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Michael J. Colomb
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BVY 10-004

January 21, 2010

ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

**Subject: Request for Exemption from Physical Security Requirements
Vermont Yankee Nuclear Power Station
Docket No. 50-271
License No. DPR-28**

Dear Sir or Madam,

In accordance with the requirements of 10CFR73.5, "Specific Exemptions," Entergy Nuclear Operations requests the Nuclear Regulatory Commission (NRC) approve an exemption from specific requirements of the new portions of 10CFR73.55, "Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage," for the Vermont Yankee Nuclear Power Station (VY). The requested exemption would extend the compliance date for implementation of certain new security requirements issued by NRC in a Final Rule dated March 27, 2009.

Pursuant to the Final Rule, the new security requirements must be implemented by March 31, 2010. VY has evaluated these new requirements and determined that many of the requirements can be implemented by the March 31, 2010 compliance date. However, specific parts of the new requirements will require more time to implement, since they involve significant upgrades to the security systems. Attachment 1 to this letter provides details regarding the specific provisions of the new rule for which an exemption is requested and an Environmental Assessment.

VY is requesting an extension from the March 31, 2010 implementation date to [], for these specific requirements based upon the time required to design and construct modifications of this scope, considering impediments to construction such as permit delays, procurement lead times and winter weather conditions. VY will also be conducting a Spring 2010 Refueling Outage that will have significant impact on site resources. VY will maintain the current site physical security protection program in accordance with 10CFR73.55 and the Physical Security Plan during the period of the requested exemption. The current site security program and the new security enhancements that will be implemented by March 31, 2010 will provide continued assurance of public health and safety and common defense and security.

SC01A
NR

VY is requesting approval of this scheduler exemption by March 15, 2010, to otherwise allow time to prepare and implement compensatory measures if the exemption is not granted. The proposed exemption is requested to be effective upon issuance.

This letter has been edited for public disclosure. A security-related version of this letter requesting withholding from public disclosure (BVY 10-003) was submitted to NRC on January 21, 2010.

This letter contains no new Regulatory Commitments.

Should you have any questions concerning this submittal, please contact Mr. Patrick Ryan at (802) 258-5838.

Sincerely,



[MJC/JTM]

Attachment: 1. Request for Exemption from Physical Security Requirements

cc: Mr. Samuel J. Collins, Region 1 Administrator
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406-1415

Mr. James S. Kim, Project Manager
U.S. Nuclear Regulatory Commission
Mail Stop O 8 C2A
Washington, DC 20555

USNRC Resident Inspector
Entergy Nuclear Vermont Yankee
320 Governor Hunt Road
Vernon, Vermont 05354

Mr. David O'Brien, Commissioner
VT Department of Public Service
112 State Street – Drawer 20
Montpelier, Vermont 05620

Attachment 1

Vermont Yankee Nuclear Power Station Request for Exemption from Physical Security Requirements

A. Background

The Nuclear Regulatory Commission (NRC) issued a Final Rule for new security requirements in the Federal Register dated March 27, 2009. Pursuant to 10CFR73.55(a)(1) of the Final Rule, the new security requirements in 10CFR73.55 must be implemented by March 31, 2010. Vermont Yankee (VY) has evaluated these new requirements and is aggressively pursuing full compliance. However, it has been determined that significant physical modifications and new installations will be required and additional time beyond the March 31, 2010 date is requested to complete certain portions of these security modifications.

B. Security System Upgrades

As part of compliance with the new security regulations, Entergy is pursuing significant new protective strategies [

]. Additionally, significant portions of the upgrades and modifications require construction activities in the outside areas of the site.

Some significant new requirements in the revised 10CFR73.55 include requiring each licensee to design, construct, install and maintain physical barriers as necessary to control access into facility areas [

]. Meeting these new requirements will include providing physical barriers for certain locations and providing appropriate barriers, access controls and monitoring capability within the owner controlled area, isolation zones, and protected areas. [

]

VY will employ a new strategy to detect and interdict adversaries prior to reaching the Protected Area. [

]. Personnel access control will be included through these new barriers [provided for oversight. The new controlled area created by these barriers will be referred to as the Security Owner Controlled Area (SOCA).

