



NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-309 and 72-30; NRC-2024-0020]

Maine Yankee Atomic Power Company; Maine Yankee Atomic Power Station; Environmental Assessment and Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption in response to the March 31, 2023, request from Maine Yankee Atomic Power Company (MYAPC or Maine Yankee), for the Maine Yankee Atomic Power Station (MYAPS), located in Wiscasset, Maine. The proposed exemption from NRC regulations, if granted, would permit MYAPC to make withdrawals from a segregated account within Maine Yankee's overall nuclear decommissioning trust (NDT), on an annual basis, for spent fuel and Greater than Class C (GTCC) waste management and non-radiological site restoration without prior notification to the NRC. The NRC staff is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) associated with the proposed exemption.

DATES: The EA and FONSI referenced in this document are available on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2024-0020** 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 Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2024-0020**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@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 <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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, at 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tilda Liu, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 404-997-4730, email: Tilda.Liu@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated March 31, 2023, Maine Yankee submitted a request to the NRC for an exemption from paragraphs 50.82(a)(8)(i)(A) and 50.75(h)(2) of title 10 of the *Code of Federal Regulations* (10 CFR) for the Maine Yankee Independent Spent Fuel Storage Installation (ISFSI).¹

Maine Yankee has established a separate (segregated) account within its overarching nuclear decommissioning trust (NDT), entitled “ISFSI Radiological Decom,” that identifies the funds for radiological decommissioning of the ISFSI apart from the larger

¹ As discussed in the referenced EA, the Maine Yankee ISFSI sits on the former site of the Maine Yankee Atomic Power Station, which MYAPC finished decommissioning in 2005. Although only the Maine Yankee ISFSI remains on the site, Maine Yankee’s 10 CFR part 50 license, Facility Operating License No. DPR-36 remains in effect. Because the MYAPC requested an exemption from the requirements of 10 CFR part 50, this would be an exemption for MYAPC’s 10 CFR part 50 license rather than for MYAPC’s 10 CFR part 72 general license. Therefore, although MYAPC’s submission requested an exemption for the Maine Yankee ISFSI, the NRC staff will consider it a request for an exemption for the Maine Yankee Atomic Power Station.

balance of funds in the NDT allocated for ongoing management of spent nuclear fuel and Greater than Class C (GTCC) waste and for non-radiological site restoration activities. Although 10 CFR 50.82 applies to the segregated account, it does not apply to the overall NDT.

If granted, the exemption from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(2) would permit MYAPC to make withdrawals from the segregated account, on an annual basis, for spent fuel and GTCC waste management and non-radiological site restoration without prior notification to the NRC. More specifically, with this exemption, MYAPC would be able to annually transfer funds exceeding 110 percent of the inflation-adjusted decommissioning cost estimate, described in 10 CFR 50.75, from the segregated account to its overarching NDT and use those funds for spent fuel and GTCC waste management and non-radiological site restoration.

Maine Yankee Atomic Power Station began commercial operation in December 1972, and shut down in December 1996. Maine Yankee began decommissioning the Maine Yankee Atomic Power Station in 1998. After ceasing reactor operations, MYAPC began transferring spent nuclear fuel (SNF) from the spent fuel pool to the Maine Yankee ISFSI for long-term dry storage. MYAPC completed these activities in 2004 and completed its final decommissioning of the reactor site, except for the ISFSI, which included dismantling and removing all reactor-related facilities, in 2005. As a result, only the ISFSI remains at the old plant site of Maine Yankee Atomic Power Station in Wiscasset, Maine. By letter dated September 30, 2005 (ADAMS Package Accession No. ML052380223), the NRC issued Amendment No. 172 to Facility Operating License No. DPR-36 to allow MYAPC to possess and store SNF at the permanently shut down and decommissioned facility under the provisions of 10 CFR part 72, subpart K, "General License for Storage of Spent Fuel at Power Reactor Sites."

The NRC staff is performing both a safety evaluation and an environmental review to determine whether to grant this exemption request. The NRC staff will prepare a separate safety evaluation report (SER) to document its safety review and analysis.

The NRC's SER will evaluate the proposed exemption to ensure reasonable assurance of adequate protection of public health and safety, and the common defense and security. This EA documents the environmental review which the NRC staff prepared in accordance with 10 CFR 51.21 and 51.30(a). The NRC's decision whether to grant the exemption will be based on the results of the NRC staff's review as documented in this EA, and the staff's safety review to be documented in the SER.

