

January 17, 2005

Paul M. Blanch  
135 Hyde Road  
West Hartford, CT 06117

Arnold Gundersen  
139 Killarney Drive  
Burlington, VT 05401

Dear Messrs. Blanch and Gundersen:

In your petition dated July 29, 2004, you raised issues regarding conformance of Vermont Yankee Nuclear Power Station (Vermont Yankee) with the General Design Criteria (GDC) in view of Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.'s (collectively, the licensee) proposed power uprate and the pending engineering inspection. The Nuclear Regulatory Commission (NRC) replied to you by letter dated August 20, 2004. In that letter, the NRC stated that because the staff's review of the uprate is ongoing, the appropriate venue for debating issues such as you raised then was the hearing process. For this reason, the staff did not address the request under the process specified in Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.206. We also stated our view that correspondence between the licensee and the NRC clearly indicates that Vermont Yankee is licensed to the draft GDC published in 1967. The purpose of our letter on August 20, 2004, was to provide the staff's assessment of whether your petition met the criteria of 10 CFR 2.206 for evaluation under that process, rather than discuss the specific merits of your request.

Subsequent to receipt of our August 20, 2004 letter, you requested a teleconference with the NRC's Petition Review Board (PRB), which was held on August 26, 2004. The transcript of this teleconference is enclosed.

On August 30, 2004, the New England Coalition filed a request for hearing related to the Vermont Yankee proposed power uprate. Among the contentions submitted was a contention that the licensee had failed to maintain adequate documentation to determine design basis conformance. This contention, for which Mr. Blanch provided a supporting statement, was similar to the concern raised in your 10 CFR 2.206 petition. By Order dated November 22, 2004, the Atomic Safety and Licensing Board declined to admit this contention for hearing. The PRB subsequently reconvened to re-evaluate whether this concern should be reviewed under the 10 CFR 2.206 process.

Based on the PRB's recommendation, I have decided to accept your petition for review pursuant to 10 CFR 2.206. Your petition is being reviewed by the Division of Licensing Project Management within the Office of Nuclear Reactor Regulation.

You also submitted a letter via e-mail to Chairman Diaz on December 8, 2004. Mr. Blanch provided a copy of this letter via e-mail to Mr. Rick Ennis, the Vermont Yankee Project Manager, and requested that it be considered as supplemental information to the original petition. Accordingly, this letter will be considered in our review of the petition.

P. Blanch and A. Gundersen

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As provided by 10 CFR 2.206, we will take action on your request within a reasonable time. I have assigned Donna Skay to be the petition manager for your petition. Ms. Skay can be reached at 301-415-1322. I have enclosed for your information a copy of the notice that is being filed with the Office of the *Federal Register* for publication.

Sincerely,

*/RA/*

J. E. Dyer, Director  
Office of Nuclear Reactor Regulation

Enclosures: 1. Transcript of August 26, 2004, teleconference  
2. *Federal Register* Notice

Docket No. 50-271

As provided by 10 CFR 2.206, we will take action on your request within a reasonable time. I have assigned Donna Skay to be the petition manager for your petition. Ms. Skay can be reached at 301-415-1322. I have enclosed for your information a copy of the notice that is being filed with the Office of the *Federal Register* for publication.

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J. E. Dyer, Director  
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2. *Federal Register* Notice

Docket No. 50-271

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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MEETING OF  
PETITION REVIEW BOARD

+ + + + +

THURSDAY

AUGUST 26, 2004

+ + + + +

DOCKET NO. 50-271

+ + + + +

The meeting met via teleconference, Rick  
Ennis presiding.

Attachment 1

1 P R O C E E D I N G S

2 MR. ENNIS: Paul Blanche (phonetic) and Arnie  
3 Gunderson (phonetic) are you on the line yet?

4 MR. GUNDERSON: Yes, we are.

5 MR. ENNIS: Are both of you in the same  
6 location?

7 MR. GUNDERSON: No.

8 MR. ENNIS: Okay. Who from Entergy is on the  
9 line?

10 MS. DeFLUCUS: You have Rhonda DeFlucus from  
11 Vermont Yankee.

12 MR. ELMERS: John Elmers (phonetic) from the  
13 White Plaines office.

14 (Inaudible.)

