

MAINE YANKEE
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November 29, 2010
MN-10-014 RA-10-042

Mr. Doug Weaver
Deputy Director for Licensing
and Inspection Directorate
Division of Spent Fuel Storage and
Transportation
Mail Stop: 0-11 FI 1
Washington, DC 20555-001

- References:
- (a) License No. DPR-36 (Docket No. 50-309, 72-030)
 - (b) Maine Yankee Letter to USNRC dated March 30, 2010 "Request for Exemption from specific 10 CFR 73 Requirements" (MN-10-008)
 - (c) USNRC Letter to Maine Yankee dated August 2, 2010 "Applicability of the Revised 10 CFR 73.55 Rule to the Maine Yankee Independent Spent Fuel Storage Installation (TAC No. L24436)
 - (d) Power Reactor Security Rule (74 Federal Register (FR) 13926) Effective May 26, 2009 for implementation March 31, 2010
 - (e) USNRC Letter to Maine Yankee EA-02-104, Issuance of Order for Interim Safeguards and Security Compensatory Measures, dated October 16, 2002
 - (f) USNRC Letter to Maine Yankee EA-03-097, Issuance of Additional Security Measures Associated with Access Authorization, dated August 18, 2004
 - (g) USNRC Letter to Maine Yankee, Issuance of Amendment and Exemption from Requirements of 10 CFR 73.55, dated July 25, 2001

Subject: Request for Exemption from Specific 10 CFR 73 Requirements

Pursuant to 10 CFR 73.5, Maine Yankee requests NRC approval of an exemption from specific requirements of 10 CFR Part 73 Requirements for the Maine Yankee Independent Spent Fuel Storage Installation (ISFSI).

The NRC issued a Final Rule for new establishing revised Power Reactor Security Requirements in the Federal Register dated March 27, 2009 (Reference (d)). Pursuant to the Final Rule, the new security requirements must be implemented by March 31, 2010. Maine Yankee had been informed by knowledgeable officials in the nuclear industry and NRC that the rule would not apply to stand alone ISFSI's that operate under a Part 50 General License. However, on March 30, 2010, after discussions with certain officials indicating a different expectation, Maine Yankee requested an exemption that would extend the date for implementation required by the new rule from March 31, 2010 to December 31, 2010 (Reference (b)) to allow it adequate time to evaluate the new rule and implement its provisions as needed.

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On August 2, 2010, the NRC issued a letter to Maine Yankee (Reference (c)) providing clarification on the applicability of the revised power reactor security regulations to a Part 50 licensee undergoing decommissioning or a Part 50 licensee, such as Maine Yankee, that has possessing only a general licensed Independent Spent Fuel Storage Installation (ISFSI). As discussed in the July 20, 2010 NRC webinar on this subject, these Part 50 licensees may not have recognized the applicability of the revised Power Reactor Security regulations to their facility. The NRC noted in the August 2, 2010 letter that there are currently no security or health and safety gaps at these facilities that may not be in compliance with the revised 10 CFR 73.55 requirements because the security programs at these facilities meet the baseline requirements of the previous version of 10 CFR 73.55 and also meet the requirements imposed in subsequent security orders. The letter also stated that exemptions granted to requirements in the previous version of 10 CFR 73.55 (Ref. 4) automatically transfer, provided the language in 10 CFR 73.55 has not changed substantively. The NRC requested that any necessary responses, exemption requests, or amendments must be submitted 120 days after receipt of this letter (Reference (c)).

In response to the August 2, 2010 NRC letter, Maine Yankee has made a good-faith attempt to interpret and review and implement the new rule. This letter provides the necessary response to the NRC letter and includes an exemption request in Attachment A for those portions of the new 10 CFR 73.55 rule that are either not applicable or would cause an undue burden to a stand-alone ISFSI such as Maine Yankee. Also provided in Attachment B is a compliance matrix that shows how Maine Yankee either complies with the new rule and applicable orders or needs an exemption. The existing exemption to portions of the old 10 CFR 73.55 is also noted in the matrix. Changes to the Physical Security Plan and implementing procedures will be made within 120 days after the exemption request is approved by the NRC.

