

VERMONT YANKEE LICENSING DEPARTMENT
NRC INCOMING CORRESPONDENCE DISTRIBUTION

NVY _15-103

Agency Letter Date _12/22/2015

SUBJECT: Vermont Yankee -Partial Exemptions from the Requirements of 10 CFR Part 50, Appendix B, Criterion XVII; 10 CFR 50.5.(d)(3); and 10 CFR 50.71 c (CAC NO. MF5846)

TECHNICAL LEAD: *N/A*

RESPONSE DUE TO NRC: *N/A*

LICENSING LEAD: *PHIL COUTURE*

YES NO 10CFR19.11(a)(4) action? *If yes, posting is required within 2 working days of receipt.*

COMMITMENT IDENTIFIED: *YES/NO* (If yes, enter EN-LI-110)

COMMENTS: *NONE*

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By Subject:

- Mike McKenney, Manager, Emergency Preparedness
- Michael T Twomey, VP, External Affairs-Wholesale, WPO
- Other:
- VY AA/FFD

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- | | |
|--|--|
| <input type="checkbox"/> Monique Hoffmeister | <input checked="" type="checkbox"/> Andy Cardine |
| <input type="checkbox"/> Elizabeth Hunter | <input type="checkbox"/> Scott Dorval |
| <input checked="" type="checkbox"/> Paul Paradis | <input type="checkbox"/> Mike Tessier |
| <input type="checkbox"/> Dave Mannai | <input type="checkbox"/> Dave Duffy |
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- Coley Chappell, Manager, Licensing (see note 2)
- Dodi Emery (Chronological File)

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- Corey Daniels, Plant Manager Decommissioning(IR)
- Jack Boyle, Director Engineering
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- Jim Rogers, Manager, Design Engineering
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- Bob Burns, Maintenance Rule Program (IR)
- Jeff Meyer, State Liaison Engineer
- Dodi Emery (all IRs to SRC members)
- Jeff Meyer, Licensing (IR) Notes: 2 and 3
- Joe Lynch, External Affairs Mgr.
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- Other:

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Distributed by: *DME* Date: *4/5/2016*

Latest update: April 20, 2015 (DME)

NOTES:

- 1) (IR) – Inspection Reports
- 2) For IRs, Licensing verifies that CRs generated adequately recognize and address any violations/findings identified in the IR. If necessary, the responsible manager is contacted to resolve discrepancies (e.g. update CR, initiate a CRCA to address, initiate new CR). Also ensure a CA is created to perform a closure review per EN-LI-102.
- 3) For annual and semi-annual assessment letters, coordinate a SARB meeting to determine the pre-inspection assessments that will be performed and ensure CA&A issues the associated LOs (EN-LI-104).



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 22, 2015

NVY 15-103



Vice President, Operations
Entergy Nuclear Operations, Inc.
Vermont Yankee Nuclear Power Station
P.O. Box 250
Governor Hunt Road
Vernon, VT 05354

SUBJECT: VERMONT YANKEE NUCLEAR POWER STATION – PARTIAL EXEMPTIONS
FROM THE REQUIREMENTS OF 10 CFR PART 50, APPENDIX B, CRITERION
XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c) (CAC NO. MF5846)

Dear Sir or Madam:

The U.S. Nuclear Regulatory Commission has approved the enclosed partial exemptions from the recordkeeping requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c), for the Vermont Yankee Nuclear Power Station. This action is in response to your application dated February 13, 2015. The requested exemptions will eliminate the requirements to maintain records that are no longer necessary because of the permanently shutdown status of the facility.

A copy of the exemptions are enclosed and has been forwarded to the Office of the Federal Register for publication. If you have any questions, please contact April Pulvirenti at (301) 415-1390 or by e-mail at April.Pulvirenti@nrc.gov.

Sincerely,

A handwritten signature in black ink that reads "James Kim".

James Kim, Project Manager
Plant Licensing IV-2 and Decommissioning
Transition Branch
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-271

Enclosure:
Exemption

cc w/encl: Distribution via Listserv

ENCLOSURE

EXEMPTION

ENTERGY NUCLEAR OPERATIONS, INC.

VERMONT YANKEE NUCLEAR POWER STATION

DOCKET NO. 50-271

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271; NRC-2015-XXXX]

Entergy Operations, Inc.

Vermont Yankee Nuclear Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing exemptions in response to a February 13, 2015, request from Entergy Nuclear Operations, Inc. (ENO or the licensee). The licensee requested that Vermont Yankee Nuclear Power Station (Vermont Yankee) be granted a permanent partial exemption from regulations that require retention of records for certain systems, structures, and components (SSCs) until the termination of the operating license.