15 MR. ENNIS: Paul and Arnie do you have  
16 everybody you need?

17 MR. GUNDERSON: Paul and Arnie only need Paul  
18 and Arnie.

19 MR. BLANCHE: We are the participants. There  
20 might be other people listening.

21 MR. ENNIS: Okay. Entergy, is everybody on  
22 the line that you're expecting?

23 MS. DeFLUCUS: Yes, thank you.

24 MR. ENNIS: Okay, I guess at this point we'll  
25 get started. My name is Rick Ennis (phonetic). I'm the

1 Project Manager at NRC Headquarters in Rockville,  
2 Maryland, for Vermont Yankee.

3 Today I'm acting as the Petition Manager  
4 since Donna Skay, the Petition Manager for this specific  
5 2.206 petition is out of the office.

6 At this point, I'd like to turn it over to  
7 Jim Lyons (phonetic), who is the Petition Review Board  
8 Chairman.

9 (Inaudible.)

10 MR. LYONS: I'm Jim Lyons. I'm the Deputy  
11 Director of the Division of Licensing Project Management  
12 in the Office of NRR.

13 MR. WALKER: Chavone Walker (phonetic), just  
14 sitting in.

15 (Inaudible.)

16 MR. BURKE: Gary Burke (phonetic), Project  
17 Director, NRR.

18 MR. PETTIS: Bob Pettis (phonetic), Plant  
19 Support Branch.

20 MR. HOLDEN: Cornelius Holden (phonetic),  
21 Project Director, NRR.

22 MR. RULAND: Bill Ruland (phonetic), Project  
23 Director, NRR, power up rate process only.

24 MR. ENNIS: NRC in Region I?

1 MR. ANDERSON: It's Cliff Anderson  
2 (phonetic), Branch Chief, Branch 5, with responsibility  
3 for Vermont.

4 MR. SHAND: Leo Shand (phonetic), NRC Region  
5 I, Public Affairs.

6 MR. ZELLIS: Ed Zellis (phonetic), NRC,  
7 Region I, Branch 5.

8 MR. ENNIS: Once more, Entergy, could you  
9 list everybody that's there?

10 MS. DeFLUCUS: Entergy, Rhonda DeFlucus at  
11 Vermont Yankee.

12 MR. McCULLOUGH: Travis McCullough  
13 (phonetic), in Pipeline.

14 MR. ELMERS: Chad Elmers (phonetic), White  
15 Plainses.

16 MR. ENNIS: Okay. And Paul and Arnold?

17 MR. GUNDERSON: Right. I'm on.

18 MR. BLANCHE: And Paul is here.

19 MR. ENNIS: Okay. Are there any other  
20 interested parties that are on beside either Entergy, the  
21 NRC, or the petitioners?

22 MR. ROCKBAUM: Dave Rockbaum (phonetic) with  
23 the Union of Concerned Scientists.

24 MR. BLOCK: Jonathan Block (phonetic),  
25 attorney for a number of the different organizations that  
26 might be involved here.

1 MR. ALEXANDER: Peter Alexander (phonetic)  
2 with New England Coalition.

3 MR. WEI: Orlick Wei (phonetic), just a  
4 private party.

5 MS. LAURI: Carolyn Lauri (phonetic) from the  
6 Battleboro Reformer (phonetic).

7 MS. SMALL: Susan Small (phonetic) here from  
8 the Rutland Herald (phonetic).

9 MR. SHADOWS: Ren Shadows (phonetic) with the  
10 New England Coalition.

11 MR. ENNIS: Anyone else?  
12 (No response.)

13 MR. ENNIS: Okay, at this point I'd like to  
14 turn it over to Jim Lyons.

15 MR. LYONS: Thank you, Rick.

16 The subject of this conference call is a 10  
17 CFR 2.206 petition submitted by Mr. Paul Blanche and Mr.  
18 Arnold Gunderson dated July 29th, 2004 pertaining to the  
19 Vermont Yankee Nuclear Power Station.

20 Petitioners have requested that the NRC take  
21 enforcement action against Entergy, the licensee for  
22 Vermont Yankee.

23 Specifically the petitioners requested that  
24 the NRC issue a demand for information requiring Entergy  
25 to provide information that clearly and unambiguously  
26 describes how Vermont Yankee complies with the general

1 design criteria in 10 CFR 50, Appendix A, and I'll refer  
2 to the general design criteria from now on as just GDC, it  
3 just makes it a lot easier, or the draft GDC as published  
4 in the Atomic Energy Commission in 1967.

