



December 2, 2015

10 CFR 50.12
10 CFR 72.7

In reply, please refer to LAC-14360

DOCKET NO. 50-409

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

Dear Sir or Madam:

SUBJECT: Dairyland Power Cooperative (DPC)
La Crosse Boiling Water Reactor (LACBWR)
License No. DPR-45
Request for Exemptions from: i) Record Keeping Requirements of 10 CFR 50 Appendix A Criterion 1, 10 CFR 50 Appendix B Criterion XVII and 10 CFR 50.59(d)(3); 10 CFR 50.71(c) and ii) Record Keeping Requirements of 10 CFR 72.72(d).

This letter is a revision to the Dairyland Power Cooperative (DPC) letter of the same subject dated October 13, 2015. The only material change is the addition of 10 CFR 50.71(c) to the list of requested exemptions as enumerated below. No other changes have been made to the content of the letter.

In accordance with 10 CFR 50.12, Specific Exemptions, Dairyland Power Cooperative (DPC) is hereby requesting the following exemption from the record retention requirements of:

1. 10 CFR 50 Appendix A Criterion 1 which requires certain records be retained "throughout the life of the unit";
2. 10 CFR 50 Appendix B Criterion XVII which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee; and
3. 10 CFR 50.59(d)(3) which requires certain records be maintained until "termination of a license issued pursuant to" Part 50.
4. 10 CFR 50.71(c) which requires certain records to be maintained consistent with various elements of NRC regulations, facility technical specifications, and other licensing bases documents.

Attachment 1 to this letter provides the exemption request.

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Additionally, in accordance with 10 CFR 72.7, Specific Exemptions, DPC is hereby requesting a permanent exemption from the portion of 10 CFR 72.72(d) that requires records of spent fuel in storage be kept in duplicate. Attachment 2 to this letter provides the exemption request.

If you, or members of your staff, have questions requiring additional information or clarification, please contact Cheryl Olson at (608) 689-4207.

Sincerely,

DAIRYLAND POWER COOPERATIVE



Cheryl L. Olson, LACBWR Plant/ISFSI Manager

CLO:tco

Attachments

Attachment 1
Request for Exemption from 10 CFR 50, Appendix A Criterion 1, 10 CFR 50
Appendix B Criterion XVII, 10 CFR 50.59(d)(3), and 10 CFR 50.71(c)
Record Keeping Requirements

Exemption Request

In accordance with the provisions of 10 CFR 50.12, "Specific Exemptions", the Dairyland Power Cooperative (DPC) requests an exemption from certain requirements in 10 CFR 50 Appendix A Criterion I, 10 CFR 50 Appendix B Criterion XVII, and 10 CFR 50.59. Specifically, we request the following exemption from the record retention requirements of:

1. 10 CFR 50 Appendix A Criterion 1 which requires certain records be retained "throughout the life of the unit";
2. 10 CFR 50 Appendix B Criterion XVII which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee; and
3. 10 CFR 50.59(d)(3) which requires certain records be maintained until "termination of a license issued pursuant to" Part 50.
4. 10 CFR 50.71(c) which requires certain records to be maintained consistent with various elements of NRC regulations, facility technical specifications, and other licensing bases documents.

Granting this exemption will allow DPC to eliminate these records when the licensing basis requirements previously applicable to the nuclear power unit and associated systems, structures, and components (SSC) are no longer effective such that the SSCs are noted as removed in the Decommissioning Plan and Post-Shutdown Decommissioning Activities Report and/or Technical Specifications.

LACBWR is not requesting an exemption associated with any record keeping requirements for storage of spent fuel at its Independent Spent Fuel Storage Installation (ISFSI) under 10 CFR 50 or the General License requirements of 10 CFR 72 nor for the other requirements of 10 CFR 50 or Facility Operating License No. DPR-45 applicable to decommissioning and dismantlement.

The NRC has granted this same exemption to Rancho Seco, Haddam Neck, Maine Yankee, and Zion which are other nuclear power plants that have undergone decommissioning.

Basis for the Exemption

An exemption may be granted from the requirements of 10 CFR Part 50, Appendices A and B and 10 CFR 50.59(d)(3), if the licensee can show that the requirements of 10 CFR 50.12(a)(1) are met and that special circumstances, as specified in 10 CFR 50.12(a)(2), exist. As discussed below, this DPC request satisfies the above standards for the regulatory exemption.