ADDRESSES: Please refer to Docket ID <**INSERT: NRC-20YY-XXXX**> when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID <**INSERT: NRC-20YY-XXXX**>. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly available documents online in the ADAMS Public Documents collection 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 e-mail to 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: James Kim, Office of Nuclear Reactor Regulation, telephone: 301-415-4125; e-mail: James.Kim@nrc.gov; U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Background.

Vermont Yankee is a single unit General Electric 4, Mark 1 Boiling Water Reactor located in Vernon, Vermont. Vermont Yankee was granted Operating License No. DPR-28 under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR) on March 21, 1972, and subsequently shut down on December 29, 2014. The operating license for Vermont Yankee is held by ENO.

On January 12, 2015, ENO submitted the certifications, pursuant to 10 CFR 50.82(a)(1), of permanent cessation of operations and permanent removal of fuel from the reactor (ADAMS Accession No. ML15013A426). Decommissioning activities will be carried out by Entergy Nuclear Vermont Yankee, and are described in the Post Shutdown Decommissioning Activities Report submitted to the NRC on December 19, 2014 (ADAMS Accession No. ML14357A110). The SSCs that supported the generation of electric power are being prepared to enter the SAFSTOR phase. Completion of fuel transfer from the spent fuel pool (SFP) to an independent spent fuel storage installation (ISFSI) is scheduled for 2020. Preparation for dismantlement and license termination are scheduled to begin in 2068.

II. Request/Action.

By letter dated February 13, 2015 (ADAMS Accession No. ML15069A439), ENO filed a request for NRC approval of a permanent exemption from the following recordkeeping requirements: 10 CFR part 50, appendix B, Criterion XVII, 10 CFR 50.59(d)(3), and 10 CFR 50.71(c). The request was made pursuant to 10 CFR 50.12, "Specific exemptions."

The licensee is requesting NRC approval of an exemption from 10 CFR part 50, appendix B, Criterion XVII, which requires certain records be retained throughout the life of the unit; 10 CFR 50.59(d)(3), which requires records to be maintained "until the termination of an operating license"; and 10 CFR 50.71(c) where records required by license condition or technical specifications (TSs) are to be retained until termination of the license. The licensee proposes that:

- (1) The need to maintain records for SSCs associated with nuclear power generation will be eliminated when those SSCs are removed from the licensing basis

documents, such as TSs or the updated final safety analysis report (UFSAR), by appropriate change mechanisms.

- (2) The need to maintain records for SSCs associated with safe storage of fuel in the SFP will be eliminated when spent nuclear fuel has been completely transferred from the SFP to dry storage, and the SFP and associated SSCs are removed from licensing basis documents by appropriate change mechanisms.

The licensee justifies the request by stating that when the associated SSCs are removed from the licensing basis documents, the SSCs will not serve any function regulated by the NRC. Therefore, the need to retain the records will be, on a practical basis, eliminated. The licensee cites precedents for records retention exemptions granted to Zion Nuclear Power Station, Units 1 and 2 (ADAMS Accession No. ML111260277), Millstone Power Station, Unit No. 1, (ADAMS Accession No. 070110567), and Haddam Neck Plant (ADAMS Accession No. ML052160088).

Records associated with residual radiological activity and with necessary programmatic controls, such as security and quality assurance, are addressed through current licensing documents and are therefore, not affected by the exemption request. Also, the licensee did not request an exemption from records associated with the Vermont Yankee ISFSI, records associated with retention of the spent fuel assemblies, or records associated with decommissioning or dismantlement. In addition, the licensee did not request an exemption from 10 CFR part 50, appendix A, Criterion 1, "Quality standards and records," as had been granted in the cited precedents. Because Vermont Yankee was granted a construction license prior to February 1971, it is not subject to the requirements in 10 CFR part 50, appendix A.

III. Discussion.

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security, and (2) when special circumstances are present.

Vermont Yankee permanently shut down on December 29, 2014, and subsequently removed the spent fuel from the reactor to the SFP. The nuclear reactor and SSCs associated with the nuclear steam supply system and balance of plant that had supported power generation have been drained as necessary and retired in place. Once these SSCs have been prepared for SAFSTOR, dismantlement, or demolition, they will no longer serve any purpose regulated by the NRC. Subsequently, these SSCs can be removed from NRC licensing basis documents, such as TSs or the UFSAR, by appropriate change mechanisms defined in regulations (e.g. 10 CFR 50.48(f), 10 CFR 50.59, 10 CFR 50.54(a), 10 CFR 50.54(p), or 10 CFR 50.54(q)). At that point, there will be no regulatory need to retain associated records until termination of the license. However, certain records associated with these SSCs, namely records pertaining to residual radioactivity and records pertaining to programmatic controls such as security or quality assurance, will continue to be governed by NRC regulation and addressed in licensing documents, and therefore, are not affected by these exemptions.

