

September 1, 2004

The Honorable James H. Douglas  
Governor of Vermont  
Montpelier, Vermont 05609

Dear Governor Douglas:

On behalf of the U.S. Nuclear Regulatory Commission (NRC or the Commission), I am responding to your letter dated August 6, 2004, in which you made specific requests pertaining to the NRC's engineering inspection currently being performed at the Vermont Yankee Nuclear Power Station (Vermont Yankee). Your letter also requested that the NRC extend the deadline for filing a hearing request associated with the Vermont Yankee extended power uprate amendment request.

With respect to the engineering inspection, you requested that the NRC (1) certify to the Vermont Public Service Commissioner that each of the three NRC independent contractors on the engineering inspection team "meets the strict objectivity standards required and has no conflict of interest," (2) make all members of the team available for regular briefings with the Vermont State Nuclear Advisory Panel (VSNAP) during, and at the completion of, the inspection, and (3) be available for briefings with the Commissioners of Public Safety and Public Service on an as-needed basis to be determined by the State.

The engineering inspection team consists of eight inspectors, including three contractors. The contractors all have significant design experience, and their independence was verified before they were assigned to the inspection team. Specifically, the NRC staff verified that the contractors had (1) never been directly employed by Entergy or Vermont Yankee, (2) not performed contract work for Vermont Yankee or Entergy within the last 2 years, and (3) not performed inspections for the NRC at Vermont Yankee within the last 2 years. This information was discussed with Mr. David O'Brien, Commissioner of the Vermont Department of Public Service. Further information regarding the experience of each of the team members was provided in an NRC press release on August 6, 2004, which is enclosed for your information. As you are aware, the Nuclear Engineer for the State of Vermont will observe the inspection.

The NRC is willing to participate in briefings in a manner that will not impact the effectiveness and efficiency of the inspection team. However, due to its pre-decisional nature, the NRC will not discuss its inspection findings in a public forum until its inspection activities are completed and the results finalized. Similarly, we have a memorandum of understanding with many states, including Vermont, which restricts the state observer from discussing pre-decisional information in a public setting. Therefore, while we are unable to discuss the pre-decisional inspection results themselves, we will support the briefings you suggest to discuss the scope and methodology of the inspection.

The NRC staff has discussed the issue of inspection team briefings with Mr. O'Brien, including the limitations mentioned above. The State observer on the engineering inspection team can provide status briefings to the Commissioner of Public Service as needed. The NRC will also make the inspection team leader available for weekly status briefings via a telephone conference to the Commissioners of Public Safety and Public Service. In addition, members of the VSNAP visited Vermont Yankee on August 18, 2004. During this site visit, the VSNAP members went on a plant tour, met with the engineering inspection team, and discussed the inspection scope and approach.

The on-site portion of the engineering inspection is scheduled to be completed on September 3, 2004. A public exit meeting will be held, for which the schedule will be announced later, to discuss the scope of the inspection and inspection findings. The results of the inspection, which will be made publicly available, will be documented in a subsequent inspection report.

With respect to your request to extend the deadline for filing a hearing request associated with the Vermont Yankee power uprate amendment, the Commission, by Order dated August 18, 2004, determined that the requested extension of the August 30, 2004, deadline is not warranted. As noted in the Commission's Order, however, a petitioner may seek leave to present a new or amended contention, after the initial filing, subject to meeting certain standards concerning the previous unavailability of the information on which the new or amended contention is based. A copy of the Commission's decision regarding the State's request is enclosed.

If you have any further questions, please feel free to contact me.

Sincerely,

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Nils J. Diaz

Enclosures:

1. Press Release No. 04-092
2. NRC Order dated August 18, 2004