5 The petition indicated that this information  
6 was essential to the NRC's review of the proposed Vermont  
7 Yankee power up rate and the NRC's engineering inspection  
8 at Vermont Yankee. Both of these efforts are presently in  
9 progress.

10 The NRC issued a letter to the petitioners  
11 that the NRC will not treat this request under 10 CFR  
12 2.206 process because these issues can be addressed  
13 through the ongoing licensing proceeding for the proposed  
14 power up rate.

15 This decision was based on the guidance in  
16 the NRC Management Directive 8.11 review process for 10  
17 CFR 2.206 petitions and it's found in the Handbook, Part  
18 3, in Sections 2.1.a.iii.

19 In addition, as discussed in our letter to  
20 the petitioners, it's clear that Vermont Yankee was  
21 licensed to the draft GDC published by the Atomic Energy  
22 Commission in 1967.

23 With respect to the Vermont Yankee power up  
24 rate license amendment request, the licensee has provided  
25 the information the NRC needs with respect to which GDC is

1 applied to each of the specific technical review areas  
2 covered by the NRC review.

3 With respect to the engineering inspection  
4 that is currently being performed, there are methods  
5 available to the inspection team to obtain additional  
6 information regarding the plant design and licensing basis  
7 if we need it.

8 Therefore, that renders a demand for  
9 information unnecessary.

10 This teleconference is being held in response  
11 to a request from the petitioners to address the Petition  
12 Review Board. The purpose of this call is to allow the  
13 petitioners to provide any additional or clarifying  
14 information that could effect the NRC's decision not to  
15 treat this request under the 10 CFR 2.206 process.

16 This is also an opportunity for the NRC staff  
17 and the licensee to ask any clarifying questions.

18 The purpose of this teleconference is not to  
19 debate the merits of the NRC's decision.

20 Following this phone call, the Petition  
21 Review Board will meet to discuss the comments provided  
22 during this call. A letter will be sent to the  
23 petitioners documenting our review and dispositioning  
24 their comments.

25 The teleconference is being transcribed so it  
26 will help if anyone making a statement first state their

1 name clearly. The transcript will be made publically  
2 available.

3 Only the petitioners, the licensee, and the  
4 NRC may participate during this call. Other interested  
5 parties are invited to listen in, however they may not  
6 provide any comments or questions.

7 We request that the petitioners keep their  
8 remarks to about 30 minutes. And so at point, I'd like to  
9 turn it over to Mr. Blanche and Mr. Gunderson.

10 MR. BLANCHE: I'm going to -- at this point,  
11 I'm going to let Arnie start off. And then I'm going to  
12 pick up. And then Arnie will summarize at the end.

13 MR. GUNDERSON: Okay. Thank you.

14 This is Arnie Gunderson calling. The issue  
15 is not which GDC applies, whether it's the draft 70 or the  
16 final 64. It really doesn't matter to us and we  
17 understand that the draft GDCs do apply. So that's really  
18 not on the table. And I think all parties are in  
19 agreement on that.

20 We have received a rejection letter already  
21 and it's really broken into two parts. And I'll address  
22 mainly one and Paul the other.

23 It is -- you suggest that we have the right  
24 and the opportunity to file as part of the hearing process  
25 on the up rate, which is open for another week

1 approximately. It's our position that the compliance with  
2 the GDCs applies to the plant as it exists today.

3 And it's exacerbated by the up rate but, in  
4 fact, the issues don't go away with an up rate. We  
5 simply, after a review of voluminous information, cannot  
6 determine whether or not Vermont Yankee is in compliance  
7 with the draft general design criteria.

8 So it's a problem now, which is exacerbated  
9 by the 400,000 extra horsepower that the plant will be  
10 cranking out. But it's clearly a problem of the existing  
11 license.

12 So we will not be availing ourselves of the  
13 hearing process.

14 On top of that, the hearing process for  
15 individuals is costly and incredibly burdensome. And to  
16 the best of my knowledge, there's been no individual who  
17 has ever successfully intervened in the hearing process.  
18 So that, you know, neither Paul nor I will be filing as  
19 interveners in the -- before August 30th on this matter.

20 And again our position is pretty clear that  
21 the general design criteria are vague, ambiguous -- the  
22 compliance with the general design criteria are vague and  
23 ambiguous right now. And are just exacerbated by the up  
24 rate.

