

February 13, 2002

Mr. Michael Mulligan  
New England Coalition on Nuclear Pollution  
5 Woodlawn Lane  
Hinsdale, NH 03451

Dear Mr. Mulligan:

This letter addresses your 10 CFR 2.206 petition dated November 30, 2001, as supplemented on December 3, 2001, your 2.206 petition dated January 4, 2002, concerning the Vermont Yankee Nuclear Power Station (Vermont Yankee), and your 2.206 petition dated December 28, 2001, as superceded on January 4, 2002, concerning the LaSalle County Station (LaSalle). These petitions are being handled in this one letter due to the similar nature of the issues.

A. Vermont Yankee

I. Petition dated November 30, 2001, as supplemented on December 3, 2001,  
(Enclosures 1 and 2)

Your e-mail dated November 30, 2001, and addressed to Mr. Victor L. Dricks for Dr. William D. Travers, Executive Director for Operations, has been referred to the Office of Nuclear Reactor Regulation (NRR) pursuant to 10 CFR 2.206 of the Commission's regulations. A copy of your e-mail and all supplements are enclosed for completeness. Noting your request that the Nuclear Regulatory Commission (NRC) take enforcement action against Vermont Yankee, the staff has processed your request following the guidance in Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions." You requested the following NRC actions:

1. That Vermont Yankee be fined \$1.00.
2. That transparency and truth become the number one priority of Vermont Yankee, the agency, and the energy industry.
3. That all past and future license amendment which benefits a utility be expressed in risk terms - not in terms of less than insignificant safety enhancements, which can't be measured and is inflammatory in pushing an amendment through the system.
4. That Vermont Yankee would be prohibited from non safety use of safety equipment.

As the basis for your request, supplemented by information you provided to Mr. Victor Dricks, on December 3, 2001, you assert the following.

- (a) Vermont Yankee Technical Specification (TS) Proposed Change No. (PCN) 249, "HPCI (High Pressure Coolant Injection) and RCIC (Reactor Core Isolation Cooling) Allowed Outage Time," dated August 14, 2001, requests an extension of the allowed outage time

(AOT) for HPCI and RCIC from 7 days to 14 days. You suggest that the justification for the change by the licensee was inadequate.

- (b) Vermont Yankee TS PCN 248, "Alternate Train Testing," dated August 20, 2001, proposes to revise certain TS requirements associated with demonstrating the operability of alternate trains when redundant equipment is made or found to be inoperable. You further suggest that the "drawbacks" of these changes are "not given a fair airing" and that the amendment request be "discussed in terms of being risk informed." You also suggest that Vermont Yankee is "creating a two tired characterization of expressing risk; one that the utility uses for a benefit, and the other that they use when its going to cost them money, or cross an industry theology."
- (c) You stated your view that operation of the Residual Heat Removal (RHR) system in the suppression pool (torus) cooling (SPC) mode is not meant to facilitate normal commercial plant operations. You further state that safety systems are designed to be maintained in a standby state and only run when absolutely necessary. The industry has declared that running these components excessively creates the condition which leads to excessive wear and increasing failures. You further suggest that NRC Inspection Report 01-08, which references a non-cited violation of TS 6.4, "Procedures," occurring when an operator failed to follow the procedure for securing torus cooling, should have analyzed "the appropriateness of this type of system operation" and that the "RHR 65A/B's were damaged by the excessive and uncontrolled operation of torus cooling for non-safety reasons (LER-99-06)." You also suggest that the plant is "running right next to two safety limits; torus water and service water limits."
- (d) In your December 3, 2001, supplemental petition you expressed concern about the lack of risk-informed analysis. You suggest that "Nowhere does the safety enhancement express because of a reduction ECCS [emergency core cooling system] robustment, just what the magnitude of the change of safety, as in risk informed analysis." You also suggest "As in a slowing down in the DG [diesel generator] startup requirement, just what is the safety enhancements quantified in risk informed. As in the DG load sequencing, what is the change in risk reduction from this, from a DG failure in an accident."

You addressed the NRC's petition review board (PRB) by teleconference on December 27, 2001, to clarify your petition. You indicated that you were preparing a new petition concerning the LaSalle facility regarding "new" information on a Limerick Generating Station stuck-open safety relief valve that relates to the Vermont Yankee petition. This 2.206 petition request was received on December 28, 2001, and subsequently superceded on January 4, 2002. The results of the teleconference discussion have been considered in the PRB's determination regarding your request for immediate action and whether or not the petition meets the criteria for consideration under 10 CFR 2.206. For the reasons discussed on the following pages, the staff has concluded that the submittals do not meet the criteria for consideration under 10 CFR 2.206. A transcription of the teleconference is included as Enclosure 6.

