

requested exemption would allow spent fuel storage to continue without imposing burdensome and costly new requirements that provide no increased safety benefit.

#### *Environmental Impacts of the Proposed Action*

The NRC has determined that no credible events at the BRP ISFSI would result in doses to the public beyond the owner controlled area boundary that would exceed the EPA PAGs. Additionally, the staff has concluded that the BRP Emergency Plan with the exemptions described in its safety evaluation (ADAMS Accession No. ML13254A002), provides for an acceptable level of emergency preparedness at the BRP facility in its shutdown and defueled condition, and also provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the BRP facility. Based on these findings, the NRC concludes that there are no radiological environmental impacts due to granting the approval of the exemption. The proposed action will not increase the probability or consequences of accidents. No changes are being made in the types or quantities of effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action. The proposed action does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological impacts associated with the proposed action. Based on the assessment above, the proposed action will not have a significant effect on the quality of the human environment.

#### *Alternative to the Proposed Action*

Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption. This alternative would have the same environmental impact.

#### *Agencies and Persons Consulted*

The environmental assessment associated with the exemption request was sent to Mr. Ken Yale, Section Chief of the Radiological Protection Section in the Office of Waste Management and Radiological Protection at the Michigan Department of Environmental Quality (DEQ) by email dated August 22, 2013

(ADAMS Accession No. ML13238A158). The state response was received by email dated August 23, 2013 (ADAMS Accession No. ML13238A109). The email states that DEQ reviewed the draft environmental assessment and has no comments. The NRC staff has determined that a consultation under Section 7 of the Endangered Species Act is not required because the proposed action will not affect listed species or critical habitat. The NRC staff has also determined that the proposed action is not a type of activity that has the potential to impact historic properties because the proposed action would occur within the established BRP site boundary. Therefore, no consultation is required under Section 106 of the National Historic Preservation Act.

#### **III. Finding of No Significant Impact**

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the environmental assessment, the NRC finds that the proposed action of granting the exemption from specific EP requirements in 10 CFR 50.47 and 10 CFR part 50, appendix E will not significantly impact the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed exemption and that a finding of no significant impact is appropriate.

#### **IV. Further Information**

In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," final NRC records and documents regarding this proposed action are publicly available in the records component of NRC's Agencywide Documents Access and Management System (ADAMS). The request for exemption dated June 20, 2012 (ADAMS Accession No. ML12173A066), was docketed under 10 CFR Part 50, Docket 50-155 and under 10 CFR Part 72, Docket 72-43. These documents may be inspected at NRC'S Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or (301) 415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each

Dated at Rockville, Maryland, this 17th day of September, 2013.

For the Nuclear Regulatory Commission.

**Michele Sampson,**

*Chief, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety, and Safeguards.*

[FR Doc. 2013-23181 Filed 9-23-13; 8:45 am]

**BILLING CODE 7590-01-P**

#### **NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 50-029, 50-213, 50-309, 72-030, 72-031, and 72-039; NRC-2013-0217]**

#### **Maine Yankee Atomic Power Company, Connecticut Yankee Atomic Power Company, and The Yankee Atomic Electric Company**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a May 16, 2011, request from Maine Yankee Atomic Power Company (Maine Yankee), Connecticut Yankee Atomic Power Company (Connecticut Yankee), and the Yankee Atomic Electric Company (Yankee Atomic) (together, "licensees" or "the Yankee Companies") from the foreign ownership, control, or domination (FOCD) requirements.

**ADDRESSES:** Please refer to Docket ID NRC-2013-0217 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0217. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• **NRC's Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each

document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** John Goshen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-287-9250; email: [john.goshen@nrc.gov](mailto:john.goshen@nrc.gov).