Design activities, requisitions, contracts, material acquisition, planning, scheduling and installation work are all well underway to support this major project. The new Part 73 provisions required to be implemented by March 31, 2010, will be completed by the required compliance date except for the items related to the proposed exemptions described below. These items, subject to the request for an exemption, will be implemented no later than []. VY will then be in full compliance with the Final Rule. This date was chosen with approximately one month of contingency added to our current schedule to account for several uncertainties.

C. Proposed Exemptions

VY is requesting a scheduler exemption from the March 31, 2010 implementation date specified in 10CFR73.55 to [] for implementation of certain aspects of the new security requirements. This exemption will provide VY sufficient time for installation, testing and training activities to be completed, considering initial permit delays, inclement winter weather construction delays and procurement delays. Additionally, installation, testing and training on the new security equipment and features coincides with a scheduled spring refueling outage. The exemption will allow adequate time to install and fully test new and upgraded equipment that will allow VY to meet or exceed the new regulatory requirements. VY's current security program and the portions of the new security program that will be in place by March 31, 2010 will provide continued assurance of public health and safety and common defense and security during the exemption period. Accordingly, VY believes the requested exemption is authorized by law and will not endanger life or property or the common defense and security in accordance with 10CFR73.5, Specific Exemptions.

Item 1

Regulation:

[

]

Issue:

[

]

Item 2

Regulation:

[

]

Issue:

[

]

D. Basis for Proposed Exemption

VY is requesting a scheduler exemption from []. The basis for requesting an exemption of the March 31, 2010 date to [] is based upon completion of installation as well as testing and training of security personnel on the new features. Using established site processes, the duration (scoping, design, procurement, installation, testing, training, turnover) of a project of this magnitude is typically 12 to 18 months. This time frame is being significantly compressed and further challenged by winter weather construction conditions and the impact of a Spring refueling outage on resources.

VY is expediting the installation of modifications to the extent practicable, with due consideration to our priority for safety of personnel involved with the installation activities and the required quality of the modifications we are undertaking. The following is a more detailed description of some of the constraints we have been or are working to with regard to this project.

Permits

Section 248 of Title 30, Vermont Statutes Annotated, requires that the Vermont Public Service Board (PSB) issue a Certificate of Public Good (CPG) to a public utility, including Entergy Nuclear Vermont Yankee, LLC, prior to commencement of site preparation or construction of an electric-generation facility. Although the Vermont Yankee Nuclear Power Station was constructed before enactment of Section 248, the PSB has ruled that any "substantial change" to a generation facility built before Section 248's enactment (and to facilities that hold a Section 248 CPG – which VY does) requires a CPG before site preparation or construction of a substantial change to the facility. The PSB defines "substantial change" to be "any" change in a generation facility that "may" result in a "significant impact" with respect to any of the criteria that Section 248 requires the Board to consider before issuing a CPG. VY's management and legal team reviews and recommends which projects fall under this requirement.

The application to the Vermont PSB for a CPG for the proposed security modifications to comply with the new rule was submitted to the state on July 31, 2009 with a requested CPG issuance date of September 1, 2009. The Vermont PSB issued a Board Order with accompanying CPG on October 29, 2009. This delay in issuance of the CPG resulted in a late start of site construction activities at VY which resulted in significant outside work being extended into the winter season.

Procurement

Some long lead time items will not be delivered to the site in time for installation and testing to meet the March 31, 2010 deadline. Specifically, the new security computer system components are currently estimated to be delivered to the site in the []. Allowing for installation and testing of the new system will extend that portion of the project out to []. VY is trying to expedite these items, but the procurement schedule cannot be moved sufficiently to support the March 31, 2010 date.

