

July 24, 2006

Mr. Joe Lynch, Regulatory Affairs Manager
Yankee Atomic Electric Company
49 Yankee Road
Rowe, MA 01367

SUBJECT: YANKEE NUCLEAR POWER STATION - REQUEST FOR PARTIAL EXEMPTION
FROM RECORD KEEPING REQUIREMENTS (TAC NO. L52674)

Dear Mr. Lynch:

The United States Nuclear Regulatory Commission has granted the enclosed partial exemption from the record keeping Requirements of Title 10 of the Code of Federal Regulations (10 CFR) Part 50.71(c); 10 CFR Part 50, Appendix A; 10 CFR Part 50, Appendix B; and 10 CFR 50.59(d)(3), as requested in your letter dated February 15, 2006, as supplemented on March 23, 2006. The requested exemption and application of the exemption will eliminate the requirement to maintain records that are no longer necessary due to the permanently shutdown status of the facility.

A copy of this exemption is enclosed and has been forwarded to the Office of the *Federal Register* for publication. If you have any questions concerning this evaluation, please contact John Hickman at (301) 415-3017.

Sincerely,

/RA/

Keith I. McConnell, Deputy Director
Decommissioning Directorate
Division of Waste Management
and Environmental Protection
Office of Nuclear Material Safety
and Safeguards

Docket No. 50-029

Enclosure: Exemption

cc w/encl: See next page

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NAME	JHickman	TMixon	CCraig	STreby	KMcConnell
DATE	6/27/06	6/26/06	6/27/06	7/11/06	07/20/2006

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Yankee (Rowe) Nuclear Power Station Service List

cc:

Mr. Wayne A. Norton, President
Yankee Atomic Electric Company
49 Yankee Road
Rowe, MA 01367

Mr. Rocky Benner, Director of
Decommissioning
Yankee Atomic Electric Company
49 Yankee Road
Rowe, MA 01367

Mr. James Connell
ISFSI Program Manager
49 Yankee Road
Rowe, MA 01367

Mr. Joe Bourassa, Director of Site Closure
and Project Support
49 Yankee Road
Rowe, MA 01367

Mr. Joe Lynch, Regulatory Affairs Manager
Yankee Atomic Electric Company
49 Yankee Road
Rowe, MA 01367

Mr. Greg Babineau, Technical Support
and Radiation Protection Manager
Yankee Atomic Electric Company
49 Yankee Rd.
Rowe, MA 01367

Mr. Frederick Williams, ISFSI Operations
Manager
Yankee Atomic Electric Company
49 Yankee Road
Rowe, MA 01367

Mr. Robert Capstick, Director of
Government Affairs
Yankee Atomic Energy Company
49 Yankee Road
Rowe, MA 01367

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

Kelley Smith
Communication Manager/Yankee Rowe
Community Advisory Board
49 Yankee Road
Rowe, MA 01367

Alice Carson, RSCS, Inc.
12312 Milestone Manor Lane
Germantown, MD 20876

Gerald Garfield, Esquire
Day, Berry & Howard
185 Asylum Street
City Place 1
Hartford, CT 06103-3499

Ms. Leslie Greer
Assistant Attorney General
Commonwealth of Massachusetts
200 Portland Street
Boston, MA 02114

Robert Walker, Director
Radiation Control Program
Massachusetts Department of Public Health
305 South Street
Boston, MA 02130

Mr. Michael Whalen
Massachusetts Radiation Control Program
90 Washington Street
Dorchester, MA 02121

Mr. Dave Howland
Massachusetts Department of
Environmental Protection
Western Regional Office
436 Dwight Street
Springfield, MA 01103

Mr. James B. Muckerheide
Massachusetts Emergency Management
Agency
400 Worcester Road
Framingham, MA 01702-5399

Edward Flynn, Secretary
Massachusetts Executive Office of Public
Safety
One Ashburton Place
Room 2133
Boston, MA 02108

Peggy Sloan, AICP
Franklin Regional Council of Governments
425 Main Street, Suite 20
Greenfield, MA 01301-3313

David O'Brien, Commissioner
Vermont Department of Public Service
120 State Street, Drawer 20
Montpelier, VT 05602

Diane Screnci, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Mr. Marv Rosenstein, Chief
Chemicals Management Branch
Office of Ecosystem Protection
U.S. Environmental Protection Agency
One Congress Street, Suite 1100
Mail Code CPT
Boston, MA 02114

Mr. Anthony Honnellio
U.S. Environmental Protection Agency
Region 1
One Congress Street, Suite 1100,
Boston, MA 02114-2023