The SSCs supporting the continued operation of the SFP remain operable at Vermont Yankee and will be configured for operational efficiency until the fuel is removed to permanent dry storage. The records associated with the SFP SSCs will be retained through the SFP's functional life. Similar to other plant SSCs, when the SFP is emptied of fuel, drained, and prepared for demolition, SSCs that support the SFP will be removed from licensing basis

documents by appropriate change mechanisms. At that point, there will be no safety-related or regulatory basis to retain the records associated with SFP SSCs.

The Exemption is Authorized by Law

Section 50.71(d)(2) allows for the granting of specific exemptions to the retention of records required by regulations. Section 50.71(d)(2) states, in part, “the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 50.12 of this part, has granted a specific exemption from the record retention requirements specified in the regulations in this part.”

Based on 10 CFR 50.71(d)(2), if the requirements of 10 CFR 50.12 are satisfied, an exemption from the recordkeeping requirements in 10 CFR part 50, appendix B, 10 CFR 50.59(d)(3), and 10 CFR 50.71(c), as requested by the licensee, is authorized by law.

Specific Exemption Presents no Undue Risk to Public Health and Safety

As SSCs are prepared for SAFSTOR and eventual decommission and dismantlement, they will be removed from NRC licensing basis documents through appropriate change mechanisms, such as through the process stipulated by 10 CFR 50.59 or through a license amendment request approved by the NRC. These change processes involve either a determination by the licensee or an approval by the NRC that the affected SSC no longer serves any safety purpose regulated by the NRC. Therefore, the removal of the SSC would not present an undue risk to the public health and safety. In turn, removal of the records associated with the affected SSC would not cause any additional impact to public health and safety.

The partial exemptions from the requested requirements of 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c) are administrative in nature and will have no impact on future decommissioning activities or radiological effluents. The partial

exemptions will only advance the schedule for the removal of the records. Because the content of the records pertains to SSCs that have already been removed from licensing basis documents, elimination of the records on an advanced timetable will have no reasonable potential to present any undue risk to the public health and safety.

The Exemption is Consistent with the Common Defense and Security

The elimination of records associated with SSCs, which have already been removed from NRC licensing basis documents, is administrative in nature, and does not involve information or involve activities that could potentially impact the common defense or security. After the SSCs are removed from NRC licensing basis documents by appropriate change mechanisms, they are determined to no longer serve the purpose of safe operation or maintain conditions that would affect the ongoing health and safety of workers or the public. Therefore, removal of the associated records will also present no potential for impacting the safe operation of the plant or the defense or security of the workers or the public.

The exemptions requested are administrative in nature and will merely advance the current schedule for removal of the specified records. Therefore, the partial exemptions from the recordkeeping requirements of 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c), and for the types of records as specified above, are consistent with the common defense and security.

Special Circumstances

Pursuant to 10 CFR 50.12, the Commission will consider granting an exemption if special circumstances are present. Section 50.12(a)(2)(ii) states, in part, that "Special circumstance are present whenever "Application of the regulation in the particular

circumstances would not serve the underlying purpose of the rule, or is not necessary to achieve the underlying purpose of the rule.”

Appendix B of 10 CFR part 50, Criterion XVII, states in part: “Sufficient records shall be maintained to furnish evidence of activities affecting quality. ...Records shall be identifiable and retrievable.”

Section 50.59(d)(3) states in part: “The records of changes in the facility must be maintained until the termination of an operating license under this part...”

Section 50.71(c), states in part: “Records that are required by the regulations in this part or 10 CFR part 52 of this chapter, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license....”

In the Statements of Consideration for the final rulemaking, effective July 26, 1988 (53 FR 19240; May 27, 1988) “Retention Periods for Records,” as a response to public comments during the rulemaking process, the NRC states that records must be retained “...so they will be available for examination by the Commission in any analysis following an accident, incident, or other problem involving public health and safety...[and]... for NRC to ensure compliance with the safety and health aspects of the nuclear environment and for the NRC to accomplish its mission to protect the public health and safety.”

The Statements of Consideration express that the underlying purpose of the recordkeeping rule is to ensure that, in the event of an accident, incident, or condition that could impact public health and safety, the NRC has access to information in the records that would assist in the recovery from the event and prevent similar events or conditions, which would impact health and safety. These regulations do not consider the nature of the decommissioning process, in which safety-related SSCs are retired or disabled, and subsequently removed from

NRC licensing basis documents by appropriate change mechanisms prior to the termination of the license.