## 1.0 Background

Maine Yankee Atomic Power Company (Maine Yankee), Connecticut Yankee Atomic Power Company (Connecticut Yankee), and the Yankee Atomic Electric Company (Yankee Atomic) (together, "licensees" or "the Yankee Companies") hold part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) possession only licenses for the following facilities: Haddam Neck Plant (Connecticut Yankee); Maine Yankee Atomic Power Station (Maine Yankee); and, Yankee Nuclear Power Station (Yankee Atomic), (together, "the facilities"). The facilities ceased power operations between 1991 and 1997, and all have completed the decommissioning process. All reactor plant facilities have been dismantled and removed, and only the independent spent fuel storage installations (ISFSIs) remain at the stations.

## 2.0 Request/Action

On May 16, 2011, the Yankee Companies submitted a request for exemption from the FOCD requirements of 10 CFR 50.38 in accordance with 10 CFR 50.12.

Pursuant to 10 CFR 50.12(a)(1), the Commission may grant exemptions from the requirements of 10 CFR part 50 which:

Are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

Sections [103d.and] 104d. of the Atomic Energy Act of 1954, as amended, (AEA, the Act) state that: be issued to [an alien or] any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common

defense and security or to the health and safety of the public.

Section 50.38 implements Sections 103d. and 104d. of the AEA.

In the exemption application, the licensees stated that Sections 103d. and 104d. of the AEA, apply only to a license for a production or utilization facility as defined in the AEA. The licensees stated that regardless of their 10 CFR part 50 licenses, the possession only conditions of the licenses do not allow their use as a production or utilization facility, and they are therefore not subject to Sections 103d. or 104d. of the AEA.

Due to the complete decommissioning and dismantlement of the reactor facilities, the 10 CFR part 50 licenses for operation of the stations held by the Yankees have been amended to allow for only the possession of spent nuclear fuel (SNF). Under 10 CFR 72, Subpart K, "General License for Storage of Spent Fuel at Power Reactor Sites," the Yankee Companies are authorized to store spent fuel. Specifically, under 10 CFR 72.210, the Yankees have a general license to store spent fuel in an ISFSI at each site by virtue of their Part 50 licenses to possess nuclear power reactors.

Each Yankee company is partially indirectly owned by foreign entities. The remaining owner is a U.S. entity.

## 3 Discussion

### 3.1 Exemption is Authorized by Law

The NRC staff concluded that Section 103d. of the AEA does not apply to ISFSIs. The plain language of the statute demonstrates that it applies to commercial licenses for production and utilization facilities.<sup>1</sup> The section, which refers to "license[s] under this section" and therefore, applies solely to licenses for production or utilization facilities, states that "[n]o license may be issued to an alien or any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government." The AEA definitions of "production facility" (Section 11.v) and "utilization facility" (Section 11.cc) do not include ISFSIs. Therefore, Section 103d. does not preclude the NRC from granting the Yankee Companies an exemption from 10 CFR 50.38.

Additionally, the Commission's regulations at 10 CFR 50.2 defines "production facility" as a facility designed or used for the formation or processing of nuclear material, and "utilization facility" as "any nuclear

reactor other than one designed or used primarily for the formation of plutonium or U-233."

As an ISFSI is neither "capable of the production of special nuclear material" nor "capable of making use of special nuclear material," it is neither a production facility nor a utilization facility under the AEA. Furthermore, an ISFSI is not designed or used for the formation or processing of nuclear material and is not a nuclear reactor. Accordingly, an ISFSI is neither a production facility nor a utilization facility under 10 CFR part 50. As such, the Section 103d. prohibition on FOCD entities does not apply to an ISFSI, regardless of whether it is licensed under 10 CFR part 50 or 10 CFR part 72, and therefore does not preclude the NRC from granting the Yankee Companies an exemption from the FOCD requirements of 10 CFR 50.38.

### 3.2 The Exemption Presents no Undue Risk to Public Health and Safety

The staff finds the requirements of 10 CFR 50.38 are intended to prevent the FOCD of production and utilization facilities. The Yankee facilities are neither production nor utilization facilities as defined in the AEA. Additionally, since FOCD restrictions are financial ownership restrictions and are neither technical nor operational requirements, granting the exemption has no bearing on the risk to public health and safety.

