioning Activities Report, the final site survey and the license termination plan for MPS1 have not been submitted.

Discussion

NRC licensees are required to maintain records according to the NRC regulatory record keeping requirements. Pursuant to the requirements of 10 CFR 50.12, "Specific Exemptions," and 10 CFR 50.71(d)(2), DNC is filing a request for partial exemption from the NRC regulatory record keeping requirements contained in 10 CFR 50.59(d)(3); 10 CFR 50.71(c); 10 CFR 50, Appendix A; and 10 CFR 50, Appendix B. The NRC record keeping requirements at issue in the DNC request for exemption are as follows:

10 CFR 50.59(d)(3), states in part, "The records of changes in the facility must be maintained until the termination of a license issued pursuant to this part..."

10 CFR 50.71, "Maintenance of records, making of reports," subpart (c) states: Records that are required by the regulations in this part, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license.

10 CFR 50, Appendix A, "General Design Criteria for Nuclear Power Plants," establishes the necessary design, fabrication, construction, testing and performance requirements for structures, systems, and components important to safety; that is, structures, systems, and components that provide reasonable assurance that the facility can be operated without undue risk to the health and safety of the public. Specifically, DNC requests an exemption from Criterion 1, "Quality standards and records," which states in part:

"Appropriate records of the design, fabrication, erection, and testing of structures, systems, and components important to safety shall be maintained by or under the control of the nuclear power unit licensee throughout the life of the unit."

10 CFR 50, Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," establishes quality assurance requirements for the design, construction, and operation of structures, systems, and components that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public. Specifically, DNC requests an exemption from Criterion XVII, "Quality Assurance Records," which states:

"Sufficient records shall be maintained to furnish evidence of activities affecting quality. The records shall include at least the following: Operating logs and the results of reviews, inspections, tests, audits, monitoring of work performance, and materials analyses. The records shall also include closely related data such as qualifications of personnel, procedures, and equipment. Inspection and test records shall, as a minimum, identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. Records shall be identifiable and retrievable. Consistent with applicable regulatory requirements, the applicant shall establish requirements concerning record retention, such as duration, location, and assigned responsibility."

In order for an exemption to be granted from the requirements of 10 CFR 50.59(d)(3), 10 CFR 50.71(c), and 10 CFR Part 50, Appendices A and B, 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, DNC's request satisfies the above standards for the regulatory exemption.

10 CFR 50.12(a)(1) requires three criteria to be met before an exemption can be granted: first, the exemptions must be authorized by law; second, the exemption must not present an undue risk to the public health and safety; and third, it must

be consistent with the common defense and security. In addition, for the Commission to consider granting an exemption from the requirements of Part 50, special circumstances as required by 10 CFR 50.12(a)(2) must be present. The special circumstances at issue in the DNC request for exemption are 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(iii). 10 CFR 50.12(a)(2)(ii) states, "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule." 10 CFR 50.12(a)(2)(iii) states in part, "Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted..." The application of the three criteria in 10 CFR 50.12(a)(1) and the requirement of special circumstances in 10 CFR 50.12(a)(2) are addressed below:

Specific Justification for Exemptions

Specific Exemption is Authorized by Law

DNC's exemption request from the record keeping requirements of 10 CFR 50.59(d)(3), 10 CFR 50.71(c); 10 CFR 50, Appendix A; and 10 CFR 50 Appendix B is authorized by law. Specifically, 10 CFR 50.71(d)(2) allows for the granting of specific exemptions to the record retention requirements specified in the regulations.

NRC regulation 10 CFR 50.71(d)(2) states, in part: the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to §50.12 of this part, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

Based on 10 CFR 50.71 (d)(2), since the specific exemption requirements of 10 CFR 50.12 are satisfied as described below, the exemption from the record keeping requirements of 10 CFR 50.59(d)(3), 10 CFR 50.71(c); 10 CFR 50 Appendix A and 10 CFR 50 Appendix B is authorized by law.

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. In accordance with 10 CFR 50.59, de-energizing and disabling the underlying SSCs associated with the records in question has been evaluated by DNC and was determined to have no adverse impact on public health and safety. Elimination of associated records for these non-functioning SSCs has no additional impact.

The partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR 50 Appendix A; and 10 CFR 50 Appendix B for the records described

above is administrative in nature and will have no impact on any remaining decommissioning activities, continued operation of the spent fuel pool island or on radiological effluents. The exemption will merely advance the schedule for destruction of the specified records. Considering the content of these records and the operating status of the associated equipment, the elimination of these records on an advanced timetable will have no reasonable possibility of presenting any undue risk to the public health and safety.

Specific Exemption is Consistent with the Common Defense and Security

The partial exemption from the record keeping requirements of 10 CFR 50.59(d)(3), 10 CFR 50.71(c); 10 CFR 50, Appendix A; and 10 CFR 50, Appendix B for the records described above is consistent with the common defense and security as defined in the Atomic Energy Act (42 USC 2014, Definitions) and in 10 CFR 50.2 "Definitions." The partial exemption requested does not impact remaining decommissioning activities or continued operation of the spent fuel pool island and does not involve information or activities that could potentially impact the common defense and security of the United States.