I. General Justification for Granting the Exemption Request
a. Nuclear Power Generation SSCs

The LACBWR nuclear steam supply system and balance of plant SSCs have been entirely retired in place with many removed and the remainder pending dismantlement. The SSCs are no longer operable or maintained except for the liquid waste discharge system. The plant is considered to be in a "dark and cold" condition awaiting final dismantlement. The general justification for eliminating records associated with that portion of the plant "footprint" is simple and straightforward in that these SSCs are currently removed or to be removed from service under the NRC license, dismantled or demolished, and will not in the future serve in any LACBWR function regulated by the NRC.

LACBWR recognizes that a very small portion of the SSCs and activity related records related to the nuclear steam supply system and balance of plant will continue to be under NRC regulation primarily due to residual radioactivity. The radiological and other necessary quality program controls for the facility and the implementation of controls for decommissioning activities are and will continue to be appropriately addressed through the license and current plant documents such as the Decommissioning Plan and Post-Shutdown Decommissioning Activities Report and/or Technical Specifications. Except for future changes made through the operative change controls, these programmatic elements and their associated records are unaffected by the exemption request.

b. ISFSI and Spent Nuclear Fuel

LACBWR is not requesting any exemption associated with retention of these records.

II. Specific Justification for Exemptions and Special Circumstances

a. Specific Exemption is Authorized by Law

The DPC exemption request to reduce retention durations is authorized by law and within the Commission's authority. The request does not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. **In fact, based on similar action for other decommissioning nuclear power plants, it appears reasonable that the Commission would have previously made these clarifying changes to the requirements had there been sufficient industry experience in performing decommissioning and license termination at Part 50 facilities when the record retention rules were originally promulgated.**

b. Specific Exemption Will Not Present an Undue Risk to the Public Health and Safety

The public health and safety are unaffected by the proposed exemption. Removal of the underlying SSCs associated with the records has been or will be determined by DPC, in accordance with 10 CFR 50.59 or NRC-approved license amendment, to have no adverse public health and safety impact prior to elimination of any records. Elimination of associated records for these SSCs can have no additional impact.

c. **Specific Exemption Consistent with the Common Defense and Security**

The elimination of these records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States. Upon dismantlement of the affected SSCs, the records have no functional purpose relative to maintaining the safe operation neither of the SSCs nor to maintaining conditions that would affect the ongoing health and safety of workers or the public.

Authority to Grant the Exemption Request

10 CFR 50.12(a)(2)(ii) states: "*Application of the Regulation in the Particular Circumstances would not serve the underlying purpose of the Rule*".

The common and underlying purpose for the records related regulation cited above is to ensure that the licensing and design basis of the facility is understood, documented, preserved and retrievable relative to establishing and maintaining the SSCs' safety functions. The current licensing basis defines those elements of SSCs and associated activities that have been found by the NRC to provide reasonable assurance of safe facility operation. The licensing basis is maintained current by evaluating changes against up-to-date information. The terms such as "safety functions", and "safe operation" become non-applicable as a facility is dismantled and disposed of. In this case, which represents the LACBWR situation, retention of records associated with SSCs that are no longer in the licensing bases serves no safety or regulatory purpose. Therefore, application of these record requirements in LACBWR's circumstances does not serve the underlying purpose of the regulations.

Additionally, 10 CFR 50.12(a)(2)(iii) states: "*Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted*".

The records retention requirements applied by the NRC to the construction and operation of nuclear power plants are intended to demonstrate, on a broad basis, that SSC and activities are supportive of the safety analysis and the requirements of the NRC license for an operating reactor and operability of its safety functions. The records program requirements provide assurance that records will be captured, indexed, stored in environmentally suitable and retrievable condition resulting in a significant volume of records of many forms and a significant associated cost. The burden associated with the operations phase records requirements was understood and considered appropriate by the NRC and their reactor licensees. However, the

effect of the operations phase record retention requirements that survived the life of a facility and no longer served an underlying safety purpose, due to the facility being permanently shut down and decommissioning, were not fully understood or considered. This is the current situation at decommissioning facilities. The operating reactor records retention requirements to which LACBWR is currently regulated are no longer necessary nor appropriate in that the SSCs and activities to which many of the records apply are no longer important to the public or worker health and safety.

