

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–309 and 72–30; NRC–2012–0189]

### Maine Yankee Atomic Power Company, Maine Yankee Independent Spent Fuel Storage Installation, Exemption—Staff Evaluation

#### 1.0 Background

Maine Yankee Atomic Power Company (MY, the licensee) is the holder of Facility Operating License No. DPR–36 which authorizes possession of nuclear fuel under Title 10 of the *Code of Federal Regulations* (10 CFR) part 50. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect. Per 10 CFR part 72, Subpart K, a general license is issued for the storage of spent fuel in an Independent Spent Fuel Storage Installation (ISFSI) to persons authorized to possess or operate nuclear power reactors under 10 CFR part 50. Thus, MY also holds a 10 CFR part 72 general license for storage of spent fuel and greater than Class C waste at the MY ISFSI.

Under Facility Operating License No. DPR–36, MY operated a Pressurized Water Reactor until 1997 when operations ceased. In 2002, MY began transferring fuel from the reactor spent fuel pool into vertical dry casks at their ISFSI facility. These activities were completed in 2004. The MY ISFSI is a stand-alone ISFSI located on Bailey Point Peninsula near Wiscasset, Maine.

The Power Reactor Security Rule, which applies to all 10 CFR part 50 licensees, was revised on March 27, 2009, with compliance required by March 31, 2010 (74 FR 13926). The NRC held a webinar on July 20, 2010, on this subject to provide clarification on the applicability of the power reactor security regulations to 10 CFR part 50 licensees undergoing decommissioning or 10 CFR part 50 licensees that have only a general licensed ISFSI. On August 2, 2010, the NRC issued a letter to MY clarifying the applicability of the revised power reactor security regulations to a Part 50 licensee undergoing decommissioning or a Part 50 licensee that has only a general licensed ISFSI. In the August 2, 2010, letter the NRC noted that there are currently no security or health and safety concerns at these facilities that may not be in compliance with the current 10 CFR 73.55 requirements because the Security Plans at these facilities meet the baseline requirements

of the previous version of 10 CFR 73.55 and also meet the requirements of subsequent NRC security orders. The NRC requested a response be submitted within 120 days of receipt of the August 2, 2010, letter.

By letter dated November 29, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML103410468), MY responded to the August 2, 2010, letter. In its response, MY requested exemptions from certain requirements in 10 CFR 73.55, “Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage,” and 10 CFR 73.57, “Requirements for Criminal History Checks of Individuals Granted Unescorted Access to a Nuclear Power Facility or Access to Safeguards Information” which it considered either not applicable or caused an undue burden to a stand-alone ISFSI. MY also submitted a matrix which described how MY either complied with 10 CFR 73.55, 10 CFR 73.57 and applicable orders or needed an exemption. MY further stated that its intent in submitting this exemption request is to maintain its NRC-approved Physical Security Plan (PSP). In addition, MY noted that the statement of consideration for the Power Reactor Security Rule states that the Commission did not intend to make changes to the substantive requirements of 10 CFR 72.212 and that the Commission has initiated a separate rulemaking to revise the ISFSI security requirements (March 27, 2009; 74 FR 13958).

#### 2.0 Discussion

Pursuant to 10 CFR 73.5, *Specific Exemptions*, “The Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements in 10 CFR part 73 as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.” The NRC evaluated the exemption requests submitted by MY in its November 29, 2010, letter. After evaluating the exemption requests, the staff determined that MY should be granted an exemption from 10 CFR 73.55(e)(10)(ii). Section 73.55(e)(10)(ii) sets forth requirements for restricting access by waterborne vehicles. The remaining requirements from which the licensee requested exemptions were determined either to be inapplicable to the facility or are being met by the licensee’s current PSP; therefore, these exemptions are denied. Additional information regarding the NRC staff

evaluation is documented in a Safety Evaluation Report that contains Sensitive Unclassified Non-Safeguards Information and is being withheld from public inspection in accordance with 10 CFR 2.390.

The purpose of the regulations in 10 CFR 73.55 is to establish and maintain a physical protection system designed to protect against radiological sabotage. The purpose of 10 CFR 73.55(e)(10)(ii) is to restrict waterborne vehicle access and perform periodic surveillance of waterway approaches. However, there are no pathways which allow waterborne vehicles to gain direct access to the ISFSI. Furthermore, MY employs site specific barriers as part of its NRC-approved PSP which are appropriate for the reduced radiological risk associated with a stand-alone ISFSI. Therefore, the staff concludes that the exemption does not pose an increased risk to public health and safety and is not inimical to the common defense and security. Given the above considerations, this exemption will not endanger life or property or the common defense and security.