In the Statements of Consideration for the Power Reactor Security Rule (Reference (d) page 13958), the following statements are made with regard to § 72.212 references in 10 CFR 72.212 to appropriate revised paragraph designations in § 73.55:

No change to the substantive requirements of this section is intended. Conforming changes were made to preserve the current requirements for general licenses issued per § 72.210 for the storage of spent fuel in an ISFSI. The Commission has initiated a separate rulemaking to revise the requirements for the security of ISFSIs and thus prefers to maintain the current regulatory structure until that rulemaking is completed.

The changes made to § 72.212 are intended to preserve those conditions and exceptions since these ISFSI licensees are not the subject of the rulemaking.

Thus Maine Yankee's intent in submitting this exemption request is to maintain the current regulatory structure prior to the revised power reactor security regulations and does not propose changes to the Physical Security Plan other than simple regulatory reference changes that can be implemented under 10 CFR 50.54(p).

Pursuant to 10 CFR 73.5, "Specific Exemptions," Maine Yankee is requesting NRC approval of an exemption from certain requirements of 10 CFR 73.55, "Requirements for Physical Protection of licensed Activities in Nuclear Power Reactors Against Radiological Sabotage." Attachment A, "Exemption Request," identifies the specific requirements in the regulations that are the subject of the exemption request and contains the associated justifications.

Attachment A and B provide security-related sensitive unclassified non-safeguards information (SUNSI) that Maine Yankee is requesting be withheld from public disclosure in accordance with 10 CFR 2.390. This information contains quotes from or references to information that the NRC previously identified as SUNSI. In accordance with 10 CFR 2.390(b), an affidavit supporting our request to withhold this security-related information is enclosed (Enclosure 2)

Maine Yankee has determined that its current security program will provide continued assurance of protection of the public health and safety and common defense and security. Accordingly, the requested exemption is authorized by law and will not endanger life or property or the common defense and security in accordance with 10 CFR 73.5.

Enclosure 1 provides the Environmental Assessment for the exemption request as required by 10 CFR 51.

This submittal contains no new regulatory commitments or revisions to existing commitments. Maine Yankee believes that, to the extent necessary, all needed exemptions are contained in this exemption request. If, however, the NRC believes differently, we reserve the right to apply for additional exemptions in the future.

If you have any questions or require additional information, please contact me at jconnell@3yankees.com.

Sincerely,



James Connell
Vice President
Maine Yankee Atomic Power Company
860-573-4001

Copy Complete Package: Document Control Desk, US NRC

C w/o Attachments: Mr. William Dean, Administrator, Region I
Ms. Judy Joustra, Region I
Mr. Mark Roberts, Region I
Mr. John Goshen, Project Manager, USNRC
Mr. Pat Dostie, State of Maine
Mr. Jay Hyland, State of Maine

Enclosures

1. Environmental Assessment
2. Affidavit of James Connell

Attachments

- A. Exemption Request
- B. Compliance Matrix

ENCLOSURE 1
MAINE YANKEE INDEPENDENT SPENT FUEL STORAGE INSTALLATION
REQUEST FOR EXEMPTION FROM REQUIREMENTS FOR PHYSICAL
PROTECTION OF LICENSED ACTIVITIES IN NUCLEAR POWER REACTORS
AGAINST RADIOLOGICAL SABOTAGE

ENVIRONMENTAL ASSESSMENT

1. Describe any change to the types, characteristics, or quantities of non-radiological effluents discharged to the environment as a result of the proposed exemption.

There are no expected changes in the types, characteristics, or quantities of non-radiological effluents discharged to the environment associated with the proposed exemption. This application is associated with implementation of revised security regulations. The proposed exemptions from the revised regulations do not involve changes to the design basis requirements for the structures, systems and components (SSCs) at the Maine Yankee ISFSI, that function to limit the release of non-radiological effluents during and following postulated accidents. The SSCs associated with limiting the release of offsite non-radiological effluents will continue to perform their functions, and as a result; there is no significant non-radiological effluent impact resulting from the requested exemptions. There are no materials or chemicals introduced into the plant by this action that could affect the characteristics or types of non-radiological effluents. In addition, the method of operation of non-radiological waste systems will not be affected.

2. Describe any changes to liquid radioactive effluents discharged as a result of the proposed exemption.

There are no liquid radioactive effluents from the Maine Yankee ISFSI and there are no expected changes to the liquid radioactive effluents that will result from the proposed exemptions. Security provisions at the ISFSI established under the prior regulation and orders will continue to be implemented. The exemption will not result in changes to the design basis requirements for the SSCs at the Maine Yankee ISFSI related to liquid radiological effluents.

