

SAFEGUARDS INFORMATION

YANKEE ATOMIC ELECTRIC COMPANY

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BYR 2010-028

Doug Weaver
Division of Spent Fuel Storage and Transportation
Deputy Director for Licensing and Inspection Directorate
Mail Stop: O-11F1
Washington, DC 20555-0001

Reference: License No. DPR-3 (Docket No. 50-029)
Docket No. 72-0031

Re: 10 CFR 73.55

Yankee Nuclear Power Station Response to Revised Power Reactor Security Rule and Request for Exemption

On August 2, 2010, the NRC issued a letter to Yankee Atomic Electric Company (YAEC) (Ref. 1) providing clarification on the applicability of the revised power reactor security regulations to a Part 50 licensee undergoing decommissioning or a Part 50 licensee that has 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 Rule 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 current 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 in subsequent security orders. The applicable security orders for the Yankee Nuclear Power Station (YNPS) are Order EA-02-104 (Ref. 2), and Order EA-03-097 (Ref. 3). The letter (Ref 1) 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.

YAEC has made a good-faith attempt to interpret and implement the new rule. This letter provides the necessary response to the NRC letter (Ref. 1) and includes an exemption request in Enclosure 1 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. Also provided in Enclosure 2 is a compliance matrix that shows how YAEC either complies with the new rule and applicable orders or needs an exemption. The existing exemption to those 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 is approved by the NRC.

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In the statements of consideration for the Power Reactor Security Rule (Ref. 5, page 13958), the following statements are made with regard to § 72.212 references 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 YAEC's intent in submitting this exemption request is to maintain the current regulatory structure prior to the Power Reactor Security Rule and therefore does not propose any 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," YAEC 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." Enclosure 1, "Exemption Request," identifies the specific requirements in the regulations that are the subject of the exemption request and contains the associated justifications.

Enclosures 1 and 2 provide security-related information that YAEC is requesting be withheld from public disclosure in accordance with 10 CFR 2.390. The cover letter when detached from Enclosures 1 and 2 does not contain security-related information.

Enclosures 2, Attachments 2,3,4 and 5 and Enclosure 3 contain Safeguards Information and need to be controlled according to 10 CFR 73.21.

We are requesting approval of the exemption. If you should have any questions regarding this submittal, please contact me at (413) 424-5261.

Sincerely,


Robert Mitchell
ISFSI Manager

11/30/2010
Date

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References:

- 1) E. Benner (U.S. Nuclear Regulatory Commission) Letter to R. Mitchell, ISFSI Manager, YAEC, "Applicability of the Revised 10 CFR 73.55 Rule to the Yankee Atomic Independent Spent Fuel Storage Installation (TAC NO. L24437)", dated August 2, 2010
- 2) Letter USNRC to YNPS, "Issuance of Order for the Interim Safeguards and Security Compensatory Measures for YNPS" dated October 16, 2002. (EA-02-104) **(SGI)**
- 3) Margaret V. Federline (U.S. Nuclear Regulatory Commission) Letter to Richard Kacich, "Issuance of Order for Implementation of Additional Security Measures Associated With Access Authorization for Yankee Rowe Nuclear Power Station," dated August 18, 2004 (EA-03-097) **(SGI)**
- 4) J. B. Hickman (U.S. Nuclear Regulatory Commission) Letter to James A. Kay, "Yankee Nuclear Power Station – Issuance of Amendment and Exemption From Requirements of 10 CFR 73.55," dated March 13, 2002 **(SGI)**
- 5) Power Reactor Security Rule (74 Federal Register (FR) 13926) Effective May 26, 2009 for implementation March 31, 2010

Enclosure: (1) Exemption Request - Security-Related Information

Enclosure: (2) Compliance Matrix – Security-Related Information

Attachments to Enclosure (2)

1. 10 CFR 72.212, "Conditions of General License issued under Paragraph 10 CFR 72.210"
2. Letter, USNRC to YNPS, "Issuance of Amendment and Exemptions from the requirements of 10 CFR 73.55 (Amendment 156) (TAC No. MB0209) dated March 13, 2002. **(SGI)**
3. Letter, USNRC to YNPS, Issuance of Orders for implementation of Additional Security Measures Associated with Access Authorization for YNPS" dated August 18, 2004. (EA-03-097) **(SGI)**
4. Letter USNRC to YNPS, "Issuance of Order for the Interim Safeguards and Security Compensatory Measures for YNPS" dated October 16, 2002. (EA-02-104) **(SGI)**
5. Physical Security Plan for Yankee Rowe Independent Spent Fuel Storage Installation, Revision 18 dated November 28, 2006. **(SGI)**

Enclosure: (3) NRC order for Security ICMs – YAEC Implementation Matrix including related USNRC and YNPS Correspondence **(SGI)**

cc: W. M. Dean, NRC Region I Administrator w/o encl.
J. Joustra, Chief, Decommissioning Branch, NRC Region I w/o encl.
J. Goshen, NRC Project Manager, Yankee Nuclear Power Station w/o encl.
R. Gallagher, Director, MA DPH, Radiation Control Program w/o encl.

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