Existing LACBWR records storage facilities will be eliminated as decommissioning progresses. Retaining records associated with SSCs and activities that no longer serve a safety or regulatory purpose will be an undue hardship as continued retention of the records will necessitate creation of new facilities and retention of otherwise un-needed administrative support personnel. It will become more of a hardship and cost increase as we must make provisions for alternate storage well in advance of building demolition.

Also, 10 CFR 50.12(a)(2)(vi) states: *“There is present any other material circumstances not considered when the regulation was adopted for which it would be in the public interest to grant an exemption”*.

Firstly, the cost associated with maintaining records that serve no safety or regulatory purpose can be significant, particularly for a decommissioning facility that will no longer exist within a few years. Decommissioning costs, including record maintenance, are paid by the ratepayers that benefited from the power produced by LACBWR when it was operating. The ratepayers deserve a cost-efficient decommissioning unencumbered by unnecessary regulatory restraints.

Secondly, elimination of these records ensures their future unavailability to individuals and groups interested in adversely affecting the security of commercial nuclear facilities.

Conclusion

In accordance with the provisions of 10 CFR 50.12, "Specific Exemptions", the Dairyland Power Cooperative requests an exemption from certain requirements from the record retention requirements of:

1. 10 CFR 50 Appendix A Criterion 1 which requires certain records be retained “throughout the life of the unit”;
2. 10 CFR 50 Appendix B Criterion XVII which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee; and
3. 10 CFR 50.59(d)(3) which requires certain records be maintained until “termination of a license issued pursuant to” Part 50.
4. 10 CFR 50.71(c) which requires certain records to be maintained consistent with various elements of NRC regulations, facility technical specifications, and other licensing bases documents.

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The information provided above gives the NRC sufficient basis for granting an exemption from the recordkeeping requirements of 10 CFR 50 Appendix A Criterion 1, 10 CFR 50 Appendix B Criterion XVII, 10 CFR 50.59(d)(3), and 10 CFR 50.71(c) for records pertaining to SSCs or activities associated with the nuclear power unit and associated support systems that are no longer required to support licensed operations at the LACBWR site.

This exemption does not apply to any record keeping requirements for storage of the spent fuel at the LACBWR ISFSI under 10 CFR 50 or the general requirements of 10 CFR 72.

Attachment 2
Request for Exemption from 10 CFR 72.72(d)
Records Storage Requirements

Exemption Request

In accordance with the provisions of 10 CFR 72.7 "Specific Exemptions" the Dairyland Power Cooperative (DPC) requests an exemption from certain requirements in 10 CFR 72.72 "Material Balance, Inventory, and Records Requirements for Stored Material." Specifically, we request a permanent exemption from the following requirement in 10 CFR 72.72(d):

"Records of spent fuel and high-level radioactive waste in storage must be kept in duplicate. The duplicate set of records must be kept at a separate location sufficiently remote from the original records that a single event would not destroy both sets of records."

Granting this exemption will allow DPC to store La Crosse Boiling Water Reactor (LACBWR) ISFSI spent fuel records using the same procedures and processes used for storing the LACBWR spent fuel records. DPC stores the LACBWR Nuclear Generating Station spent fuel records in a single storage facility in accordance with the requirements in the LACBWR Quality Assurance Program Description (QAPD) Manual. The NRC has approved the LACBWR QAPD Manual as satisfying the requirements in 10 CFR 50, Appendix B and 10 CFR 72, Subpart G.

The NRC has granted this same exemption to Virginia Power for their Surry and North Anna power stations and to the Sacramento Municipal Utility District for its Rancho Seco Nuclear Generating Station.

Basis for the Exemption

NRC regulation 10 CFR 72.140 provides the quality assurance requirements for an Independent Spent Fuel Storage Installation (ISFSI). As discussed in 10 CFR 72.140(d), a quality assurance program that is approved by the NRC as meeting the applicable requirements of 10 CFR 50, Appendix B and that is established, maintained, and executed with regards to an ISFSI will be accepted as satisfying the requirements of 10 CFR 72.140(b).

