

June 22, 2004

The Honorable John E. Sununu  
United States Senator  
1589 Elm Street, Suite 3  
Manchester, New Hampshire 03101

Dear Senator Sununu:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to the letter from your Director of Projects, Mr. William T. Wroblewski, dated March 26, 2004, which forwarded a letter from New Hampshire State Representative Barbara Hull Richardson. Mr. Wroblewski's letter requested that the NRC provide information that addresses the issues raised by Representative Richardson. Representative Richardson's letter expressed concerns regarding continued operation of the Vermont Yankee Nuclear Power Station, the proposed power uprate for this plant, insurance coverage related to the Price-Anderson Act, and spent fuel storage. The purpose of this letter is to address Representative Richardson's concerns.

The NRC requires all licensees to operate their facilities in conformance with NRC regulations and the facility operating license, including the Technical Specifications. The NRC monitors the licensee's compliance with these requirements with two on-site resident inspectors and region-based specialist inspectors through the NRC's Reactor Oversight Process. The NRC's annual assessment of Vermont Yankee, as documented in an NRC letter dated March 2, 2004, concluded that the plant is being operated in a manner that preserves public health and safety. Based on current plant performance, a shutdown of the plant is not warranted.

Plant performance information for Vermont Yankee and the other operating U.S. nuclear power plants can be found on the NRC Web site at <http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/>. Additional information on NRC response to plant performance can be found on the NRC website at <http://www.nrc.gov/reactors/operating/oversight/rop-description.html>. Additional information on NRC's Enforcement Program can be found on the NRC website at <http://www.nrc.gov/what-we-do/regulatory/enforcement.html>.

In regard to the concerns about the proposed power uprate for the plant, a copy of the NRC's response to the Vermont Public Service Board's request for an independent engineering assessment was provided in an NRC letter to you dated May 4, 2004. The letter to the Vermont Public Service Board contains a more detailed account of the new engineering inspection that the NRC intends to conduct at Vermont Yankee. The Commission believes this inspection is appropriate for addressing the NRC's oversight responsibilities and is also responsive to the Board's concerns. For your convenience, I have enclosed a copy of that letter.

The NRC staff is still reviewing the Vermont Yankee power uprate request and has not reached any conclusions concerning the acceptability of the proposed power uprate. The Commission believes that the extensive technical review that the NRC staff is conducting, along with the planned inspections at Vermont Yankee, will ensure that any issues related to the proposed power uprate that could affect safe operation of the plant will be identified. The NRC

staff will not approve the Vermont Yankee uprate, or any proposed change to a plant license, unless it concludes that the proposed change will be executed in a manner that continues to assure the public's health and safety.

Representative Richardson also expressed concerns regarding the effects of an accident at the plant and insurance coverage related to the Price-Anderson Act. The Price-Anderson Act, which was enacted in 1957, provides a system to pay funds for claims by members of the public for personal injury and property damage resulting from a nuclear incident. The system facilitates the prompt and equitable settlement of claims. The Price-Anderson Act does not prevent claimants from filing suit against a power reactor licensee. It would cover claims for damage from a catastrophic accident during operation of the reactor as well as during storage of spent fuel at the reactor site. The Price-Anderson Act provides approximately \$10 billion in insurance to pay these claims under a two-layer insurance system. Large commercial reactor licensees, such as Vermont Yankee, participate in this system. The first layer provides \$300 million in private insurance, the maximum currently available from the private insurance market. In the event of a nuclear incident causing damages exceeding \$300 million, large reactor licensees would be assessed an equal share of the damages in excess of the primary insurance layer. The maximum deferred premium, or secondary layer, is currently \$95.8 million per reactor. With over 100 reactors in this layer, total insurance is approximately \$10 billion.

Property and liability insurance policies issued in the United States normally exclude nuclear damage. The exclusion means that claims for damage to a policyholder's dwelling, automobile, or other property by contamination from a nuclear facility would not be collectible under the policyholder's own insurance policies. Although the Price-Anderson Act does not prohibit private insurers from offering this type of insurance, the standard fire and property policies have contained the exclusion since 1959. The insurers consider that property damage caused by a nuclear accident would be covered under the Price-Anderson Act and that coverage for the same property damage should be excluded from the conventional homeowner's policy to avoid duplication of coverage.

Information regarding the Price-Anderson Act and nuclear power industry accident liability can be found on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/fact-sheets/funds.html> and the NRC staff's Congressional testimony related to this subject (October 24, 2001 and January 23, 2002) can be found at <http://www.nrc.gov/reading-rm/doc-collections/congress-docs/congress-testimony/>.

Representative Richardson's letter also expressed concerns about Vermont Yankee's storage capacity for spent fuel rods. The maximum number of fuel assemblies that are authorized to be stored in the plant's spent fuel pool are specified in the plant's Technical Specifications. The Technical Specifications are an appendix to the plant operating license, with which the licensee must comply. The criteria for limiting the number of assemblies allowed in the spent fuel pool include the ability to handle the assemblies safely, provide adequate heat removal, and ensure that the fuel stored is maintained sufficiently sub-critical. Any change to the Technical Specifications requires NRC review and approval before the change can be implemented.

Vermont Yankee was initially authorized for a maximum of 600 fuel assemblies to be stored in the spent fuel pool. At the time Vermont Yankee was licensed, spent fuel storage needs were anticipated to be small because of expectations for fuel reprocessing or permanent disposal in a high-level waste repository. Several revisions to the Technical Specifications have been issued by the NRC over the years that approved increases in the Vermont Yankee spent fuel pool capacity. These revisions were issued only after the NRC was satisfied that the increases in the spent fuel pool storage capacity were safe. The plant is currently authorized to store a maximum of 3353 fuel assemblies in the spent fuel pool. The licensee is meeting the Technical Specifications requirement with regard to this limit.

I hope the enclosed information is useful in addressing Representative Richardson's concerns. If you have any questions or desire further information, please do not hesitate to contact us.

Sincerely,

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Jeffrey S. Merrifield  
Acting Chairman

Enclosure:  
Letter to the Vermont Public Service Board