

November 8, 2002

EA-02-162

Mr. Fred Dacimo  
Vice President - Operations  
Entergy Nuclear Operations, Inc.  
Indian Point Nuclear Generating Units 1 & 2  
295 Broadway, Suite 1  
Post Office Box 249  
Buchanan, NY 10511-0249

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND  
NOTICE OF VIOLATION AT INDIAN POINT UNIT 2  
(NRC Inspection Report 50-247/02-010)

Dear Mr. Dacimo:

The purpose of this letter is to provide you with the final results of our significance determination for the preliminary White finding identified during an inspection completed on July 19, 2002, at the Indian Point Unit 2 facility. The results of the inspection were discussed with you and other members of your staff at an exit meeting on August 8, 2002. The inspection finding was assessed using the significance determination process and was preliminarily characterized as White, a finding with low to moderate importance to safety, which may require additional NRC inspections. The basis for this preliminary White finding was explained in our August 28, 2002 letter that transmitted the subject inspection report.

This preliminary White finding involved a moderate degradation of the control room west wall fire barrier prior to February 2002, in that there were passages in the wall that could allow smoke and gases to penetrate the control room in the event of a turbine building fire. Although Entergy identified the initial degradation, during an initiative to improve the leak tightness of the control room, your initial corrective actions taken to improve the fire resistance of the wall did not assure that the wall conformed to licensed 3-hour fire barrier design assumptions. Additionally, the extent of condition review was not thorough because it did not identify all the deficiencies in the wall, and was not sufficient to identify other degraded fire barrier walls, which will be evaluated by a supplemental inspection. This preliminary White finding was also associated with an apparent violation of the Indian Point 2 Facility Operating License (DPR-26).

In the August 28, 2002 letter, the NRC provided you an opportunity to either request a regulatory conference to discuss this finding, or explain your position in a written response. In a telephone conversation with Mr. David Lew of NRC, Region I, on September 12, 2002, Mr. John McCann of your staff indicated that Entergy declined the opportunity to discuss this issue in a Regulatory Conference, but would provide a written response.

In your response dated September 30, 2002, you agreed with the results and conclusions of the NRC inspection, and that your initial extent of condition review did not detect all of the potential

defects in the wall. However, you contend that after you repaired the wall in March 2002, the wall met the requirements and acceptance criteria of ASTM E 119 for a fire-resistance period of 3 hours based on an evaluation performed by your fire protection consultant. You also stated that you recognized that this conclusion would not alter the NRC's characterization of this finding.

Notwithstanding your contention that the wall would perform as a 3-hour fire barrier following repairs in March 2002, the NRC maintains, as originally stated in our inspection report, that the repairs did not restore the wall to a 3-hour fire barrier design. In order to meet the 3-hour fire barrier design, the wall had to comply with a tested configuration. Although your corrective actions in March 2002 improved the construction of the inner wall, those actions were not adequate to ensure that the entire wall was a fully qualified 3-hour fire barrier. We are aware that you have completed additional repairs to the central control room west wall since the inspection. We plan to review the additional repairs when we do our followup inspection for this finding.

Based on the information developed during the inspection, and the information provided in your response dated September 30, 2002, the NRC has concluded that the inspection finding is appropriately characterized as White. You have 10 business days from the date of this letter to appeal the staff's determination of significance for the identified White finding. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2. In addition, the White finding was associated with a violation of License Condition 2.K of Facility Operating License DPR-26. The violation is cited in the enclosed Notice of Violation and the circumstances surrounding the violation were described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, NUREG-1600, this Notice of Violation is considered escalated enforcement action because it is associated with a White finding.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice of Violation when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements. The NRC recognizes that a significant element of your design verification program is the Fundamentals Improvement Program (FIP) that is ongoing. The NRC intends for our supplemental inspection of this issue to: (1) verify your corrective actions and extent-of-condition review for fire walls; and (2) sample, for an extended time, other aspects of your design basis initiatives as documented in your FIP.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document

Mr. Fred Dacimo

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Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

