

Maine Yankee

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December 17, 2012

OMY-12-073

10 CFR 72.4 and 10 CFR 72.30

10 CFR 50.4 and 10 CFR 50.82

ATTN: Document Control Desk
Director, Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555 - 0001

Maine Yankee Atomic Power Company
Maine Yankee Independent Spent Fuel Storage Installation
NRC License No. DPR-36 (NRC Docket Nos. 50-309 and 72-30)

Subject: Independent Spent Fuel Storage Installation Decommissioning Funding Plan

On June, 17, 2011, the U.S. Nuclear Regulatory Commission (NRC) published a final rule that amended its regulations regarding decommissioning planning, including changes to the information required to be contained in a licensee's decommissioning cost estimate (DCE) and the financial assurance requirements for Independent Spent Fuel Storage Installation (ISFSI) decommissioning funding. In accordance with 10 CFR 72.30(b), Maine Yankee Atomic Power Company (MY) is providing to the NRC for review and approval a decommissioning funding plan for the Maine Yankee ISFSI. In the final rule, 10 CFR 50.82(a)(4)(i) was revised to include a requirement to incorporate a cost estimate for the management of irradiated fuel. To satisfy this new requirement, MY is providing a cost estimate for the costs of managing irradiated fuel and Greater than Class C (GTCC) waste.

MY complies with the requirements of 10 CFR 72.30(b)(1) through (b)(6), as follows.

10 CFR 72.30(b)(1) requires the licensee to provide "information on how reasonable assurance will be provided that funds will be available to decommission the ISFSI." In addition, 10 CFR 72.30(b)(4) requires the licensee to provide a description of the method of assuring funds for decommissioning from 10 CFR 72.30(e), including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. MY has established an account within its Nuclear Decommissioning Trust (NDT) entitled, "ISFSI Radiological Decom," that segregates the funds for decommissioning of the ISFSI from the larger balance of funds for ongoing management of irradiated fuel and GTCC waste held in the NDT. Currently, the trust has sufficient funds to meet the revised DCE for the Maine Yankee ISFSI as provided in Enclosure. However, on December 17, 2012, during the final review of this letter and the third-party DCE, a discrepancy in the assumption utilized regarding the thickness of the concrete of the Vertical Concrete Casks (VCCs) was identified. A Condition Report (12-176) was generated to investigate the issue. MY will submit a revised decommissioning funding plan, including a revised DCE, by January 9, 2013.

NM5524
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MY is currently collecting funds through its power contracts and amendatory agreements under Federal Energy Regulatory Commission (FERC) regulations. The power contracts and the amendatory agreements specify the obligations of the purchasers for the costs of Maine Yankee, including the cost of decommissioning and the costs for management of irradiated fuel and GTCC waste. Such contracts have been filed with FERC.

MY will periodically reassess the decommissioning cost estimate in accordance with 10 CFR 72.30(c). On a periodic basis, MY will submit rate cases to FERC that will include revised cost estimates for decommissioning and the management of irradiated fuel and GTCC waste. If necessary, additional funds may be recovered from the purchasers.

Also, MY successfully litigated the first of what will likely be several breach of contract damages claims against the Department of Energy (DOE) for failure to begin the removal of spent nuclear fuel (SNF) and GTCC waste from the site in 1998. The final appeal opportunity for the government to challenge the award of damages to MY in its first damages claim expired on December 4, 2012. A demand for payment to MY was submitted by the Department of Justice (DOJ) to the U.S. Treasury on November 26, 2012. MY has not yet received that payment. In accordance with MY's current FERC Settlement, these proceeds from the damages claim, net of taxes, may be added to the NDT to fund future decommissioning and irradiated fuel and GTCC waste management costs. Additional damages claims against the DOE relating to the government's breach of contract are expected to continue as long as the SNF and GTCC waste remain on site. No credit has been taken for the currently awarded damages or future damages regarding the establishment of funding for the costs associated with decommissioning the MY ISFSI or managing irradiated fuel and GTCC waste at the MY ISFSI.