25 This is -- we really requested something that  
26 I consider to be quite simple. And basically if the NRC's

1 right and that Vermont Yankee has clearly and  
2 unambiguously addressed all the 70 of the draft general  
3 design criteria, it should be simple for all parties to  
4 clarify this situation.

5 You know a 15-minute letter from the NRC to  
6 Vermont Yankee saying do you or do you not meet the 70  
7 design criteria that applied when the plant was built.  
8 And if Vermont Yankee, in fact, does have it, a simple  
9 letter back saying yes we do and here's proof that we meet  
10 the 70 draft design criteria or we take exemption to  
11 certain ones for certain issues.

12 The best example we have of a plant, a pre-  
13 GDC plant doing just that is Prairie Island. Prairie  
14 Island has a very good matrix of what the GDCs were --  
15 what the draft GDCs were and their compliance. And we  
16 just can't find anything similar to that on the docket.

17 So, again, I'm going to hand it over to Paul  
18 now to talk about the -- whether or not we view the  
19 information as clear and unambiguous. But we certainly  
20 saw this as a simple request and certainly not something  
21 that should have taken all of the man hours that have  
22 already been put in.

23 And if Vermont Yankee in fact did meet the  
24 general design criteria, it would be simple for Vermont to  
25 verify that as well.

1                   And, you know, I'm sorry this is becoming a  
2 monstrous issue but, in fact, it's a simple question with  
3 a simple solution.

4                   Okay, I'm going to turn it over to Paul now  
5 who is going to talk about clear and unambiguous.

6                   MR. BLANCHE:    Yes, okay.    This is Paul  
7 Blanche.  And I'm going to be talking about a little more  
8 than clear and unambiguous.

9                   But just to clarify what Arnie just stated as  
10 far as the response, what we are really looking for is how  
11 does the plant comply with the 70 GDC and how does it  
12 deviate?  Or does it deviate from any of the general  
13 design criteria, and especially General Design Criteria  
14 41, which deals with the net positive suction head.

15                   The NRC rejected our petition by stating  
16 compliance with the GDCs is clear and unambiguous.  We,  
17 both Arnie and I, contend that this is an inaccurate  
18 statement.  Therefore, there is no basis for the  
19 rejection.  And we are requesting that you substantiate  
20 this statement.

21                   All we are requesting is that the NRC  
22 identify to us where compliance and deviations from the  
23 GDCs are addressed within the licensing basis.

24                   So far the NRC has refused to provide us with  
25 this vital information and has sent us around in circles  
26 all leading to dead ends.

1                   How I got into this, I initially identified  
2 problems with compliance with draft GDC 41 and Safety  
3 Guide 1 dealing with the net positive suction head. I've  
4 searched through the entire FSAR, 2,229 pages, and could  
5 not locate where this was addressed.

6                   I asked Mr. Ennis where I could find  
7 compliance with the general design criteria. Mr. Ennis,  
8 in an e-mail, told me that compliance is addressed in  
9 Appendix F to the UFSAR.

10                  Appendix F, when you read it carefully,  
11 states that "design conformance statements to the current  
12 facility design has not be evaluated." And also that it's  
13 only in there for historic purposes. Appendix F has no  
14 meaning whatsoever.

15                  Both Arnie and I submitted the 2.206 as the  
16 only means of obtaining this vital information. Last week  
17 or the week before, I received a phone call from Rick  
18 Ennis stating that the petition was going to be rejected.

19                  Mr. Ennis also stated to me that Donna Skay  
20 had offered us an opportunity to participate in a Petition  
21 Review Board and that we declined this invite. I do not  
22 recall ever having a conversation with Ms. Skay.

23                  So 2.206 Petition impacts the present  
24 compliance with the regulation and is not necessarily  
25 impacted by the EPU or extended power up rate. However,  
26 the extended power up rate should not be considered until

1 the NRC and the public are made aware of Vermont Yankee's  
2 regulatory compliance.

3 The NRC rejected our petition by stating that  
4 compliance with the GDCs is clear and unambiguous. I  
5 contend that this is an inaccurate statement. Therefore,  
6 there is no basis for the rejection. And I'm requesting  
7 that you substantiate this statement.

