

November 4, 2002

Mr. James A. Kay
Manager of Regulatory Affairs
Yankee Atomic Electric Company
49 Yankee Road
Rowe, MA 01367

SUBJECT: YANKEE NUCLEAR POWER STATION - QUESTION ON PROCESS FOR
SECURITY PLAN CHANGE AFTER ALL SPENT FUEL HAS BEEN REMOVED
FROM THE SPENT FUEL POOL (TAC NO. MB6496)

Dear Mr. Kay:

By e-mail dated September 11, 2002, you requested NRC guidance regarding the process to be used for changes to the security plan for the 10 CFR Part 50 licensed site after all the fuel has been removed from the spent fuel pool and relocated to the Independent Spent Fuel Storage Installation (ISFSI).

The staff's review of your question identified the following applicable regulations:

Section 73.1(a) states in part:

Purpose. This part prescribes requirements for the establishment and maintenance of a physical protection system which will have capabilities for the protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used. Licensees subject to the provisions of §72.182, §72.212, §73.20, §73.50, and §73.60 are exempt from §73.1(a)(1)(i)(E) and §73.1(a)(1)(iii).

Section 73.40 states:

Each licensee shall provide physical protection at a fixed site, or contiguous sites where licensed activities are conducted, against radiological sabotage, or against theft of special nuclear material, or against both, in accordance with the applicable sections of this Part for each specific class of facility or material license. If applicable, the licensee shall establish and maintain physical security in accordance with security plans approved by the Nuclear Regulatory Commission.

Section 50.54(p)(1) states:

The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with appendix C of part 73 of this chapter for effecting the actions and decisions contained in the Responsibility Matrix of the

safeguards contingency plan. The licensee may make no change which would decrease the effectiveness of a security plan, or guard training and qualification plan, prepared pursuant to §50.34(c) or part 73 of this chapter, or of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, Responsibility Matrix) contained in a licensee safeguards contingency plan prepared pursuant to §50.34(d) or part 73 of this chapter, as applicable, without prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to the licensee's license pursuant to §50.90.

Section 50.54(p)(2) states in part:

The licensee may make changes to the plans referenced in paragraph (p)(1) of this section, without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to the plans made without prior Commission approval for a period of three years from the date of the change, and shall submit, as specified in §50.4, a report containing a description of each change within two months after the change is made.

The staff notes that Yankee Rowe is nearing completion of the transfer of the spent fuel in the spent fuel pool to the ISFSI. Following completion of the transfer, the radioactive materials on site will consist of items such as check sources and residual contamination. The original 10-CFR Part 50 licensed site would be comparable to a source and byproduct licensee in terms of the level of security needed to protect the public health and safety. Since a primary purpose of the physical protection system is the protection of special nuclear material (SNM), once there is no longer SNM on site, a change to the security plan to reflect the removal of all SNM does not necessarily constitute a reduction in safeguards effectiveness. Therefore, the staff has determined that such a change could potentially be performed in accordance with 50.54(p)(2). The licensee is still responsible for making a determination that the proposed change does not decrease the safeguards effectiveness of the plan.

Due to the events related to September 11, 2001, the staff issued Orders on October 16, 2002, requiring the implementation of certain compensatory measures by licensees as prudent, interim measures, to address the current threat environment in a consistent manner for the transition and storage of the spent fuel at an ISFSI. These interim compensatory measures for storing spent fuel at an ISFSI will further supplement the existing security plan commitments to assure that the public health and safety and the common defense and security continue to be adequately protected in the current threat environment.

J. Kay

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If you have any questions or comments regarding this issue, please call me at (301) 415-3017.

Sincerely,

/RA/

John B. Hickman, Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-29

cc: See next page

J. Kay

- 3 -

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