Appropriate removal of an SSC from the licensing basis requires either a determination by the licensee or an approval by the NRC of whether the SSC has the potential to cause an accident, event, or other problem, which would adversely impact the public health and safety. It follows that at a nuclear power generation plant in the decommissioning stage, SSCs that have been retired from service and removed from licensing basis documents have already been determined, through that evaluation, to no longer have an adverse impact on public health and safety.

The records subject to removal under these exemptions are associated with SSCs that had been important to safety during power operation but are no longer important operationally or capable of causing an event, incident, or condition that would adversely impact public health and safety, as evidenced by their appropriate removal from licensing basis documents. If the SSCs no longer have the potential to cause an event, incident, or other problem, which would adversely impact public health and safety, then it is reasonable to conclude that the records associated with these SSCs would not reasonably be necessary for recovery from or prevention of such an event or incident, and therefore, their retention would not serve the underlying purpose of the rule to assist in recovery from an event or prevent future events, incidents, or problems. Once removed from licensing basis documents, SSCs are no longer governed by the NRC's regulations, and therefore, are not subject to compliance with the safety and health aspects of the nuclear environment. Therefore, retention of these records does not serve the underlying purpose of the rule of maintaining compliance with the safety and health aspects of the nuclear environment or to accomplish the NRC's mission.

Records, which continue to serve the underlying purpose of the rule, that is, to maintain compliance and to protect public health and safety, will continue to be retained under

regulations in 10 CFR part 50 and 10 CFR part 72. These retained records not subject to the exemption include those associated with programmatic controls, such as those pertaining to residual radioactivity, security, quality assurance, etc., and records associated with the ISFSI and spent fuel assemblies.

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

The retention of records required by 10 CFR part 50, appendix B, Criterion XVII, 10 CFR 50.59(d)(3), and 10 CFR 50.71(c) provides assurance that records associated with SSCs will be captured, indexed, and stored in an environmentally suitable and retrievable condition. Given the volume of records associated with the SSCs, compliance with the records retention rules results in a considerable cost to the licensee. Retention of the volume of records associated with these SSCs during the operations phase is appropriate to serve the underlying purpose of providing information to the Commission for examination in the case of an event, incident, or other problem involving the public health and safety, as discussed above. However, the cost effect of retaining operations phase records beyond the operations phase until the termination of the license was not fully considered or understood. Therefore, compliance with the rule would result in an undue cost in excess of that contemplated when the rule was adopted.

The granted exemptions apply to records that are associated with SSCs that had supported the operations phase of electricity generation and wet storage of spent fuel assemblies, and that have been, or will be, retired in place, prepared for dismantlement, and removed from licensing basis documents. Records that continue to apply to retired SSCs during the SAFSTOR and decommissioning phase, such as records associated with programmatic controls pertaining to residual radioactivity, security, quality assurance, etc., and

records associated with the ISFSI and spent fuel assemblies, will continue to be maintained in an environmentally suitable and retrievable condition.

Environmental Considerations

Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation in Chapter I of 10 CFR is a categorical exclusion provided that (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought are among those identified in 10 CFR 51.22(c)(25)(vi).

The Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, has determined that approval of the exemption request involves no significant hazards consideration because allowing the licensee exemption from the recordkeeping requirements of 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c), at the permanently shutdown and defueled Vermont Yankee power reactor, does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; (3) involve a significant reduction in a margin of safety. Accordingly, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, and no significant increase in individual or cumulative public or occupational radiation exposure. The exempted regulation is not associated with construction, so there is no significant construction impact. The exempted regulation does not concern the source term (i.e., potential amount of radiation in an accident), nor mitigation. Therefore, there is no significant increase in the potential for, or consequences from radiological accidents.

Allowing the licensee partial exemption from record retention requirements from which the exemption is sought involve recordkeeping requirements, reporting requirements of an administrative, managerial, or organizational nature.

Therefore, pursuant to 10 CFR 51.22(b) and 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, that ENO's request for partial exemptions from recordkeeping requirements in 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c) 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. Also, special circumstances are present. Therefore, the Commission hereby grants ENO's one-time partial exemptions from 10 CFR part 50, appendix B, Criterion XVII; 10 CFR 50.59(d)(3); and 10 CFR 50.71(c) to advance the schedule to remove records associated with SSCs that have been removed from NRC licensing basis documents by appropriate change mechanisms.

Dated at Rockville, Maryland, this 22nd day of December 2015.

For the Nuclear Regulatory Commission.



George A. Wilson, Deputy Director,
Division of Operating Reactor Licensing,
Office of Nuclear Reactor Regulation.