II. Environmental Assessment

By letter dated March 31, 2023, Maine Yankee submitted a request to the NRC for an exemption from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(2). If granted, the proposed exemption from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(2) would permit MYAPC to make withdrawals from the segregated account, on an annual basis, for SNF and GTCC waste management and non-radiological site restoration without prior notification to the NRC. More specifically, with this exemption, MYAPC would be able to annually transfer funds exceeding 110 percent of the inflation-adjusted decommissioning cost estimate, described in 10 CFR 50.75, from the segregated account to its overarching NDT and use those funds for SNF and GTCC waste management and non-radiological site restoration activities.

Need For the Proposed Action

As required by 10 CFR 50.82(a)(8)(i)(A), decommissioning trust funds may be used by the licensee if the withdrawals are for legitimate decommissioning activity expenses, consistent with the definition of decommissioning in 10 CFR 50.2. This definition addresses radiological decommissioning and does not include activities associated with management of SNF and GTCC waste or non-radiological site restoration. Similarly, the requirements of 10 CFR 50.75(h)(2) restrict the use of decommissioning trust fund disbursements (other than for ordinary and incidental expenses) to decommissioning expenses until final decommissioning has been completed.

Maine Yankee stated that it has established a segregated account, entitled

“ISFSI Radiological Decom,” within its over-arching NDT, that identifies the funds for radiological decommissioning of the ISFSI. This segregated account is separate from the larger balance of funds in the NDT allocated for ongoing management of SNF and GTCC waste and for other non-radiological site restoration activities. Therefore, exemption from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(2) is needed to allow Maine Yankee to use funds from the segregated account for of SNF and GTCC waste management and other non-radiological site restoration activities.

In its Decommissioning Funding Assurance Status Report dated March 6, 2023, Maine Yankee stated that, as of December 31, 2022, its inflation-adjusted decommissioning cost estimate (DCE) for the radiological decommissioning of the ISFSI, is approximately \$7.4 million in 2022 dollars, which, it asserted provides reasonable assurance of adequate funding to complete the NRC-required decommissioning activities. In the same report, Maine Yankee reported that the segregated “ISFSI Radiological Decom” account had \$56.4 million. More specifically, in its exemption request, Maine Yankee provided a table showing \$7,436,375 in 2022 dollars as the inflation-adjusted DCE. Maine Yankee’s exemption request further stated that the segregated account has a balance of \$56,449,354 as of December 31, 2022, meaning that the segregated account had a balance of \$49,012,979, or 659 percent beyond the inflation-adjusted DCE.

Maine Yankee stated that, if the exemption is granted, funds in its segregated account which exceed 110 percent of the inflation-adjusted DCE for the radiological decommissioning of the ISFSI would be transferred to the overarching NDT on an annual basis without prior NRC notification. Maine Yankee would then use those funds for SNF and GTCC waste management and non-radiological site restoration, which in turn, would allow Maine Yankee to return its additional excess funds in the overarching NDT to its customers as part of future rate cases with the Federal Energy Regulatory Commission.

The requirements of 10 CFR 50.75(h)(2) further provide that, except for

withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary administrative costs and other incidental expenses of the NDT in connection with the operation of the NDT, no disbursement may be made from the NDT without written notice to the NRC at least 30 working days in advance. Therefore, an exemption from 10 CFR 50.75(h)(2) is also needed to allow Maine Yankee to use funds from the segregated account for SNF and GTCC waste management and non-radiological site restoration activities without prior NRC notification.

Environmental Impacts of the Proposed Action

The proposed action involves an exemption from requirements that are of financial and/or administrative nature and that do not have an impact on the environment.

Before the NRC could approve the proposed action, it would have to conclude that there is reasonable assurance that adequate funds are available in the segregated account to complete all activities associated with radiological decommissioning as well as SNF and GTCC waste management and non-radiological site restoration. Therefore, there would be no decrease in safety associated with the use of funds from the segregated account to also fund activities associated with SNF and GTCC waste management and non-radiological site-restoration.

The requested exemption from the requirements of 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(2), if approved, would allow transfers on an annual basis. Maine Yankee stated that it will continue to provide its annual decommissioning funding assurance status report in accordance with the 10 CFR 50.75(f)(1) and (2) and 10 CFR 50.82(a)(8)(v) and (vi) requirements. These reports provide the NRC staff with awareness of, and the ability to act on, any actual or potential funding deficiencies. As the proposed exemption would not affect these requirements, the NRC staff would have tools available for any potential funding deficiencies. Since the exemption would allow Maine Yankee to use funds from the segregated account that are in excess of those required for radiological decommissioning, the adequacy of funds dedicated for

radiological decommissioning would not be affected by the proposed exemption.