3. Describe any changes to gaseous radioactive effluents discharged as a result of the proposed exemption.

There are no gaseous radioactive effluents from the Maine Yankee ISFSI and there are no expected changes to the gaseous radioactive effluents that will result from the proposed exemptions. These exemptions will not result in changes to the design basis requirements for the SSCs at the Maine Yankee ISFSI that function to limit the release of gaseous radiological effluents during and following postulated accidents.

4. Describe any change in the type or quantity of solid radioactive waste generated as a result of the proposed exemption.

There are no expected changes in the type or quantity of solid radioactive waste generated as a result of the proposed exemption. The exemptions will not result in changes to the design basis requirements for the SSCs at the Maine Yankee ISFSI that function to limit the release of solid waste during and following postulated accidents.

5. What is the expected change in occupational dose as a result of the proposed exemption under normal and design basis accident conditions?

Under normal operation there would be no expected radiological impact on either the workforce or the public. There are no other expected changes in normal occupational operating doses that will result from the proposed exemptions.

6. What is the expected change in the public dose as a result of the proposed change under normal and design basis accidents (DBA) conditions?

Dose to the public during normal operations will not be changed by the proposed security exemptions.

7. What is the impact to land disturbance for the proposed security changes?

None of the proposed security changes associated with the exemptions are located in areas that are known to have cultural or historical significance.

Conclusion:

There is no significant radiological environmental impact associated with the proposed security exemptions at the Maine Yankee ISFSI. These proposed changes will not affect any historical sites nor will they affect non-radiological plant effluents.

ENCLOSURE 2
Affidavit of James Connell

a) I am the Manager of the Independent Spent Fuel Storage Installation (ISFSI) for Maine Yankee Atomic Power Company (MYAPC), and as such have the responsibility of reviewing the proprietary and confidential information sought to be withheld from public disclosure in connection with our license to store spent nuclear fuel and greater than Class C radioactive waste. I am authorized to apply for the withholding of such proprietary and SUNSI information from public disclosure on behalf of MYAPC.

b) I am making this affidavit in conformance with the provisions of 10 CFR 2.390 of the regulations of the Nuclear Regulatory Commission (NRC), and in conjunction with MYAPC's request for withholding, which is accompanied by this affidavit.

c) I have knowledge of the criteria used by MYAPC in designating information as proprietary or sensitive unclassified non-safeguards information (SUNSI).

d) By this submittal, Maine Yankee seeks to protect from disclosure certain SUNSI information contained in this document. Attachments A and B contain security related information that is not public. This affidavit discusses the bases for withholding Attachments A and B, as indicated therein, from public disclosure. The exemption request and the compliance matrix contain SUNSI that MYAPC has previously determined to be withheld from public disclosure.

e) Pursuant to the provisions of 10 CFR 2.390(b)(4), the following is furnished for consideration by the NRC in determining whether the SUNSI information sought to be protected should be withheld from public disclosure.

1. The information for which protection from disclosure is sought has been held in confidence by MYAPC. This information is security-related, and MYAPC seeks to protect it as such. The security related information is found in the documents listed in paragraph (d), above. MYAPC has separated the SUNSI from non-proprietary information in the cover letter. Therefore, MYAPC seeks to protect the information in Attachments A and B from public disclosure.

2. The SUNSI information was identified as SUNSI by MYAPC using the guidance in NRC Regulatory Issue Summary (RIS) 200526, "Control of Sensitive Unclassified Non-Safeguards Information Related to Nuclear Power Reactors."

3. The NRC has previously determined that the SUNSI should be withheld from public disclosure.

4. The information sought to be withheld is being provided to the NRC in confidence, and, under the provisions of 10 CFR 2.390, it is to be received in confidence by the NRC.

5. The information sought to be withheld is not available in public sources, to the best of MYAPC's knowledge and belief.

For all of the reasons discussed above, MYAPC requests that the identified
SUNSI information be withheld from public disclosure.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 29, 2010:



Mr. James Connell
Vice President / ISFSI Manager
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Notary Public
my commission expires 8/13/2017.