



CONNECTICUT YANKEE ATOMIC POWER COMPANY

HADDAM NECK PLANT

362 INJUN HOLLOW ROAD • EAST HAMPTON, CT 06424-3099

September 16, 2008
CY-08-015

License No. DPR-61
Docket No. 50-213
Docket No. 72-1025
Re: 10 CFR 72.212

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

Haddam Neck Plant
Request for Exemption from 10 CFR 72

Amendment No. 5 to Certificate of Compliance (CoC) No. 1025 for the NAC International, Inc. Multi-Purpose Canister (NAC-MPC) System was issued by the NRC Staff on September 19, 2007.¹ The effective date of the amended CoC was July 24, 2007. Revision 7 to the NAC Final Safety Analysis Report to reflect the amendment to the CoC was submitted to the NRC on February 15, 2008. The amendment is applicable to only two sites: the Haddam Neck Independent Spent Fuel Storage Installation (ISFSI) and the Yankee Atomic ISFSI. Both sites are decommissioned power reactors that utilize a fixed number of NAC-MPC storage casks. The CoC amendment was requested for all previously loaded casks of this single design.

Connecticut Yankee Atomic Power Company (CYAPCO) intends to implement Amendment No. 5 to the NAC-MPC CoC for operational benefits and to avoid potential regulatory issues that could arise in the future. CYAPCO has performed an evaluation consistent with 10 CFR 72.212 to verify that the Haddam Neck casks will fully conform to the terms, conditions, and specifications of the CoC, as amended by Amendment No. 5. In particular, Amendment No. 5 will allow a visual inspection alternative to Surveillance Requirement 3.1.6.1 to verify the operability of the concrete cask heat removal system to maintain safe storage conditions. This alternative has been determined to be in accordance with the requirements of 10 CFR 72.122(h)(4). Amendment No. 5 also removes a specification in the CoC for tamper-indicating devices. CYAPCO is confident that Amendment No. 5 to CoC No. 1025 for the NAC-MPC can be safely and properly implemented for the previously loaded casks at Haddam Neck by implementing changes to relevant surveillance procedures in accordance with 10 CFR 72.48(c) and 72.212.

¹ Amendment No. 5 to Certificate of Compliance No. 1025 for the NAC International, Inc. Multi-Purpose Canister (NAC-MPC) System, issued September 19, 2007, Docket No. 72-1025.

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Enclosure 1 provides additional information with respect to the previously loaded casks to which CoC Amendment No. 5 will apply.

CYAPCO understands that there is regulatory uncertainty regarding this issue. Specifically, on January 14, 2008, the NRC Staff issued for public comment proposed Regulatory Issue Summary (RIS) 2007-26, "Implementation of Certificate of Compliance Amendments to Previously Loaded Spent Fuel Storage Casks."² The proposed RIS reflects a Staff interpretation of 10 CFR 72.212 that is contrary to longstanding industry understanding and practice. Under the interpretation of 10 CFR 72.212(b)(7) stated in the RIS, "a licensee seeking to implement changes from a later CoC amendment to a previously loaded cask must obtain NRC approval if the changes alter the terms and conditions under which the cask was loaded. NRC approval would be in the form of an exemption [reference to 10 CFR 72.7]."³ The industry did not concur with this Staff interpretation and through the Nuclear Energy Institute encouraged the NRC to follow the rulemaking process to maintain the longstanding industry and NRC practice.

To date, the NRC has not issued the proposed RIS in final form. Indeed, CYAPCO is aware of preliminary draft language for proposed changes to 10 CFR Part 72. The changes, among other things, would allow a licensee to apply changes associated with a CoC amendment to a previously loaded cask without express approval, provided the cask then fully conforms to the terms, conditions, and specifications of the amended CoC. The rule as proposed would require a submittal to the NRC only of certain registration information for each cask involved. In Enclosure 1 CYAPCO is providing information that is consistent with the proposed rule.

However, in view of the guidance in the proposed RIS, and the fact that the proposed rule discussed above remains preliminary, CYAPCO recognizes that Enclosure 1 alone may not be adequate, at least until the rule is finalized. Accordingly, to expedite implementation of the amendment, but without conceding that an exemption is necessary as stated in the proposed RIS, in Enclosure 2 CYAPCO herein submits a request for an exemption (interim or otherwise) in accordance with 10 CFR 72.7 to support implementation of the amendment for the previously loaded casks as described. If the NRC determines that an exemption is not necessary, CYAPCO will withdraw the request for an exemption.

² Proposed Generic Communication; Implementation of Certificate of Compliance Amendments to Previously Loaded Spent Fuel Storage Casks, Federal Register Volume 73, No. 9, Page 2281, January 14, 2008.

³ Proposed RIS, 73 Fed. Reg. at 2283.

Should you have any questions regarding this intended action, please contact me at (860) 267-6426 Ext. 301. Any NRC concerns with this intended action are requested in writing so that an appeal to the Commission may be considered by CYAPCO.

Sincerely,

A handwritten signature in black ink, appearing to read "James Lenois", is written over a horizontal line.