8 All we are requesting that the NRC identify  
9 to us where compliance and deviations from the general  
10 design criteria are addressed. So far, the NRC has  
11 refused to provide us with this vital information.

12 I've reviewed the entire FSAR and I believe  
13 it to be Revision 18, the latest proposed revision, and  
14 only found discussions related to two of the GDCs. And  
15 these discussions related to the final GDCs and not the  
16 draft even though the final is supposedly not applicable  
17 to the present design.

18 I have copied the FSAR electronically and I  
19 am reasonably sure of the results of my search. I have  
20 reviewed many other FSARs, including the Prairie Island,  
21 the Millstone, and many others, and find that each and  
22 every one of them that I've reviewed contain a section  
23 addressing compliance and deviations from the GDCs and  
24 regulatory compliance.

25 We formally request the NRC grant our  
26 petition and if rejected, provide us with accurate

1 information as to where the regulatory compliance is  
2 addressed.

3 Unless Vermont Yankee can clearly demonstrate  
4 compliance with the most basic safety criteria, there is  
5 little assurance that the residents around Vermont Yankee  
6 are protected by anything more than the intentionally  
7 misleading NRC's statements provided to us.

8 I firmly believe that the NRC has a statutory  
9 responsibility to provide assurance to the public that  
10 Vermont Yankee is in compliance with all regulations. And  
11 by rejecting this petition, it is failing to fulfil this  
12 vital responsibility.

13 If you believe compliance with the GDCs is  
14 clear and unambiguous, I would like you now to provide me  
15 an example of where I could locate where compliance with  
16 GDC, for example, GDC 45, 47, and 48 could be located. I  
17 am not able to locate it in any of the searches of ATOMS  
18 (phonetic) or any of the other documents that I have.

19 And we just need some clear and unambiguous  
20 answers to our questions. And that's all I have to say  
21 right now.

22 MR. GUNDERSON: This is Arnie Gunderson  
23 again.

24 I think the one last item that needs to be  
25 mentioned is that in the text of your rejection letter,  
26 you pin your hopes on Appendix 4, Attachment 4 to the

1 January 23rd letter from Vermont Yankee. And it's got a  
2 BDY number and I'm on Acrobat now trying to find it.

3 But on January 31st, Attachment 4, Vermont  
4 Yankee re-filed for the up rate. And they put -- they  
5 gave you -- it's called Attachment 4. And there's an  
6 Insert 1, which is the BWR Template Safety Evaluation.  
7 And they modified the BWR Template Safety Evaluation to  
8 address not the GDC but the draft GDC. And that's all  
9 well and good.

10 However, what that attachment is is an NRC  
11 document which has been fed back to the NRC with a  
12 different GDC number in it. There is no statement on the  
13 record that states that Vermont Yankee meets that GDC.

14 So what's happening in Attachment 4 is that  
15 -- to the January 31st letter, is that Vermont Yankee has  
16 fed back to the NRC the NRC's very own document. And is  
17 expecting now for the NRC to pour holy water on an NRC  
18 document.

19 There's no statement in Attachment 4 to the  
20 January 31st letter which states that Vermont Yankee  
21 complies with the GDC. And, in fact, again, if you go  
22 back to the appendix in the UFSAR, they state that the  
23 GDCs have not been evaluated. I needed to close the loop  
24 on that.

25 MR. BLANCHE: Yes, and I want to just add one  
26 more comment. What Entergy is doing, or Vermont Yankee is

1 doing, is they want the NRC to state that they are in  
2 compliance with the GDCs without them ever stating that  
3 they are in compliance.

4 And I'd like to hear from Entergy and the NRC  
5 as to the statements with respect to compliance with the  
6 general design criteria.

7 MR. GUNDERSON: So Insert 1 and Insert 2 are  
8 an NRC template safety evaluation. And what Entergy has  
9 done as been to revise an NRC template and put different  
10 GDCs in to reflect the draft versus the final.

11 And, again, it really doesn't matter to  
12 either Paul or I which GDC is in there. The fact of the  
13 matter is that we can find nothing in the UFSAR or in the  
14 January 31st letter which says that they comply with the  
15 70 general design criteria.

16 And, again, if you go to a perfect example of  
17 one that we feel works is Prairie Island, which  
18 specifically in their UFSAR, they specifically say they  
19 comply. And when they don't comply, they note what the  
20 exception is.