10 CFR 72.30(b)(2) requires the licensee to provide a detailed cost estimate for decommissioning. Enclosure 1 provides a revised DCE for the Maine Yankee ISFSI that: 1) Assumes an independent contractor will perform the decommissioning activities in accordance with 10 CFR 72.30(b)(2)(i); 2) Includes an adequate contingency factor in accordance with 10 CFR 72.30(b)(2)(ii); and 3) Includes the cost of meeting the criteria for unrestricted release in accordance with 10 CFR 72.30(b)(2)(iii). In addition, the revised Maine Yankee ISFSI DCE specifically considered the effects of the events described in 10 CFR 72.30(c) on the costs of decommissioning and the extent of contamination. The revised Maine Yankee ISFSI DCE estimates the costs to decommission the Maine Yankee ISFSI to be \$20.4 million (in 2012 dollars). As identified above, on December 17, 2012, during the final review of this letter and the third-party DCE, a discrepancy in the assumption utilized regarding the thickness of the concrete of the VCCs was identified. A Condition Report (12-176) was generated to investigate the issue. MY will submit a revised decommissioning funding plan, including a revised DCE, by January 9, 2013.

10 CFR 72.30(b)(3) requires the licensee to identify and justify the key assumptions contained in the DCE. Enclosure 1 provides the revised DCE for the Maine Yankee ISFSI, including the key assumptions and the justification for their use.

10 CFR 72.30(b)(5) requires the licensee to define the volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination. No subsurface material is assumed to require remediation regarding radionuclides. This is justified because: 1) the ISFSI area was confirmed to be clean of radiological contaminants prior to the construction of the ISFSI; 2) the ISFSI area will be maintained clean of loose radiological contaminants during the storage period; 3) the irradiated fuel and GTCC waste are stored in sealed canisters; 4) nuclear activation of the VCCs, VCCs liners, and ISFSI are anticipated; the activation products will remain fixed during the storage period; and 5) if contamination of subsurface occurs during decommissioning activities, the

contamination is expected to remain below the decommissioning criteria of 25 millirem per year Total Effective Dose Equivalent.

10 CFR 72.30(b)(6) requires a certification that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning. Enclosure 2 provides the certification of financial assurance.

In the final rule published on June 17, 2011, 10 CFR 50.82(a)(4)(i) was revised to include a requirement to incorporate a cost estimate for the management of irradiated fuel. Enclosure 3 provides an estimate of the total costs associated with the Maine Yankee ISFSI, including the FERC approved cost estimate for the management of irradiated fuel and GTCC waste at the Maine Yankee ISFSI through calendar year 2023. It estimates the cost to manage the irradiated fuel and GTCC waste at the Maine Yankee ISFSI to be \$86.7 million (in 2013 dollars).

In accordance with 10 CFR 50.82(a)(4)(i), the revised DCE and the cost estimate for the management of irradiated fuel and GTCC waste at the Maine Yankee ISFSI will be incorporated into the Post-Shutdown Decommissioning Activities Report (PSDAR) following NRC approval. In addition, MY is planning to submit a revised cost estimate for management of the irradiated fuel and GTCC waste at the Maine Yankee ISFSI to FERC that will propose to extend the duration of storage of irradiated fuel and GTCC waste. Following FERC approval, the revised cost estimate and schedule for managing irradiated fuel and GTCC waste will be submitted to the NRC in accordance with 10 CFR 50.82(a)(7).

In March 2013, MY will meet the obligations defined in: 1) 10 CFR 50.75(f)(2) regarding the annual Decommissioning Funding Status Report; 2) 10 CFR 50.82(a)(8)(v) regarding a financial assurance status report of decommissioning funding; and 3) 10 CFR 50.82(a)(8)(vii) regarding the status of the funding for managing irradiated fuel.

If you have any questions, please do not hesitate to contact me at (860) 267-6426 x304.

Respectfully,



Carla M. Pizzella
Vice President, Chief Financial Officer, and Treasurer

Enclosure

1. Decommissioning Study of the Maine Yankee Independent Spent Fuel Storage Installation
2. Certification of Financial Assurance
3. Total Costs Associated with the Maine Yankee ISFSI, including Cost Estimate for Managing Irradiated Fuel and GTCC Waste

Commitment: MY will submit a revised decommissioning funding plan, including a revised DCE, by January 9, 2013.

References:

1. MY letter to NRC, "Decommissioning Funding Assurance Status Report – 10 CFR 50.75," dated March 27, 2012

cc: W. M. Dean, NRC Region I Administrator
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