### 3.3 The Exemption is Consistent With the Common Defense and Security

The Yankees are restricted by their licenses to storing SNF in ISFSIs approved under 10 CFR 72.214. The underlying purpose of the 10 CFR 50.38 FOCD prohibition is to prevent foreign ownership, control or domination of production and utilization facilities as defined by the AEA. The Yankee facilities are neither production nor utilization facilities as defined in the AEA. In addition, there are no FOCD restrictions placed on similarly situated 10 CFR part 72 ISFSIs with specific licenses to store SNF. Such licensees have similar security and common defense concerns, and similar considerations apply. The staff finds, therefore, that granting the exemption is consistent with the common defense and security.

### 3.4 Special Circumstances Evaluation

The Commission cannot grant an exemption unless special circumstances apply per 10 CFR 50.12(a)(2), and application of the regulation would not serve the underlying purpose of the rule or is not necessary to achieve the

<sup>1</sup> AEA §§ 101, 103.

underlying purpose of the rule per 10 CFR 50.12(a)(2)(ii).

The Yankees are restricted to by their licenses to store SNF in ISFSIs approved by 10 CFR 72.214. The underlying purpose of 10 CFR 50.38 is to implement the FOCD restrictions of Sections 103d. and 104d. of the AEA and to prevent foreign ownership, control or domination of production and utilization facilities as defined by the AEA. The Yankee Companies are not production or utilization facilities as defined in the AEA. The NRC staff determined that there are no 10 CFR 50.38 FOCD restrictions placed on 10 CFR part 72 ISFSIs with specific licenses that are similarly situated to the Yankee facilities and similar considerations apply. The NRC staff finds, therefore, that applying the 10 CFR 50.38 FOCD requirement clearly does not serve the underlying purpose of the rule, and granting the exemption is consistent with the special circumstances as defined in 10 CFR 50.12(a)(2)(ii).

### 3.5 Environmental Evaluation

The staff has determined that this action meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25)(vi)(I), "Other requirements of an administrative, managerial, or organizational nature." Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with this action, and granting the exemption, therefore, does not present an undue risk to the public health and safety.

### 4 Conclusions

The staff finds granting the licensee's exemption request from 10 CFR 50.38 FOCD requirements acceptable for the reasons provided in the letter from Mark Lombard to Wayne Norton dated July 15, 2013 (ADAMS Accession No. ML13086A010).

### 5 Additional Information

Documents related to this action, including the application for renewal, supporting documentation, and the staff's safety evaluation are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 13th day of September, 2013.

For the Nuclear Regulatory Commission

**John M. Goshen,**

*Project Manager, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety, and Safeguard.*

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containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146-64147).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240-888-9835) to be escorted to the meeting room.

Dated: September 17, 2013.

**Cayetano Santos,**

*Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.*

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### NUCLEAR REGULATORY COMMISSION

#### Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on October 2, 2013, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b (c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, October 2, 2013—12:00 p.m. until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301-415-5844 or Email: [Quynh.Nguyen@nrc.gov](mailto:Quynh.Nguyen@nrc.gov)) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD

### NUCLEAR REGULATORY COMMISSION

[NRC-2013-0001]

#### Sunshine Act Meetings Notice

**DATES:** Weeks of September 23, 30, October 7, 14, 21, 28, 2013.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

#### Week of September 23, 2013

There are no meetings scheduled for the week of September 23, 2013.

#### Week of September 30, 2013—Tentative

There are no meetings scheduled for the week of September 30, 2013.

#### Week of October 7, 2013—Tentative

There are no meetings scheduled for the week of October 7, 2013.

#### Week of October 14, 2013—Tentative

Wednesday, October 16, 2013

1:00 p.m. Briefing on Flooding and Other Extreme Weather Events (Public