21 There is nothing on this entire docket which  
22 allows us -- you know we're not exactly lay people here  
23 guys -- to review it to see if the plant meets the draft  
24 GDCs. And, in fact, when we do review what is on the  
25 docket, we come to exactly the opposite conclusion.

1                   That, in fact -- and I'll use Vermont  
2 Yankee's last few words here as I'm pretty much done, in  
3 the UFSAR, Vermont Yankee says -- and we had this in the  
4 text of our letter, too, which surprises us that you guys  
5 would say it's clear and unambiguous when Vermont Yankee  
6 is telling you, "the applicability of historic design  
7 criteria conformance statements to the current facility  
8 design has not been evaluated."

9                   Vermont Yankee has not evaluated its existing  
10 design -- forget the up rate -- its existing design to see  
11 if it meets the GDCs. And yet you are allowing them to  
12 leverage that onto the up rate, which is certainly going  
13 to exacerbate any problems which may have occurred  
14 earlier.

15                   MR. BLANCHE: And again this is Paul Blanche.  
16 I don't have the verbatim words but somewhere in Appendix  
17 F it states that compliance with the general design  
18 criteria is addressed in the body of the UFSAR. I was  
19 unable to locate anywhere in that document where  
20 compliance with other than two new GDCs is even addressed.

21                   MR. GUNDERSON: And again, it's fascinating.  
22 Even the ones that Vermont Yankee does address, they don't  
23 compare to the old draft GDCs but therein discussing how  
24 they comply with the new GDCs.

25                   So in the two examples we've been able to  
26 find where Vermont Yankee addresses compliance with GDCs,

1 they talk about the new GDCs. In all of the other -- we  
2 have 2,200 pages in the computer and we searched for the  
3 GDCs. And we cannot find, you know, I guess 68 of the 70  
4 GDCs being specifically addressed to see if they meet  
5 them.

6 MR. BLANCHE: The only GDCs that are  
7 addressed in the body are Criteria 19, which is control  
8 room habitability, and General Design Criteria 12, and I'm  
9 not sure what that is. But that's all I've been able to  
10 find.

11 MR. GUNDERSON: I really have nothing to  
12 summarize. You know we've got -- I think our petition was  
13 pretty clear. And I think we've certainly been able to  
14 expand on that by speaking to you guys for about 20  
15 minutes.

16 But, again, just to summarize, it's a simple  
17 problem. It's a letter from the NRC. It takes 15 minutes  
18 to write. Do you guys comply with the GDCs? Yes? No?  
19 Tell us where.

20 And given that the NRC feels that it's clear  
21 and unambiguous that Vermont Yankee does comply, it should  
22 be a 15-minute letter back from Vermont Yankee saying yes  
23 we comply with the 70 general design criteria.

24 But after a thorough review by two relatively  
25 competent guys here, we can't prove that the existing

1 design, let alone the up rate, complies with the general  
2 design criteria.

3 MR. BLANCHE: And this engineering  
4 inspection, I don't know how meaningful that could be if  
5 the NRC itself doesn't know how the plant was designed,  
6 which is clear from the misinformation I've been getting  
7 from the NRC.

8 So any meaningful inspection of the facility  
9 would have to know what its design basis is. And the  
10 general design criteria is the foundation of all the  
11 regulations.

12 MR. GUNDERSON: Okay, I'm off. Paul, I have  
13 nothing else to say. Do you?

14 MR. BLANCHE: No, I'd like to hear a response  
15 from Entergy and the NRC.

16 MR. ENNIS: This is Rick Ennis. Does Entergy  
17 have any questions or comments they would like to make?

18 MR. DAVIDSON: Yes, Rick. This is Jim  
19 Davidson (phonetic) at Entergy Nuclear Operations. We  
20 have no comments.

21 (Inaudible.)

22 MR. GUNDERSON: So I guess now, as I  
23 understood your opening -- this is Arnie Gunderson -- as  
24 I understood your opening remarks, I guess you will  
25 respond, either reopening our 2.206 or rejecting our 2.206  
26 based on this conversation?

1 PARTICIPANT: Yes, that's what we will do.

2 MR. ENNIS: This is Rick Ennis and I'd like  
3 to ask a question from petitioners. How do your concerns  
4 relate to specific regulatory requirements for a licensee  
5 to provide information in the FSAR or to provide  
6 information to the NRC with respect to a license amendment  
7 request?