The NRC-approved LACBWR QAPD Section XVII, Quality Assurance Records, states that LACBWR has established measures for maintaining ISFSI records which cover all documents and records associated with the operation, maintenance, installation, repair, and modification of SSCs covered by the QAPD. Also included are historical records gathered and collected during plant and ISFSI operations which are either required to support the dry cask storage systems stored at the ISFSI or ultimate shipment to a federal repository.

QAPD, Section XVII requires that Quality Assurance records be stored in a facility that meets the requirements of ANSI N45.2.9, Requirements for Collection, Storage, and Maintenance of Quality Assurance Records" which allows for the storage of QA records in dual storage facilities sufficiently remote from each other or in a single storage facility designed and maintained to

minimize the risk of damage from adverse conditions including natural disasters, fires, temperature, humidity, and infestation. The record storage vault used at LACBWR was constructed and is maintained to meet the requirements of ANSI N45.2.9-74.

As discussed in Regulatory Guide 1.28, the NRC has endorsed ANSI/ASME, NQA-1-1983, Supplement 17S-1, as adequate to satisfy the record keeping requirements in 10 CFR 50, Appendix B. Similarly, ANSI/ASME, NQA-1-1983, Supplement 17S-1 satisfies the requirements of 10 CFR 72.72 since it provides for adequate maintenance of the same type of QA records, including the identity and history of spent fuel stored at an ISFSI. A comparison of the record keeping requirements in NQA-1-1983, Supplement 17S-1 to the requirements of ANSI N.25.2.9-74 confirmed that the requirements are equivalent.

By approving the QAPD, the NRC has accepted the single facility used for the storage and maintenance of quality assurance records at LACBWR. Accordingly, the NRC should accept DPC's requested exemption from 10 CFR 72.72(d) and allow ISFSI spent fuel records to be stored in the same manner as spent fuel records for the LACBWR Nuclear Generating Station (i.e., in accordance with the requirements in the QAPD).

Authority to Grant the Exemption Request

Under 10 CFR 72.7, "Specific Exemptions", the NRC may grant exemptions from the requirements in 10 CFR 72 if it determines that the exemption is authorized by law; will not endanger life, property, or the common defense; and is otherwise in the public interest.

In accordance with the provisions in 10 CFR 72.7, the NRC has granted this same exemption to Virginia Power for their Surry and North Anna power stations and to the Sacramento Municipal Utility District for its Rancho Seco Nuclear Generating Station. Therefore, the NRC has already determined that they are authorized by law to grant this exemption.

By approving the QAPD as satisfying the requirements in 10 CFR 50, Appendix B and 10 CFR 72, Subpart G, the NRC has endorsed ANSI/ASME, NQA-1-1983, Supplement 17S-1 (and ANSI N.45.2.9-74) as adequate to satisfy the record keeping requirements in 10 CFR 50, Appendix B and 10 CFR 72.72. Granting this exemption will allow ISFSI spent fuel records to be stored in the same manner as spent fuel records for the LACBWR, which is in accordance with the requirements in the QAPD. Therefore, this exemption from the requirements from 10 CFR 72.72(d), regarding the need for duplicate storage will not endanger life, property, or the common defense. Allowing ISFSI spent fuel records to be stored in the same manner as spent fuel records for the LACBWR, provides for uniformity and consistency in the storage of QA records. Requiring a special method for the storage of certain ISFSI QA records provides no added benefit and will divert resources unnecessarily. Consequently, the exemption is in the public interest.

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Conclusion

In accordance with the provisions of 10 CFR 72.7 "Specific Exemptions" the Dairyland Power Cooperative requests an exemption from certain requirements in 10 CFR 72.72, "Material Balance, Inventory, and Records Requirements for Stored Material." Specifically, we request a permanent exemption from the following requirement in 10 CFR 72.72(d):

"Records of spent fuel and high-level radioactive waste in storage must be kept in duplicate. The duplicate set of records must be kept at a separate location sufficiently remote from the original records that a single event would not destroy both sets of records."

Granting this exemption will allow DPC to store ISFSI spent fuel records in the same manner as spent fuel records for LACBWR, which is in accordance with the requirements in the QAPD. Therefore, this exemption from the requirements from 10 CFR 72.72(d), regarding the need for duplicate storage, is authorized by law; will not endanger life, property, or the common defense; and is otherwise in the public interest.