James Lenois
ISFSI Manager

Attachment

cc: S. J. Collins, Region I Administrator
R. Lorson, Chief, Decommissioning Branch, Region I
M. Virgilio, Deputy Executive Director
W. Brach, Director, Division of Spent Fuel Storage and Transportation
R. Hall, NRC Project Manager, Division of Spent Fuel Storage and Transportation
S. Kraft, Senior Director, Nuclear Energy Institute
E. L. Wilds, Jr., Director, CT DEP, Bureau of Air Management-Radiation Division

Enclosure 1: Additional Information/Registration

The following information is provided with respect to the NAC-MPC casks previously loaded at the Haddam Neck ISFSI for which CYAPCO will apply NAC-MPC CoC No. 1025, Amendment No. 5:

Licensee Name: CYAPCO

Licensee Address: Haddam Neck Plant
362 Injun Hollow Road
East Hampton, CT 06424-3099

License No.: DPR-61

Docket Nos.: 50-213
72-1025

**Name and Title
of Person**

Supplying Information: James Lenois, ISFSI Manager

Cask Certificate: CoC No. 1025

Amendment No.: 5

Cask Model No.: NAC International, Inc. Multi-Purpose Canister
(NAC – MPC)

Cask Identification Nos.:

VCC ID Number	TSC ID Number
CY-VCC-01	CY-MOC-TSC-414-01
CY-VCC-02	CY-MOC-TSC-414-02
CY-VCC-03	CY-MOC-TSC-414-03
CY-VCC-04	CY-MOC-TSC-414-04
CY-VCC-05	CY-MOC-TSC-414-05
CY-VCC-06	CY-MOC-TSC-414-06
CY-VCC-07	CY-MOC-TSC-414-07
CY-VCC-08	CY-MOC-TSC-414-08
CY-VCC-09	CY-MOC-TSC-414-09
CY-VCC-10	CY-MOC-TSC-414-10
CY-VCC-11	CY-MOC-TSC-414-11
CY-VCC-12	CY-MOC-TSC-414-12
CY-VCC-13	CY-MOC-TSC-414-13
CY-VCC-14	CY-MOC-TSC-414-14

CY-VCC-15	CY-MOC-TSC-414-15
CY-VCC-16	CY-MOC-TSC-414-16
CY-VCC-17	CY-MOC-TSC-414-17
CY-VCC-18	CY-MOC-TSC-414-18
CY-VCC-19	CY-MOC-TSC-414-19
CY-VCC-20	CY-MOC-TSC-414-20
CY-VCC-21	CY-MOC-TSC-414-21
CY-VCC-22	CY-MOC-TSC-414-22
CY-VCC-23	CY-MOC-TSC-414-23
CY-VCC-24	CY-MOC-TSC-414-24
CY-VCC-25	CY-MOC-TSC-414-25
CY-VCC-26	CY-MOC-TSC-414-26
CY-VCC-27	CY-MOC-TSC-414-27
CY-VCC-28	CY-MOC-TSC-414-28
CY-VCC-29	CY-MOC-TSC-414-29
CY-VCC-30	CY-MOC-TSC-414-30
CY-VCC-31	CY-MOC-TSC-414-31
CY-VCC-32	CY-MOC-TSC-414-32
CY-VCC-33	CY-MOC-TSC-414-33
CY-VCC-34	CY-MOC-TSC-414-34
CY-VCC-35	CY-MOC-TSC-414-35
CY-VCC-36	CY-MOC-TSC-414-36
CY-VCC-37	CY-MOC-TSC-414-37
CY-VCC-38	CY-MOC-TSC-414-38
CY-VCC-39	CY-MOC-TSC-414-39
CY-VCC-40	CY-MOC-TSC-414-40
CY-VCC-41*	CY-MOC-TSC-414-42
CY-VCC-42*	CY-MOC-TSC-414-41
CY-VCC-43*	CY-MOC-TSC-414-43

*Contains Greater than Class C (GTCC) Waste.

Enclosure 2: Exemption Request

References

- a) NAC-MPC Final Safety Analysis Report, Revision 7, dated February 2008
- b) Amendment No. 5 to Certificate of Compliance No. 1025 for the NAC International, Inc. Multi-Purpose Canister (NAC-MPC) System, issued September 19, 2007, Docket No. 72-1025.
- c) CY letter to the USNRC, CY-02-039, "Revision 1 to Post Shutdown Decommissioning Activities Report" dated October 22, 2002.

Discussion

The dry cask storage system in use at the Haddam Neck Plant (HNP) and Yankee Rowe Independent Spent Fuel Storage Installation (ISFSIs) is the NAC International Inc. (NAC) Multipurpose Canister (NAC-MPC) System that was approved by the NRC for use under a general license. The NAC-MPC System is listed in 10 CFR 72.214 as Certificate of Compliance (CoC) Number 1025, with NAC as the certificate holder. A proposed amendment to this system was submitted by NAC, via Reference (a), on July 17, 2006, as supplemented by letter dated September 13, 2006. The amendment was approved by Reference (b).