8 MR. BLANCHE: Okay. I believe, I could be  
9 wrong, but 50.71E requires accurate information to be  
10 provided in periodic updates to the FSAR, and NEI 9803 and  
11 Regulatory Guide 1.81.

12 MR. GUNDERSON: No, Paul, it's Regulatory  
13 Guide 1.181.

14 MR. BLANCHE: Right.

15 MR. GUNDERSON: It was issued in September of  
16 '99. And the objective on the top of the second page of  
17 Regulatory Guide 1.81 states:

18 "The objectives of 10 CFR 50.51E are to  
19 ensure that licensees maintain the information in the  
20 UFSAR to reflect the current status of the facility," the  
21 current status of the facility, "and address new issues as  
22 they arise so that the UFSAR can be used as a reference  
23 document in safety analysis."

24 And it's our position that based on that reg  
25 guide, we can't use the UFSAR as a reference document in  
26 a safety analysis. And we're pretty smart dudes. And it

1 looks to us like Entergy, the existing UFSAR -- forget the  
2 up rate -- the existing UFSAR as well as any new issues  
3 which they're attempting to install, the up rate on the  
4 plant, have not been addressed in the UFSAR. So we cannot  
5 use it as a reference document in safety analysis.

6 MR. BLANCHE: And I'd like to state something  
7 for the record that the laughter that was heard in the  
8 background did not come from myself and I don't believe it  
9 came from Mr. Gunderson either.

10 MR. GUNDERSON: No, it wasn't me either.

11 MR. LEWIS: This is Steve Lewis. We really  
12 didn't -- we're not influenced by any laughter that was  
13 taking place. So don't be concerned about that.

14 MR. BLANCHE: I just wanted to make sure that  
15 we're not laughing. This is not a joking matter to me.

16 MR. LEWIS: No, we're not laughing here  
17 either.

18 MR. GUNDERSON: Okay, Paul, I have nothing  
19 else to say. Are you clear?

20 MR. BLANCHE: I have nothing else to say.  
21 NRC? Anything else?

22 MR. ENNIS: We have nothing else. Thank you  
23 very much --

24 MR. BLANCHE: Are we going to get a call or  
25 a letter on this?

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MR. ENNIS: -- for the information that you provided today. And the Petition Review Board will consider that as we continue to deliberate.

MR. BLANCHE: Okay. That's all I have. I thank you very much for your time.

MR. GUNDERSON: Thank you.

MR. ENNIS: Thank you.

(Whereupon, the foregoing matter was concluded.)

UNITED STATES NUCLEAR REGULATORY COMMISSION

Docket No. 50-271

License No. DPR-28

ENTERGY NUCLEAR VERMONT YANKEE, LLC and

ENTERGY NUCLEAR OPERATIONS, INC.

RECEIPT OF REQUEST FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by petition dated July 29, 2004, as supplemented on December 8, 2004, Mr. Paul Blanch and Mr. Arnold Gundersen requested that the Nuclear Regulatory Commission (NRC) take action with regard to Vermont Yankee Nuclear Power Station (Vermont Yankee). The petitioners request that the NRC issue a demand for information requiring Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. to provide the NRC with information that clearly and unambiguously describes how Vermont Yankee complies with the General Design Criteria (GDC) specified in 10 CFR 50 Appendix A or the draft GDC previously published in 1967, and to identify all deviations from any and all applicable NRC regulations.

As a basis for this request, the petitioners state that Appendix F of the Vermont Yankee Updated Final Safety Analysis Report (UFSAR) is neither a meaningful or useful description of the applicability of the draft GDC to Vermont Yankee given the disclaimer that marks it as historical. In addition, the petitioners state that the GDC are not described elsewhere in the UFSAR and, therefore, it is difficult to determine whether Vermont Yankee complies with the requirements.

The petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The petition has been referred to the Director of the Office of Nuclear Reactor

Regulation. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. Mr. Blanch and Mr. Gundersen participated in a telephone conference with the Petition Review Board (PRB) on August 26, 2004, to discuss the petition. The results of that discussion have been considered in the PRB's determination regarding the Petitioners' request for action. Copies of the petition and the supplement are available for inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html> (Accession numbers ML042120147 and ML042520152). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

J. E. Dyer, Director  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland  
This 17th day of January, 2005.

Vermont Yankee Nuclear Power Station

cc:

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