

December 20, 2006

EA-06-253

Mr. Theodore A. Sullivan
Site Vice President
Entergy Nuclear Operations, Inc.
Vermont Yankee Nuclear Power Station
320 Governor Hunt Road
Vernon, VT 05354

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND
NOTICE OF VIOLATION (NRC Inspection Report No. 05000271/2006011 -
Vermont Yankee Nuclear Power Station)

Dear Mr. Sullivan:

The purpose of this letter is to provide you with the final results of our significance determination for the preliminary White finding reviewed during our inspection completed on October 6, 2006, and documented in the subject inspection report sent to you with our letter dated November 7, 2006. The inspection finding involved the August 31, 2006, shipment of a package containing radioactive material from the Entergy Nuclear Operations, Inc. (Entergy) Vermont Yankee Nuclear Power Station (Vermont Yankee) facility via an exclusive-use open transport vehicle, and the package did not conform to the applicable Department of Transportation (DOT) regulatory requirements when it arrived at the Susquehanna Nuclear facility in Luzerne County, Pennsylvania. Specifically, upon receipt, the external radiation level on the surface of the package exceeded regulatory limits.

The package containing the radioactive material was not designed and prepared to assure, under conditions normally incident to transportation, that the radiation level on any point on the external surface of the package would not exceed 200 millirem per hour. As a result, when the package arrived at the Susquehanna facility, an area on the bottom of the external surface of the package exhibited a radiation level of 820 millirem per hour. The actual condition did not involve an exposure or hazard to the public, but it had the potential to adversely affect personnel who would normally receive the package or respond to an incident involving the package since responders could have a reasonable expectation that the package conformed with DOT radiation limitations. In addition, it was fortuitous that the surface of the package was inaccessible to the public during transport.

As noted in our November 7, 2006 letter, the inspection finding was assessed using the significance determination process and was preliminarily characterized as White (a finding of low to moderate increased importance to safety that may require additional NRC inspections). Our letter provided you an opportunity to attend a regulatory conference or submit a written response to address the preliminary finding prior to the NRC making a final significance

determination. In a telephone conversation with Mr. John White of NRC Region I on November 16, 2006, Mr. David Mannai of your staff indicated that Entergy did not contest the characterization of the risk significance of this finding and that Entergy declined the opportunity to discuss this issue in a regulatory conference or to provide a written response.

After considering the information developed during the inspection, the NRC has concluded that the inspection finding is appropriately characterized as White. You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for this White finding. Such appeals will be considered to have merit only if they meet the criteria given in the NRC Inspection Manual Chapter 0609, Attachment 2.

The NRC has also determined that the August 31, 2006, radioactive material shipment from Vermont Yankee is a violation of 10 CFR 71.5 and DOT regulation 49 CFR 173.441(a) as cited in the attached Notice of Violation (Notice). The circumstances surrounding the violation are also described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, the Notice is considered an 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 when preparing your response.

Because plant performance for this issue has been determined to be in the regulatory response band, we will use the NRC Action Matrix to determine the most appropriate NRC response for this event. We will notify you of that determination by separate correspondence.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS) accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Sincerely,

/RA/

Samuel J. Collins
Regional Administrator

Docket No. 50-271
License No. DPR-28

Enclosure: Notice of Violation

cc w/encl:

M. R. Kansler, President, Entergy Nuclear Operations, Inc.
G. J. Taylor, Chief Executive Officer, Entergy Operations
J. T. Herron, Senior Vice President and Chief Operating Officer
C. Schwarz, Vice-President, Operations Support
O. Limpas, Vice President, Engineering
J. M. DeVincentis, Manager, Licensing, Vermont Yankee Nuclear Power Station
Operating Experience Coordinator, Vermont Yankee Nuclear Power Station
W. Maguire, General Manager, Plant Operations, Entergy Nuclear Operations, Inc.
N. Rademacher, Director NSA, Vermont Yankee Nuclear Power Station
J. F. McCann, Director, Licensing
C. D. Faison, Manager, Licensing
M. J. Colomb, Director of Oversight, Entergy Nuclear Operations, Inc.
T. C. McCullough, Assistant General Counsel, Entergy Nuclear Operations, Inc.
J. H. Sniezek, PWR SRC Consultant
M. D. Lyster, PWR SRC Consultant
S. Lousteau, Treasury Department, Entergy Services, Inc.
Mr. Britt T. McKinney, PPL Susquehanna, LLC
R. R. Sgarro, Manager - Nuclear Regulatory Affairs, PPL Susquehanna, LLC
Administrator, Bureau of Radiological Health, State of New Hampshire
Chief, Safety Unit, Office of the Attorney General, Commonwealth of Mass.
J. E. Silberg, Pillsbury, Winthrop, Shaw, Pittman LLP
G. D. Bisbee, Esquire, Deputy Attorney General, Environmental Protection Bureau
J. Block, Esquire
J. P. Matteau, Executive Director, Windham Regional Commission
D. Katz, Citizens Awareness Network (CAN)
R. Shadis, New England Coalition Staff
G. Sachs, President/Staff Person, c/o Stopthesale
C. McCombs, Director, Commonwealth of Massachusetts, SLO Designee
State of New Hampshire, SLO Designee
State of Vermont, SLO Designee
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*see prior concurrence

** via e-mail from L. Trocine on 12/14/06 ***via e-mail from D. Solorio on 12/16/06

Enclosure

NOTICE OF VIOLATION

Entergy Nuclear Operations, Inc.
Vermont Yankee Nuclear Power Station

Docket No.: 50-271
License No.: DPR-28
EA-06-253

During an NRC inspection conducted from September 6, 2006, through October 6, 2006, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 71.5, "Transportation of licensed material," requires that NRC licensees comply with the Department of Transportation (DOT) regulations in 49 CFR Parts 170 through 189, relative to the transportation of licensed material.

49 CFR 173.441(a) requires, in part, that each package of radioactive material offered for transport must be designed and prepared for shipment so that, under conditions normally incident to transportation, the radiation level does not exceed 200 millirem per hour at any point on the external surface of the package.

Contrary to the above, on August 31, 2006, the licensee offered for transportation and shipment a package (containing radioactive material) that was not designed and prepared to assure that, under conditions normally incident to transportation, the radiation level on any point on the external surface of the package would not exceed 200 millirem per hour. Specifically, the contents of the package were not effectively decontaminated and an adequate radiological survey of the package was not performed to assure that, under conditions normally incident to transport, the radiation level would not exceed 200 millirem per hour at any point on the external surface of the package. As a result, when the package was received at its shipping destination at the Susquehanna Nuclear facility in Luzerne County, Pennsylvania, on September 1, 2006, an area on the bottom of external surface of the package exhibited a radiation level of 820 millirem per hour.

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 20555-0001 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-06-253" and should include: (1) the reason for the violation or, if contested, the basis for disputing the violation or severity level; (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 previously 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, U.S. 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 NRC's document system (ADAMS) accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, 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. 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 2.390(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 2 working days.

Dated this 20th day of December 2006.