Mr. Jeff Fowley
Office of Regional Counsel
U.S. Environmental Protection Agency
One Congress Street, Suite 1100
Mail Code RAA
Boston, MA 02114

Ms. Bonnie Gitlin
Radiation Protection Division
Office of Radiation and Indoor Air
Office of Air and Radiation
U.S. Environmental Protection Agency
Ariel Rios Building Mail Code 66081
1200 Pennsylvania Ave, NW
Washington, DC 20460

Mr. Phillip Newkirk
Radiation Protection Division
Office of Radiation and Indoor Air
Office of Air and Radiation
U.S. Environmental Protection Agency
Ariel Rios Office Building Mail Code 66081
1200 Pennsylvania Ave, NW
Washington, DC 20460

Citizens Awareness Network
P.O. Box 83
Shelborne Falls, MA 01370

Jonathan M. Block
Attorney at Law
Main Street
P.O. Box 566
Putney, VT 05346-0566

UNITED STATES NUCLEAR REGULATORY COMMISSION

YANKEE ATOMIC ELECTRIC COMPANY

DOCKET NO. 50-029

YANKEE NUCLEAR POWER STATION

PARTIAL EXEMPTION FROM REQUIREMENTS OF 10 CFR 50.71(c); 10 CFR PART 50,

APPENDIX A; 10 CFR PART 50, APPENDIX B AND 10 CFR 50.59(d)(3)

1.0 BACKGROUND

Yankee Atomic Electric Company (YAEC, the licensee) is the licensee and holder of Facility Operating License No. DPR-3 for the Yankee Nuclear Power Station (YNPS), a permanently shutdown decommissioning nuclear plant. Although permanently shutdown, this facility is still subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC).

YNPS is a deactivated pressurized-water nuclear reactor located in northwestern Massachusetts in Franklin County, near the southern Vermont border. The YNPS plant was constructed between 1958 and 1960 and operated commercially at 185 megawatts electric (after a 1963 upgrade) until 1992. In 1992, YAEC determined that closing of the plant would be in the best economic interest of its customers. In December 1993, NRC amended the YNPS operating license to retain a "possession-only" status. YAEC began dismantling and decommissioning activities at that time. Transfer of the spent fuel from the Spent Fuel Pit (SFP) to the Independent Spent Fuel Storage Installation (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 is scheduled to be completed in 2006.

By letter dated February 15, 2006, as supplemented on March 23, 2006, YAEC filed a request for NRC approval of a partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR 50, Appendix A; 10 CFR 50, Appendix B; and 10 CFR 50.59(d)(3).

2.0 REQUEST/ACTION

YAEC is 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; (3) 10 CFR 50.59(d)(3) which requires certain records be maintained until "termination of a license issued pursuant to" Part 50; and (4) 10 CFR 50.71(c) which requires records retention for the period specified in the regulations or until license termination.

3.0 DISCUSSION

Most of these records are for SSCs that have been removed from Yankee and disposed of off-site. Disposal of these records will not adversely impact the ability to meet other NRC regulatory requirements for the retention of records [e.g., 10 CFR 50.54(a), (p), (q), and (bb); 10 CFR 50.59(d); 10 CFR 50.75(g); etc.]. These regulatory requirements ensure that records from operation and decommissioning activities are maintained for safe decommissioning, spent nuclear fuel storage, completion and verification of final site survey, and license termination.

Specific Exemption is Authorized by Law

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), if the specific exemption requirements of 10 CFR 50.12 are satisfied, the exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR Part 50, Appendix A; 10 CFR Part 50, Appendix B, and 10 CFR 50.59(d)(3) is authorized by law.

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

With all the spent nuclear fuel transferred to the Yankee ISFSI, there is insufficient radioactive material remaining on the Yankee 10 CFR Part 50 licensed site to pose any significant potential risk to the public health and safety under any credible event scenario. This provides additional assurance that the partial exemption for the specified hard copy records will not present any reasonable possibility of undue risk to the public health and safety.

The partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR Part 50, Appendix A; 10 CFR Part 50, Appendix B; and 10 CFR 50.59(d)(3), for the hard copy records described above is administrative in nature and will have no impact on any remaining decommissioning activities or on radiological effluents. The exemption will merely advance the schedule for destruction of the specified hard copy records. Considering the content of these records, 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 Consistent With the Common Defense and Security

The partial exemption from the record keeping requirements of 10 CFR 50.71(c);

10 CFR Part 50, Appendix A; 10 CFR Part 50, Appendix B; and 10 CFR 50.59(d)(3), for the types of hard copy 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 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 hard copy 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 recordkeeping requirements of 10 CFR 50.71(c); 10 CFR Part 50, Appendix A; 10 CFR Part 50, Appendix B; and 10 CFR 50.59(d)(3), for the types of hard copy records described above is consistent with the common defense and security.