Therefore, there is reasonable assurance that there would be no environmental impact due to lack of adequate funding for radiological decommissioning.

Further, there are no new accident precursors created by using the excess funds from the segregated account for SNF and GTCC waste management and non-radiological site-restoration. The exemption, if granted, would be financial and/or administrative in nature. Thus, the probability of postulated accidents is not increased. Also, the consequences of postulated accidents are not increased. No changes are being made in the types or amounts of effluents that may be released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, the requested exemption will not present an undue risk to the public health and safety.

With regard to potential non-radiological impacts, the proposed action would have no direct impacts on land use or water resources, including terrestrial and aquatic biota, as it involves no new construction or modification of plant operational systems. There would be no changes to the quality or quantity of non-radiological effluents. In addition, there would be no noticeable effect on socioeconomic conditions in the region, no environmental justice impacts, no air quality impacts, and no impacts to historic and cultural resources from the proposed action. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

For these reasons, the NRC concludes there are no significant environmental impacts associated with the proposed exemption request.

Environmental Impacts of the Alternatives to the Proposed Action

In addition to the proposed action, the NRC staff also considered denial of the proposed action (*i.e.*, the “no-action” alternative). Denial of the exemption request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action would be similar.

Alternative Use of Resources

There are no unresolved conflicts concerning alternative uses of available

resources under the proposed action.

Agencies Consulted

By email dated January 16, 2024, the NRC provided a copy of this draft EA to the Maine Department of Health and Human Services, Radiological Control Program, for review. By email dated January 30, 2024, Maine Department of Health & Human Services concurred with the NRC staff's determination.

Endangered Species Act Section 7 Consultation

Section 7 of the Endangered Species Act of 1973, as amended (ESA), requires Federal agencies to consult with the U.S. Fish and Wildlife Service or National Marine Fisheries Service regarding actions that may affect listed species or designated critical habitats. The ESA is intended to prevent further decline of endangered and threatened species and restore those species and their critical habitat.

The NRC staff determined that a consultation under section 7 of the ESA is not required because the proposed action will not affect listed species or critical habitat.

National Historic Preservation Act Section 106 Consultation

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to consider the effects of their undertakings on historic properties. As stated in the NHPA, historic properties are any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register of Historic Places.

The NRC determined that the scope of activities described in this exemption request do not have the potential to cause effects on historic properties because the NRC's approval of this exemption request will not authorize new construction or land disturbance activities. The NRC staff 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 Maine Yankee site boundary. Therefore, in accordance with 36 CFR 800.3(a)(1), no consultation is required under section 106 of NHPA.

III. Finding of No Significant Impact

The environmental impacts of the proposed action — an exemption from the requirements of 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(2) allowing MYAPC to make withdrawals from the segregated account, on an annual basis, for SNF and GTCC waste management and non-radiological site restoration without prior notification to the NRC — have been reviewed under the requirements in 10 CFR part 51, which implement the National Environmental Policy Act of 1969, as amended.

The proposed exemption would not have a significant adverse effect on the probability of an accident occurring and would not have any significant radiological or non-radiological impacts. The proposed exemption involves an exemption from requirements that are of a financial and/or administrative nature and would not have an impact on the human environment. Consistent with 10 CFR 51.21, the NRC conducted the EA for the proposed exemption, and this FONSI incorporates by reference the EA in Section II of this document. Therefore, the NRC concludes that the proposed action will not have significant effects on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS, as indicated.

Document Description	ADAMS Accession No.
Request for Exemption from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(2) for the Maine Yankee ISFSI, dated March 31, 2023.	ML23113A005
Email to State of Maine providing draft environmental assessment related to Maine Yankee exemption request, dated January 16, 2024.	ML24024A153
Response from State of Maine on draft EA/FONSI, dated January 30, 2024.	ML24033A284
Maine Yankee Decommissioning Funding Assurance Status Report, dated March 6, 2023.	ML23068A011
Issuance of Amendment No. 172, to Facility Operating License No. DPR-36 - Maine Yankee Atomic Power Station, dated September 30, 2005.	ML052380223 (package)

Dated: February 22, 2024.

For the Nuclear Regulatory Commission.

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