Rather, the exemption requested is administrative in nature and would merely advance the current schedule for destruction of the specified records. Considering the content of these records, the elimination of these records on an advanced timetable has no reasonable possibility of having any impact on national defense or security. Therefore, the partial exemption from the record keeping requirements of 10 CFR 50.59(d)(3), 10 CFR 50.71(c); 10 CFR 50, Appendix A; and 10 CFR 50, Appendix B for the records described above is consistent with the common defense and security.

Special Circumstances

10 CFR 50.12(a)(ii)

Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The current status of MPS1, permanently defueled with all fuel being stored in the spent fuel island and with the majority of plant systems formerly supporting power operation de-energized, disabled and abandoned in place, constitutes special circumstances that allow the NRC to consider granting the partial exemption requested. Consistent with 10 CFR 50.12(a)(ii), applying the record keeping requirements of 10 CFR 50.59(d)(3), 10 CFR 50.71(c); 10 CFR 50, Appendix A; and 10 CFR 50, Appendix B to the continued storage of the records

described previously is not necessary to achieve the underlying purpose of the rules.

The underlying purpose of the subject record keeping regulations is to ensure that the licensee and the NRC staff have access to information that, in the event of an accident, incident, or condition that could impact public health and safety, would assist in the recovery from such an event and could also help prevent future events or conditions that could adversely impact public health and safety. Additionally, the NRC staff would access the records as part of the normal inspection process related to the subject SSCs.

Given the current status of MPS1 decommissioning, the records that would be subject to early destruction would not provide the licensee or the NRC with information that would be pertinent or useful. The types of records that would fall under the exemption include those associated with operating nuclear power plant SSCs that had been classified as important to safety during power operations, but that are no longer classified as important to safety, are no longer operational, have been abandoned in place or have been removed from the MPS1 site for disposal.

With the majority of the primary and secondary systems de-energized, disabled, abandoned in place or removed from the site, MPS1 no longer houses "a nuclear power reactor and associated equipment [capable of] electric power generation." Thus, with respect to the underlying intent of the record keeping rules cited above, MPS1 is not able to generate electricity and is no longer a nuclear power unit as defined in 10 CFR 50, Appendix A.

In addition, all the MPS1 spent nuclear fuel has been transferred to the spent fuel pool. Required support systems related to safely storing the spent nuclear fuel have been isolated to a spent fuel pool "island." The majority of plant systems formerly supporting power operations at MPS1, having been de-energized, disabled, abandoned in place or removed from the site, are not connected to the spent fuel pool island, and thus, are no longer "structures, systems, and components required to provide reasonable assurance the facility can be operated without undue risk to the health and safety of the public." This provides additional assurance that, with respect to the underlying intent of the record keeping rules, MPS1 is no longer a nuclear power unit as defined in 10 CFR Part 50, Appendix A.

Based on the above, application of the subject record keeping requirements to the MPS1 records specified above is not required to achieve the underlying purpose of the rule. Thus, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(ii), to grant the requested exemption.

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.

Records retention in and of itself is an expensive proposition. Moreover, records must be legible and retrievable and stored in a safe condition. The cost of storage under these restraints was understood on the part of the Commission and the nuclear industry for the current licensing basis to ensure the continued safe operation of the facility. Retention of records for structures, systems and components that are no longer classified as important to safety, are no longer operational, have been abandoned in place or have been removed from the MPS1 site for disposal represents the bulk of the expense for records retention for MPS1. This is a cost not commensurate with the present benefit (i.e., which is none). Thus, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(iii), to grant the requested exemption.

Precedents

Similar exemptions were recently granted to Rancho Seco (Docket No. 50-312), Accession No. ML043310155 and Connecticut Yankee (Docket No. 50-213), Accession No. ML052090116. These are other nuclear power plants that are undergoing decommissioning.

Conclusion

Based on the above, it is concluded that 10 CFR 50.71(d)(2) allows the Commission to grant specific exemptions to the record retention requirements specified in regulations provided the requirements of 10 CFR 50.12 are satisfied.

The requested partial exemption from the record keeping requirements of 10 CFR 50.59(d)(3), 10 CFR 50.71(c); 10 CFR 50, Appendix A; and 10 CFR 50, Appendix B will not present an undue risk to the public health and safety. The destruction of the identified records will not impact remaining decommissioning activities; plant operations, configuration, and/or radiological effluents; operational and/or installed SSCs that are quality-related or important to safety; or nuclear security.

The destruction of the identified 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.

The purpose for the record keeping regulations is to ensure that the licensee and NRC staff have access to information that, in the event of an accident, incident,

or condition that could impact public health and safety, would assist in the protection of public health and safety during recovery from the given accident, incident, or condition and also could help prevent future events or conditions adversely impacting public health and safety. Further, since most of the MPS1 SSCs that were safety-related or important to safety have been de-energized, disabled, and abandoned in place or removed from the MPS1 site, the records identified in the partial exemption request would not provide the NRC with useful information during an investigation of an accident or incident.