Weather

VY is located in the state of Vermont and subject to significant winter weather causing outside construction difficulties, including cold temperatures, significant snowfall and frozen ground conditions. These conditions present considerable challenges to the accomplishment of installation activities and also provide unique safety hazards to the personnel involved with the project. The harsh winter conditions are also difficult to plan for, as the timing and duration of the winter season in this area is unpredictable, but typically will significantly impact the outdoor construction activities from December through April.

The State of Vermont delay in issuance of a CPG for our planned security upgrades and modifications significantly delayed the start of site construction activities. Due to this delay in the start of construction activities, our available period to install site upgrades and modifications in order to fully comply with the new security rule requirements has been shortened substantially and pushed back into the hazardous winter weather period for our region.

Outage

VY has a planned refueling outage commencing in April 2010, which typically includes large numbers of temporary outage workers and materials transiting on and off the site. Personnel and equipment to support the refueling outage typically mobilize well ahead of the actual outage start date. Many of the new security upgrades will involve construction activities related to additional perimeter fencing and access points. Because our construction activities started late due to delay of the state CPG and are being further delayed due to inclement winter weather and procurement of specialized equipment, the completion and testing of new features will encroach upon the refueling outage period. It is anticipated that the refueling outage will further delay certain remaining installation and system testing activities as the outage will have a significant impact on station resources.

Schedule

The attached table provides a high level project schedule for the physical modifications associated with the specific items for which an exemption is requested. This schedule has been developed based upon current information and anticipated impediments to completion of construction activities and commissioning of new equipment and features. Also included is a site overview drawing showing the proposed SOCA installation.

E. Environmental Assessment

VY is requesting an exemption in accordance with 10CFR73.5, Specific Exemptions. The requested exemption is scheduler in nature and would defer the compliance date for two specific provisions of 10CFR73.55 from March 31, 2010 to []. The proposed exemption is needed to allow additional time for the installation, testing and training of security modifications.

VY's current security program and the new requirements that will be implemented by March 31, 2010, will provide continued assurance of public health and safety and common defense and security.

Deferral of the compliance date for two specific provisions of 10CFR73.55 is a scheduler change only and itself does not result in any physical changes to systems, structures or components, or land use at the VY site. The deferral of the compliance date does not involve:

- any change to the types, characteristics or quantities of non-radiological effluents discharged to the environment
- any changes to liquid or gaseous radioactive effluents discharged to the environment
- any change in the type or quantity of solid radioactive waste generated
- any change in occupational dose under normal or design basis accident conditions
- any change in the public dose under normal or design basis accident conditions
- any land disturbance

Conclusion:

There is no significant radiological environmental impact associated with the proposed scheduler exemption. The proposed exemption will not affect non-radiological plant effluents nor affect any historical sites.