Your requested actions 1 and 4 of your November 30, 2001, petition are related to issue (c) above. Your actions 2 and 3 are not NRC enforcement-related actions, and as such, are not appropriate for consideration under the 2.206 process.

Issues (a) and (b) concern licensee applications for a TS amendment. Pursuant to 10 CFR 2.105, the staff issues a notice of proposed action in the Federal Register which provides 30 days for any interested party to request a hearing or provide comments on the proposed amendment. This is the NRC process available for a request regarding a license application or amendment. The 2.206 process is not used for this purpose. Having received no comments or requests for hearings, the staff issued Amendment No. 205 on October 18, 2001 (ADAMS ML012680437) regarding issue (a) and PCN 249. The staff is still reviewing PCN 248 and, although your comments were not provided within 30 days of the Federal Register notice, the staff will consider your comments in our development of a safety evaluation. A copy of the safety evaluation will be sent to you upon issuance.

Regarding the concerns you raised in issue (c), the staff has already evaluated these concerns. We have not identified any new information in your petition that impacts that evaluation. Therefore, in accordance with Agency policy as stated in MD 8.11, Part III, the staff does not consider this issue to meet the criteria for reviewing petitions under 10 CFR 2.206. Your petition for issue (c) only raises issues that have already been the subject of NRC staff review and evaluation on other similar facilities (e.g., LaSalle, ADAMS ML013020117) and presents no significant new information.

Issue (d) provides assertions without supporting facts. These general assertions do not provide supporting facts to warrant further inquiry.

## II. Petition dated January 4, 2002 (Enclosure 5)

Your e-mail dated January 4, 2002, to Mr. Victor L. Dricks for Dr. William D. Travers, Executive Director for Operations, has been referred to NRR pursuant to 10 CFR 2.206 of the Commission's regulations. A copy of your e-mail is enclosed for completeness. Noting your request that the NRC take enforcement action against Vermont Yankee, the staff has processed your request following the guidance in Management Directive 8.11. You requested the following NRC actions:

1. Vermont Yankee be immediately shutdown.
2. All licensing amendment changes wording conform to, and accurately represent, the hidden system of the agency.
3. Any significant off normal event such as in the Vermont Yankee summertime torus cooling (other examples: Limerick relief, LaSalle suppression pool cooling and SRV leakage), be publicly analyzed, and rationales be comprehensively publicly documented as in the multi-safety criteria of license amendment 248 (redundant equipment). The document be submitted prior to the seasonal issue (yearly) if possible or monthly as in the relief's. That all know[n] potential active degradation and deficiencies, system interactions (SRV) propensity of interrelated systems to approach temperature(s) (sic) limits, (river(s) (sic) temperature and Dam pooling) the listing of the historic record of the shortcoming, the running opinion of equipment times, be publicly evaluated and included in this document.

You provide no enforcement-type basis for any of the three action requests. You failed to provide sufficient facts to demonstrate non-conformance with the plant licensing basis or safety limits for issue 1. Issues 2 and 3 are not a request for an enforcement-related action. Therefore, in accordance with MD 8.11, the staff does not consider these issues to meet the criteria for reviewing petitions under 10 CFR 2.206.

B. LaSalle Petition (Enclosures 3 and 4)

In the December 27, 2001, teleconference, you said you would be sending a new 2.206 petition for LaSalle that would be a supplement to the Vermont Yankee petition because it would address similar issues. Your e-mail dated December 28, 2001, as superceded on January 4, 2002, addressed to Mr. Victor Dricks for Dr. William D. Travers, Executive Director for Operations, has been referred to NRR pursuant to 10 CFR 2.206 of the Commission's regulations. Copies of your e-mails are enclosed for completeness. Noting your request that the NRC take enforcement action against LaSalle, the staff has processed your request following the guidance in Management Directive 8.11. This petition is a follow-up from your previous petition with the staff's response dated November 29, 2001, (ADAMS ML013020117) and is a supplement to the Vermont Yankee petition dated November 30, 2001. You requested the following NRC enforcement-related action in the new petition:

The LaSalle 1 and 2 plants be immediately shutdown.

As the basis for your request you stated the following.

Per the Limerick [Limerick Generating Station] inspection report [IR] 01-11, we now know that a leaking relief valve was not characterized accurately by Exelon or the NRC, as to the leaking relief ability to fail as expected, or maintain safety. This is the new information that I bring to the table in this new petition.