Special Circumstances

NRC regulation 10 CFR 50.12(a)(2) states, in part:

(2) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever - -

(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.

Given the status of Yankee decommissioning, special circumstances exist which will allow the NRC to consider granting the partial exemption requested. Consistent with 10 CFR 50.12(a)(2)(ii), applying the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR Part 50,

Appendix A; 10 CFR Part 50, Appendix B; and 10 CFR 50.59(d)(3) to the continued storage of the hard copy records described previously is not necessary to achieve the underlying purpose of the rules.

The NRC's Statements of Consideration for final rulemaking, effective July 26, 1988 (53 FR 19240 dated May 27, 1988) "Retention Periods for Records," provides the underlying purpose of the regulatory record keeping requirements. In response to several public comments leading up to this final rulemaking, the NRC supported the need for record retention requirements by stating that records:

... must be retained ... so that they will be available for examination by the Commission in any analysis following an accident, incident, or other problem involving public health and safety ... [and] ... for NRC to ensure compliance with the safety and health aspects of the nuclear environment and for the NRC to accomplish its mission to protect the public health and safety.

The underlying purpose of the subject record keeping regulations is to ensure that the NRC staff has 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.

Given the current status of Yankee decommissioning, the records that would be subject to early destruction would not provide the NRC with information that would be pertinent or useful. The types of records that would fall under the exemption would include hard copy radiographs, vendor equipment technical manuals, and recorder charts 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, or have been removed from the Yankee site for disposal.

As indicated in the excerpts cited above under the heading "NRC Regulatory record keeping Requirements to be Exempted," the regulations include wording that states that records of activities involving the operation, design, fabrication, erection, and testing of SSCs that are classified as quality-related and/or important to safety should be retained "*until the Commission terminates the facility license*" or "*throughout the life of the unit.*" As stated in 10 CFR Part 50, Appendix A:

A nuclear power unit means a nuclear power reactor and associated equipment necessary for electric power generation and includes those 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.

With the majority of the primary and secondary systems removed for disposal, the Yankee site no longer houses "a nuclear power reactor and associated equipment necessary for electric power generation." Thus, with respect to the underlying intent of the record keeping rules cited above, Yankee is not able to generate electricity and is no longer a nuclear power unit as defined in 10 CFR Part 50, Appendix A.

In addition, with all the spent nuclear fuel having been transferred to the ISFSI, there is not sufficient radioactive material inventory remaining on the 10 CFR Part 50 licensed site to pose any significant potential risk to the public health and safety. Thus, there are no longer any "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 cited above, Yankee is no longer a nuclear power unit as defined in 10 CFR Part 50, Appendix A.

Based on the above, it is clear that application of the subject record keeping requirements to the Yankee hard copy 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)(2)(ii), to grant the requested exemption.

4.0 CONCLUSION

The staff has determined 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 staff has determined that the requested partial exemption from the record keeping requirements of 10 CFR 50.71(c); 10 CFR Part 50, Appendix A; 10 CFR Part 50, Appendix B; and 10 CFR 50.59(d)(3), will not present an undue risk to the public health and safety. The destruction of the identified hard copy 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 staff has determined that the destruction of the identified hard copy 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 staff has determined that the purpose for the record keeping regulations is to ensure that the NRC Staff has access to information that, in the event of any 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 Yankee SSCs that were safety-related or important-to-safety have

been removed from the plant and shipped for disposal, the staff agrees that the records identified in the partial exemption would not provide the NRC with useful information during an investigation of an accident or incident.

Therefore, the Commission grants YAEC the requested partial exemption to the record keeping requirements of 10 CFR 50.71(c); 10 CFR Part 50, Appendix A; 10 CFR Part 50, Appendix B; and 10 CFR 50.59(d)(3), as described in the February 15, 2006, letter as supplemented on March 23, 2006.

Pursuant to 10 CFR Part 51.31, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as documented in *Federal Register* notice Vol. 71, No. 127, dated July 3, 2006.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this **20th** day of July, 2006.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Keith I. McConnell, Deputy Director
Decommissioning Directorate
Division of Waste Management
and Environmental Protection
Office of Nuclear Material Safety
and Safeguards