Vermont Yankee - Project Management

Data Date Jan-06-10

Current Date Jan-07-10

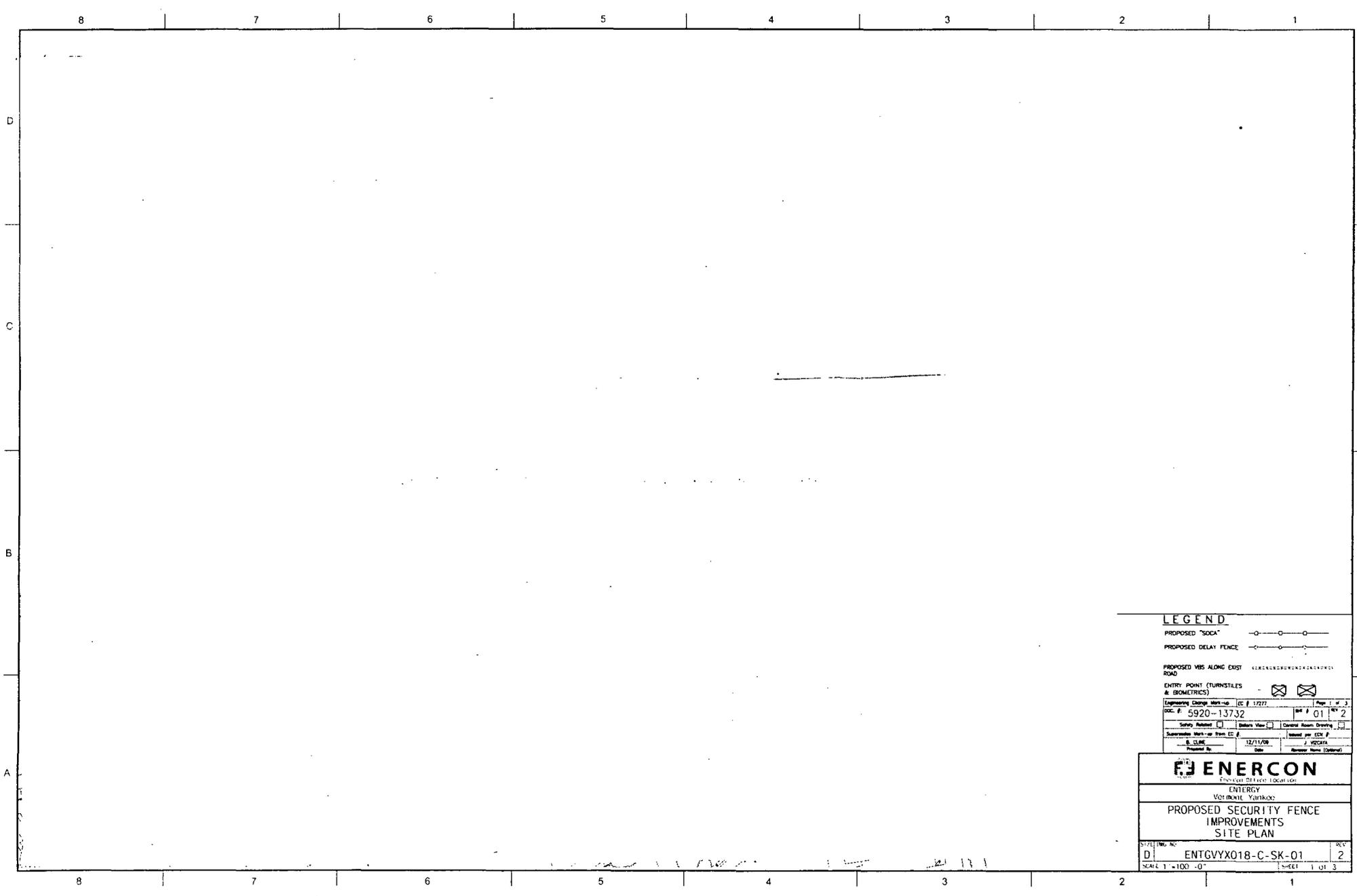
Activity Name	Finish	2010											
		Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug

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◆ Milestone
△ LEVEL TWO

Project Schedule





LEGEND

PROPOSED "SOCA"

PROPOSED DELAY FENCE

PROPOSED VMS ALONG EXIST ROAD

ENTRY POINT (TURNSTILES & BIOMETRICS)

Engineering Change Mark-up	CC # 17272	Page 1 of 3
Doc. # 5920-13732	Rev # 01	Rev 2
Safety Related <input type="checkbox"/>	Station View <input type="checkbox"/>	Control Room Drawing <input type="checkbox"/>
Superseded Mark-up from EC #	Issued per ECR #	
By: B. CLINE	Date: 12/11/08	Checked by: J. HICKATA
Prepared by:		Review Name (Optional):

ENERCON
ENERGY
ENVIRONMENTAL & LOCATION

ENERGY
VOLUNTARY YANKEE

**PROPOSED SECURITY FENCE
IMPROVEMENTS
SITE PLAN**

SIZE/NO.:	REV:
D ENTGVYX018-C-SK-01	2
SCALE 1"=100'-0"	SHEET 1 OF 3