The stuck-open safety relief valve event at Limerick, Unit 2, has already been addressed in a letter sent to you dated September 14, 2001 (ADAMS ML012210219) along with NRC IR 50-11 (ADAMS ML013410133). We also issued a letter to the licensee dated January 11, 2002 (ADAMS ML020110173), with a Notice of Violation confirming a white finding. Your request is based solely on information the NRC issued, and as such, your petition does not provide any new significant information. Thus, in accordance with MD 8.11, the staff finds that your request is not a valid 10 CFR 2.206 petition.

Your Vermont Yankee November 30, 2001, petition, supplemented by information you provided to Mr. Dricks on December 3, 2001, your January 4, 2002, petition on Vermont Yankee, and your LaSalle petition dated December 28, 2001, as superceded on January 4, 2002, raise additional concerns about potential NRC misconduct. You state that the agency was uncritical in its reviews, deceptive in its Inspection Reports, and there has been a systemic failure of the NRC in administering the Licensing Amendment changes, among other issues. The staff is treating these concerns as assertions of impropriety by NRC staff and has referred them to the Office of the Inspector General.

Although the staff has concluded that your submittals do not meet the criteria for consideration under 10 CFR 2.206, the staff has reviewed the relevant technical issues and has developed the following response to your concern.

### EVALUATION OF TECHNICAL CONCERNS

#### A. Vermont Yankee

##### I. Petition dated November 30, 2001, as supplemented on December 3, 2001

Excerpts from the Vermont Yankee TS and Bases are enclosed for reference to clarify the staff's evaluation of your safety concerns regarding suppression pool cooling (Enclosure 7).

##### a. Suppression Pool Average Temperature

In your petition you expressed concerns regarding the licensee approaching TS limits on suppression pool temperatures. This was previously addressed in our response dated November 29, 2001, to your petition on LaSalle County Station. As stated in that response, this is an operating issue which falls within the scope of the licensee's operating procedures, and not within the scope of direct NRC regulatory oversight. As long as LCO 3.7.A and SR 4.7.A.1 (see enclosure 7) are satisfied, the licensee is operating within the safety limits of their license and the design basis for their facility; therefore, no NRC enforcement-related action is warranted. NRC inspectors continue to monitor plant activities to ensure NRC requirements are met and plant procedures are followed. There has been no indication that this TS limit has been exceeded or plant procedures violated, nor has there been any other indication to suggest that the current safety analyses are nonconservative. There is no RHR Service Water TS limit on temperature. There is a Vermont Yankee administrative limit (UFSAR 14.6.3.3.1) of 85 °F, which ensures peak suppression pool temperature response.

##### b. Residual Heat Removal (RHR) Suppression Pool Cooling

In your petition, you expressed concerns regarding the degradation of the RHR system, excessive run times of the RHR subsystems, and the operation of safety systems such as RHR during regular plant operation rather than maintaining them in a standby state. We addressed this issue in our response dated November 29, 2001, to your petition on LaSalle County Station. As long as LCO 3.7.A and SR 4.7.A.1 are satisfied, the licensee is operating within the safety limits of their license and the design basis for their facility; therefore, no NRC enforcement-related action is warranted. The staff considers that NRC requirements are being met to ensure RHR suppression pool cooling subsystems are monitored and maintained in a condition that ensures they will perform their safety functions.

Safety-related components such as RHR pumps and valves are within the scope of the Maintenance Rule (10 CFR 50.65). Licensees must take corrective action when licensee-established goals are not met. The NRC staff does not believe there is a generic problem regarding extended use of the RHR system in the SPC mode, as far as normal system reliability and operability are concerned. Concerns about excessive wear and increased risk of failures of RHR system components are maintenance issues which fall within the scope of the licensee's maintenance programs and corrective action programs. The staff continues to monitor the

safety system performance of RHR and other systems, but neither the NRC staff's evaluation, nor industry operational data, indicate that the currently demonstrated level of performance at Vermont Yankee poses a risk-significant safety concern.

## II. Petition dated January 4, 2002

Your petition of January 4, 2002, for Vermont Yankee requested three actions of which only the immediate shutdown of the facility was a request for an enforcement-related action. However, to meet the criteria for acceptance into the 2.206 process, MD 8.11 requires that the petition provide sufficient facts to support the requested action, not general assertions without supporting facts that the plant is operating outside its regulatory basis. Your petition did not provide specific information that demonstrated that the plant was operating outside its licensing basis.

In your petition you stated that the NRC petition director said - "who reads the license amendment wording." You further state that; "He said the NRC doesn't use the License amendment wording as the engineering safety justification of the licensing change. He implied that it was only a potential licensing amendment-so that what was written by the utility doesn't matter."