***/RA/***

Hubert J. Miller  
Regional Administrator

Docket No.: 50-247  
License Nos.: DPR-26

Enclosure: Notice of Violation

cc w/encl: J. Yelverton, Chief Executive Officer  
M. Kansler, Senior Vice President and CEO  
J. Herron, Senior Vice President  
R. J. Barrett, Vice President - Operations  
C. Schwarz, General Manager - Operations  
D. Pace, Vice President - Engineering  
J. Knubel, Vice President Operations Support  
J. McCann, Manager, Nuclear Safety and Licensing  
J. Kelly, Director of Licensing  
C. Faison, Manager - Licensing, Entergy Nuclear Operations, Inc.  
H. Salmon, Jr., Director of Oversight, Entergy Nuclear Operations, Inc.  
J. Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc.  
W. Flynn, President, New York State Energy, Research and Development Authority  
J. Spath, Program Director, New York State Energy, Research and Development Authority  
P. Eddy, Electric Division, New York State Department of Public Service  
C. Donaldson, Esquire, Assistant Attorney General, New York Department of Law  
T. Walsh, Secretary, NFSC, Entergy Nuclear Operations, Inc.  
Mayor, Village of Buchanan  
R. Albanese, Executive Chair, Four County Nuclear Safety Committee  
S. Lousteau, Treasury Department, Entergy Services, Inc.  
M. Slobodien, Director Emergency Programs  
B. Brandenburg, Assistant General Counsel  
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A. Spano, Westchester County Executive  
R. Bondi, Putnam County Executive  
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E. Diana, Orange County Executive  
T. Judson, Central NY Citizens Awareness Network  
M. Elie, Citizens Awareness Network  
D. Lochbaum, Nuclear Safety Engineer, Union of Concerned Scientists  
Public Citizen's Critical Mass Energy Project  
M. Mariotte, Nuclear Information & Resources Service  
F. Zalzman, Pace Law School, Energy Project  
L. Puglisi, Supervisor, Town of Cortlandt  
Congresswoman Sue W. Kelly  
Congressman Ben Gilman  
Congresswoman Nita Lowey  
Senator Hilary Rodham Clinton  
Senator Charles Schumer  
J. Riccio, Greenpeace  
A. Matthiessen, Executive Director, Riverkeepers, Inc.  
M. Kapolwitz, Chairman of County Environment & Health Committee  
A. Reynolds, Environmental Advocates  
M. Jacobs, Executive Director, Westchester Peoples Action Coalition  
D. Katz, Executive Director, Citizens Awareness Network  
P. Gunter, Nuclear Information & Resource Service  
P. Leventhal, The Nuclear Control Institute  
K. Copeland, Pace Environmental Litigation Clinic

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\* per e-mail from D. Nelson    \*\* per e-mail from L. Dudes

## NOTICE OF VIOLATION

Entergy Nuclear Operations, Inc.

Docket No.: 50-247  
License No.: DPR-26  
EA-02-162

During an NRC inspection conducted between June 17 - July 19, 2002, the results of which were discussed at an exit meeting on August 8, 2002, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

The Indian Point 2 Facility Operating License (DPR-26), Condition 2.K, requires, in part, that Entergy Nuclear Operations, Inc. implement and maintain in effect all provisions of the NRC-approved fire protection program as described in the Updated Final Safety Analysis Report (UFSAR) for the facility. The licensee may make changes to the NRC-approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.

The Indian Point 2 UFSAR, Section 9.6.2, Fire Protection System, states, in part, that the Indian Point Unit 2 Fire Protection Program Plan, Revision 5, is considered to be part of the FSAR.

The Indian Point Unit 2 Fire Protection Program Plan, Section 5.2, requires, in part, a Type 1 fire barrier to be 3-hour rated. Appendix B of the Plan requires, in part, that the central control room west wall to be a Type 1 fire barrier.

Indian Point 2 Specification CE-PS 132-78 states that the central control room west wall was to be constructed in accordance with Underwriters Laboratories (UL) design specification UL U902, which does not allow embedded steel, corbeled (recessed) brickwork, missing bricks or gaps in mortar joints.

Contrary to the above, from the time of initial construction in 1978 to August 2002, Entergy failed to implement and maintain in effect all provisions of the NRC-approved fire protection program. Specifically, the central control room west wall was not a fully qualified 3-hour fire barrier in accordance with UL U902 because it had embedded steel, corbeled brickwork, missing bricks, and gaps in mortar joints. This increased the likelihood that a fire in the turbine building could damage the redundant trains of safe shutdown equipment.

This violation is associated with a WHITE significance determination process finding.

Pursuant to the provisions of 10 CFR 2.201, Entergy Nuclear Operations, Inc. is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region I, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation - EA-02-162" and should include for each violation: (1) the reason for the violation, or, if contested,

the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 8th day of November 2002