Connecticut Yankee Atomic Power Company (CYAPCO) wishes to implement Amendment No. 5 to CoC No. 1025 for the previously loaded NAC-MPC casks at both the HNP and Yankee Rowe ISFSIs. The amendment is applicable only to these two sites. Both sites are decommissioned power plants that have a fixed number of NAC-MPC storage casks. The amendment was requested by NAC for all previously loaded casks of this single design.

The changes approved in Amendment No. 5 are summarized as follows:

- Revise the Technical Specifications to allow for a 24 hour visual verification that all four inlet and outlet screens are unobstructed should the normal temperature monitoring system become inoperable.
- Remove the requirement for the tamper-indicating devices from the Description section of the CoC.
- Incorporate the recommendations of ISG-22.
- Revise the reporting requirements in the technical specifications to be consistent with part 72 reporting requirements.

This letter requests the NRC to grant CYAPCO an exemption, to the extent necessary, from the requirements of: 10 CFR 72.212, "Conditions of general license issued under § 72.210", paragraphs (a)(2), (b)(2)(i)(A), and (b)(7); and 10 CFR 72.214, "List of approved spent fuel storage cask." 10 CFR 72.212(a)(2) limits the general license to storage of spent fuel only in casks approved by the NRC under the provisions of 10 CFR 72, "Licensing Requirements for Independent Storage of Spent Nuclear Fuel, High-level Radioactive Waste and Reactor-Related Greater Than Class C Waste." 10 CFR 72.212(b)(2)(i)(A) requires general licensees to perform written evaluations prior to use of an approved spent fuel storage cask to document that the conditions set forth in the cask CoC are met. And, 10 CFR 72.212(b)(7) requires the licensee to comply with the term and conditions of the CoC.

Basis for Exemption

The criteria for granting specific exemptions are stated in 10 CFR 72.7. Pursuant to 10 CFR 72.7, the NRC is authorized to grant an exemption upon determining that the exemption is authorized by law, will not endanger life, property, or the common defense and security, and is otherwise in the public interest.

The requested exemption is authorized by law and is consistent with public safety. The exemption would be consistent with CoC No. 1025, Amendment No. 5 previously approved by the NRC.

The requested exemption is consistent with the common defense and security. The requested exemption does not result in any change to existing physical security requirements at the HNP. As such, approval of this exemption request will not compromise plant security or safeguarding spent fuel.

The requested exemption is in the public interest because it will allow CYAPCO to utilize the previously-approved Amendment No. 5 to achieve operational efficiencies. As an example, the amendment will allow CYAPCO to complete in an efficient manner the required temperature monitoring surveillance should the normal temperature monitoring system become inoperable and to maintain radiation doses to the workers ALARA. Therefore, granting the requested exemption is in the best interest of the public.

Environmental Assessment

In accordance with 10 CFR 51.30, "Environmental assessment", and 10 CFR 51.32, "Finding of no significant impact", the following information is provided in support of an environmental assessment and finding of no significant impact for the proposed action. Also, the NRC in 10 CFR 51.23, "Temporary storage of spent fuel after cessation of reactor operation – generic determination of no significant environmental impact", has already determined that spent fuel can be stored safely and without significant environmental impact at an onsite independent spent fuel storage installation.

The proposed action would grant an exemption from the requirements of 10 CFR 72.212 and 10 CFR 72.214, as necessary, to allow a visual surveillance to efficiently establish thermal capability in lieu of the required temperature monitoring surveillance should the normal temperature monitoring system become inoperable and to maintain radiation doses to the workers ALARA. This exemption will be in effect until the NRC Staff develops a reasonable process to implement amendments to CoCs for general licensees with previously-loaded casks.

Granting the requested amendment will not involve the use of resources not previously considered in the Reference (c) environmental assessment.

The proposed action will not increase the probability or consequences of accidents. No changes are being made in the types or quantities of any radiological effluent that may be released offsite and there is no significant increase in occupational or public radiation exposure. Reducing the time required to perform the temperature monitoring surveillance maintains exposure as low as reasonably achievable. Therefore, there is no significant radiological environmental impact associated with the proposed action.

The proposed action does not affect non-radiological plant effluents and has no other environmental impacts. Therefore, there are no significant non-radiological impacts associated with the proposed action.

Based upon the above assessment, the proposed action will not have a significant effect on the quality of the human environment.

Summary

In accordance with 10 CFR 72.7, CYAPCO is requesting an exemption from the requirements of 10 CFR 72 to utilize an alternative temperature monitoring surveillance as approved in Amendment No. 5 for CoC No. 1025 for the NAC-MPC System. The requested exemption from the requirements of 10 CFR 72.212(a)(2), 10 CFR 72.212(b)(2)(i)(A), 10 CFR 72.212(b)(7), and 10 CFR 72.214, is authorized by law, will not endanger life, property, or the common defense and security that are otherwise in the public interest.

There are no environmental impacts associated with this specific exemption.