

VermontYankeeLA3PEm Resource

From: Khanna, Meena
Sent: Thursday, June 04, 2015 7:48 PM
To: Weil, Jenny; Conley, Maureen
Cc: Kim, James
Subject: FW: Information Regarding Vermont Yankee Decommissioning Trust Fund Exemption
Attachments: Communications for VY DTF Exemption.docx

Just wanted to share this information that we provided to the EDO's office and to the Commission TAs. Jim Kim will be sending this out to all other internal folks next week, as we get close to issuing the exemption to VY...thanks!

From: Kim, James
Sent: Thursday, June 04, 2015 3:08 PM
To: Waters, Michael
Cc: Dean, Bill; Evans, Michele; Uhle, Jennifer; Lund, Louise; Wilson, George; Morris, Scott; Howe, Allen; Bowers, Anthony; Williamson, Edward; Mizuno, Beth; Collins, Daniel; Ferdas, Marc; Khanna, Meena
Subject: Information Regarding Vermont Yankee Decommissioning Trust Fund Exemption

Mike,

We are sending this information to you for use in communicating, to the Commission TAs, the staff's plans to issue exemptions for the Entergy Nuclear Operations, Inc. Request to Use Decommissioning Trust Funds for Irradiated Fuel Management Activities for Vermont Yankee Nuclear Power Station. Please note that OGC has reviewed this information.

Please contact Meena Khanna or myself if you have any questions or need any further information.

Thanks,
Jim Kim, Project Manager
Division of Operating Reactor Licensing
301-415-4125

Hearing Identifier: VermontYankee_LA3_Public
Email Number: 17

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Subject: FW: Information Regarding Vermont Yankee Decommissioning Trust Fund
Exemption
Sent Date: 6/4/2015 7:48:08 PM
Received Date: 6/4/2015 7:48:12 PM
From: Khanna, Meena

Created By: Meena.Khanna@nrc.gov

Recipients:
"Kim, James" <James.Kim@nrc.gov>
Tracking Status: None
"Weil, Jenny" <Jenny.Weil@nrc.gov>
Tracking Status: None
"Conley, Maureen" <Maureen.Conley@nrc.gov>
Tracking Status: None

Post Office: HQCLSTR01.nrc.gov

Files	Size	Date & Time
MESSAGE	1155	6/4/2015 7:48:12 PM
Communications for VY DTF Exemption.docx		32086

Options
Priority: Standard
Return Notification: No
Reply Requested: No
Sensitivity: Normal
Expiration Date:
Recipients Received:

NRC Issuance of Exemptions for Entergy Nuclear Operations, Inc. (ENO's) Request to Use Decommissioning Trust Funds for Irradiated Fuel Management Activities for Vermont Yankee Nuclear Power Station (VY)

Purpose and Content of Document:

- ENO requested permission to use a portion of its decommissioning trust fund (DTF) deemed to be above the NRC required minimum amount to cover expenses for irradiated fuel management activities for VY; and to be able to make such withdrawals from their DTF without prior notification to the NRC – in other words, to treat irradiated fuel management expenses in the same way as decommissioning expenses.
- The document describes the licensee's stated need for the requested exemptions. In summary, the NRC regulations restrict the use of the DTF such that it can only be used for NRC required decommissioning activities – generally, the radiological decontamination and dismantlement of the facility, and license termination; the DTF cannot be used for irradiated fuel management. In addition, the regulations require ENO to provide 30day notice to the NRC for withdrawals from the DTF for non-decommissioning expenses. Thus, the need for the exemptions. Without the exemptions, VY could not use DTF to pay irradiated fuel management expenses and would have to provide the NRC with 30 days prior notice of intent to withdraw funds for payment of non-decommissioning expenses.
- The NRC staff has reviewed VY's site-specific cost estimate and cash flow analysis and has determined that the amount of money projected to be available to pay for decommissioning is sufficient such that the use of a portion of the DTF for irradiated fuel management activities will NOT prevent ENO from performing the required cleanup through license termination of VY. Accordingly, the NRC staff has approved the exemption request.

Public Availability of the Document:

- A letter transmitting the Federal Register Notice (FRN) for the Exemption to the licensee is expected to be signed on **June x, 2015**. The public release of the transmittal letter and FRN in ADAMS, and electronic distribution via Listserv, is anticipated on **June x, 2015**.
- The FRN should post in the Federal Register within 5 -7 business days following its issuance.

Key Messages:

- The exemptions, as granted, allow the licensee to make limited withdrawals from the VY DTF to cover expenses for irradiated fuel management activities, without having to make prior notifications to the NRC.
- This is NOT unprecedented. We issued a similar exemption for Kewaunee, SONGS, and Crystal River. This could get some public attention due to the high public interest in decommissioning, and in how licensees are using funds in the trusts.
- Senator Sanders had similar questions as a follow-on to the last EPW hearing, for which the staff provided a response.

Q and A:

Q1: On April 20, 2015, the State of Vermont filed the Petition for Leave to Intervene and Hearing Request (Petition) regarding VY's license amendment request (LAR), seeking deletion of license conditions that impose specific requirements on the VY DTF, electing, as it is permitted by 10 CFR 50.75(h)(5), instead, to be subject to the 10 CFR 50.75(h)(1)-(3) requirements. Vermont argues that the LAR for deletion of prior notification requirements for DTF withdrawals is "directly related to ENO's pending exemption request" to use DTF for irradiated fuel management purposes.

A1: The staff disagrees with the State of Vermont. The staff views the LAR as separate and distinct from the exemption request. The LAR would allow the licensee to use the less restrictive notification requirements in the regulations, rather than the current license conditions' notification requirements, a change that is contemplated by the regulations. While the State of Vermont can ask for a hearing on the LAR, it has no right to a hearing on the Exemption Request. The Commission's long-standing regulatory framework establishes a clear distinction between exemptions and license amendments. The two regulatory actions are governed by separate regulations, subject to separate regulatory reviews, and are evaluated using separate standards and separate processes for public participation.

The State of Vermont has challenged both the LAR and the exemption request. As the matter is in litigation, we cannot say much more beyond what is written above. However, the parties to the litigation have filed pleadings, arguing their positions. Those pleadings are publicly available and can be obtained from ADAMS via the following Accession Numbers: ML15110A484; ML15135A523; ML15135A498; and ML15142A902.

Notification Timeline:

Date/Time	ACTION	Responsible Organization/Individual
6/x	Sign action to Entergy.	NRR – Khanna
6/x	Notify licensee and send an electronic copy of the signed action to Entergy.	NRR – Kim
6/x 6/x (T=0)	1. Email final action to Region I SLOs, OCA and RI Decommissioning BC. 2. Notify State and Congressional contacts and email signed action.	NRR – Kim RI - McNamara/Tifft OCA – Weil
T+ 2 hrs	Place action in ADAMS/ListServ for 10 pm public release.	NRR - Admin Assistant
T+ 3 hrs	Email copy of letter to RI PAOs and respond to media inquiries, with assistance from DRP, as necessary.	NRR – Kim RI - Screnci/Sheehan

Links to ADAMS Documents:

NRR Letter: [ML15128A219](#)

Federal Register Notice of Exemptions: [ML15128A194](#)