In considering these exemption requests, the staff reviewed an NRC letter dated July 25, 2001, MY responses to Orders EA–03–97, EA–02–104, and EA–02–077, and the NRC approved MY ISFSI PSP, Rev. 0, dated August 2009. The staff also reviewed the revised Power Reactor Security Rule, 10 CFR 73.55, which became effective on May 26, 2009 (74 FR 13926), to identify substantive changes affecting previously approved exemptions. In addition, the staff reviewed a 2009 inspection report prepared after conducting an inspection of the licensee’s facility, procedures, and PSP for compliance with applicable regulations and NRC Orders. Based upon its review, the NRC staff determined that current barriers and actions implemented under the MY ISFSI PSP satisfy the requirements of 10 CFR part 73, and that granting the requested exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission’s regulations. After completing its review, the staff determined granting MY an exemption from the requirements of 10 CFR 73.55(e)(10)(ii) would not decrease the level of security currently in place at the MY ISFSI, and will not result in increased radiological risk to the public from operation of this general licensed, stand-alone ISFSI. Accordingly, the staff has determined that, pursuant to 10 CFR 73.5, this exemption is authorized by law and is otherwise in the public interest.

Granting an exemption from the requirement in 10 CFR 73.55(e)(10)(ii)

involves safeguards plans. Section 51.22(c)(25)(vi)(F) provides a categorical exclusion for exemptions involving safeguard plans provided that the criteria in 10 CFR 51.22(c)(25)(i)–(v) are also satisfied. In its review of the exemption request, the NRC determined that, pursuant to 10 CFR 51.22(c)(25): (i) Granting the exemption neither involves a significant reduction in a margin of safety nor creates a new or different kind of accident from any accident previously evaluated, and thus no significant hazards considerations because there is no significant increase in either the probability or consequences of an accident previously evaluated; (ii) granting the exemption would not produce a significant change in either the types or amounts of any effluents that may be released offsite because the requested exemption neither changes the effluents nor produces additional avenues of effluent release; (iii) granting the exemption would not result in a significant increase in either occupational radiation exposure or public radiation exposure because the requested exemption neither introduces new radiological hazards nor increases existing radiological hazards; (iv) granting the exemption would not result in a significant construction impact because there are no construction activities associated with the requested exemption; and; (v) granting the exemption would not result in a significant increase in the potential for or consequences from radiological accidents because the exemption neither reduces the level of security in place at the MY ISFSI nor creates new accident precursors. Accordingly, this exemption meets the criteria for a categorical exclusion in 10 CFR 51.22(c)(25)(vi)(F).

### 3.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants MY an exemption from the 10 CFR 73.55(e)(10)(ii) requirement to restrict waterborne vehicle access and perform periodic surveillance of waterway approaches. In addition, MY shall continue to follow the NRC approved ISFSI PSP and applicable NRC orders. As discussed in the preceding paragraph, the Commission has determined that this action meets the criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25)(vi)(F). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or

environmental assessment need be prepared in connection with the granting of this exemption. This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 6th day of August, 2012.

For the Nuclear Regulatory Commission.

**Douglas W. Weaver,**

*Deputy Director, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2012–19929 Filed 8–13–12; 8:45 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30164; File No. 812–14024]

### The Hartford Mutual Funds, Inc., *et al.*; Notice of Application

August 8, 2012.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from rule 12d1–2(a) under the Act.

**SUMMARY:** Applicants request an order to permit open-end management investment companies relying on rule 12d1–2 under the Act to invest in certain financial instruments.

*Applicants:* The Hartford Mutual Funds, Inc., The Hartford Mutual Funds II, Inc., Hartford Series Fund, Inc., Hartford HLS Series Fund II, Inc., Hartford Variable Insurance Trust I, Hartford Variable Insurance Trust II (collectively, the “Companies”); Hartford Investment Financial Services, LLC, HL Investment Advisors, LLC, Hartford Investment Advisory Company, LLC (each, an “Initial Adviser” and collectively, the “Initial Advisers”); and Hartford Securities Distribution Company, Inc.

**DATES:** *Filing Date:* The application was filed on April 11, 2012 and amended on July 30, 2012.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 4, 2012, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the

reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: 200 Hopmeadow Street, Simsbury, Connecticut 06089.

**FOR FURTHER INFORMATION CONTACT:** Jill Ehrlich, Senior Counsel, at (202) 551–6819, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551–8090.

### Applicants’ Representations

1. Each of the Companies is organized as a Maryland corporation or a Delaware statutory trust and is or will be registered under the Act as an open-end management investment company. Each of the Initial Advisers is organized as a Delaware limited liability company and is or will be a registered investment adviser under the Investment Advisers Act of 1940 (“Advisers Act”). Each of the Initial Advisers is or may serve as the investment adviser to certain series of the Companies. Hartford Securities Distribution Company, Inc., a Connecticut corporation, is registered as a broker-dealer under the Securities Exchange Act of 1934 (“Exchange Act”) and is or will be the distributor for certain series of the Companies.<sup>1</sup>

2. Applicants request the exemption to the extent necessary to permit any existing or future series of the Companies and any other registered open-end management investment company or series thereof that (i) is advised by an Initial Adviser or any person controlling, controlled by or under common control with an Initial Adviser (any such adviser, including an Initial Adviser, an “Adviser”);<sup>2</sup> (ii) is in the same group of investment companies as defined in section 12(d)(1)(G) of the Act as the Companies; (iii) invests in other registered open-end management investment companies

<sup>1</sup> Hartford Investment Financial Services, LLC will also serve as distributor for certain series of the Companies.

<sup>2</sup> Each Adviser will be registered under the Advisers Act.