Our reading of the PRB Chairman's statement is provided in the enclosed transcript of the December 27, 2001, meeting on page 14. She stated that; "And I am not sure whether that was really part of the basis for our accepting the first amendment. It might have just been additional information that they provided, but we didn't rely on that." This is not saying that the staff does not read or use the licensee's justification. It means that we may not use all of the licensee's input when we conduct our review and develop our safety evaluation for our justification to accept or reject an amendment request. We read all that a licensee submits as well as any other pertinent information that will help the staff develop the safety evaluation, although all of this information may not directly support our required safety finding.

Your discussion does not provide any specific information on a safety issue or violation of NRC requirements or the plant license as a basis for the requested action, but rather contains general statements about the license amendment process, the NRC, and the NRC staff, as well as other matters not specific to the NRC. As such, as stated in MD 8.11, Part III, this does not constitute a valid basis for pursuing these issues under the 2.206 process.

## B. LaSalle

As previously mentioned, the staff had already addressed your questions on the Limerick SRV event through our letter to you dated September 14, 2001, and by various IRs. The staff had evaluated the event and had subsequently issued a white finding and a Notice of Violation to the licensee on January 11, 2002, based on information already available to the staff.

This petition does not present any significant new information relevant to these discussions that the staff has not already evaluated. As stated in MD 8.11, Part III, this does not constitute a valid basis for pursuing these issues under the 2.206 process.

## CONCLUSION

Based on the above, the NRC staff has concluded that your submittal dated November 30, 2001, as supplemented by an e-mail dated December 3, 2001, the information provided in the teleconference of December 27, 2001, the subsequent new petition on LaSalle dated December 28, 2001, as superceded on January 4, 2002, and the petition on Vermont Yankee dated January 4, 2002, do not meet the criteria for consideration under 10 CFR 2.206 because your petitions present no significant new information or provide no basis for the requested enforcement action. The initial Vermont Yankee and LaSalle petitions only raise issues that have already been the subject of NRC staff review and evaluation on the Vermont Yankee and LaSalle facilities, other similar facilities (e.g., Prairie Island, Susquehanna, Limerick, Fitzpatrick, Quad Cities), and on a generic basis. These issues have been resolved, and the resolutions are applicable to Vermont Yankee and LaSalle. The January 4, 2002, petition for Vermont Yankee provided no basis for your requested enforcement action. No new NRC enforcement-related action is warranted based upon the information you have presented.

When a violation of NRC requirements is found during NRC inspections or brought to the attention of the NRC by either plant personnel or other individuals, there are basically two mechanisms used by the NRC to address the problem based upon its effect on plant safety and risk. If the violation is of very low safety significance, it will be discussed in an inspection report with no formal enforcement action. The licensee is expected to deal with the violation through its corrective action program, correcting the violation and taking steps to prevent a recurrence. If the NRC risk evaluation finds that the violation has a higher risk significance, a Notice of Violation will be issued to the licensee which may or may not involve a civil penalty. A Notice of Violation requires the licensee to respond formally to the NRC with its actions to correct the violation and what steps it will take to prevent the violation from occurring again. Both mechanisms involve a public process, and all documentation is available for public review.

In summary, the NRC staff concludes that your petitions did not identify any violations of NRC requirements existing at Vermont Yankee or LaSalle, which warrant NRC enforcement-related action. Your concerns related to suppression pool temperatures approaching operational limits, extended use of the RHR system in the SPC mode, and the Limerick SRV event have been previously addressed and evaluated by the staff. The January 4, 2002, petition on Vermont Yankee does not provide any basis for the enforcement action requested.

M. Mulligan

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Therefore, the NRC does not intend to review your concerns under the 10 CFR 2.206 petition process for the aforementioned reasons.

Thank you for bringing these issues to the attention of the NRC.

Sincerely,

*/RA/*

John A. Zwolinski, Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-271, 50-343, and 50-344

Enclosures:   1. Vermont Yankee petition dated November 30, 2001  
                  2. Supplement to petition dated December 3, 2001  
                  3. LaSalle petition dated December 28, 2001  
                  4. LaSalle petition dated January 4, 2002, that superceded item 3  
                  5. Vermont Yankee petition dated January 4, 2002  
                  6. Transcript from December 27, 2001, teleconference  
                  7. Vermont Yankee TS Excerpts

cc w/enclosures: See next page

Therefore, the NRC does not intend to review your concerns under the 10 CFR 2.206 petition process for the aforementioned reasons.

Thank you for bringing these issues to the attention of the NRC.

Sincerely,  
/RA/

John A. Zwolinski, Director  
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Docket Nos. 50-271, 50-343, and 50-344

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  5. Vermont Yankee petition dated January 4, 2002
  6. Transcript from December 27, 2001, teleconference
  7. Vermont Yankee TS Excerpts

cc w/enclosures: See next page

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**OFFICIAL RECORD COPY**

Vermont Yankee Nuclear Power Station

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