

February 2, 2005

EA-04-173

Mr. Jay K. Thayer
Site Vice President
Entergy Nuclear Operations, Inc.
Vermont Yankee Nuclear Power Station
P.O. Box 0500
185 Old Ferry Road
Brattleboro, VT 05302-0500

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING
(NRC Inspection Report 05000271/2004009)
Vermont Yankee Nuclear Power Station

Dear Mr. Thayer:

The purpose of this letter is to provide you with the final results of our significance determination for the preliminary White finding identified at Vermont Yankee during an inspection completed on October 12, 2004. The results of the inspection were discussed with Mr. R. Wanczyk, Nuclear Safety Director, and other members of your staff during exit meetings on July 30 and October 12, 2004. The inspection finding was assessed using the significance determination process and was preliminarily characterized as White, a finding with low to moderate importance to safety that may require additional NRC inspections. The basis for this preliminary White finding was explained in our letter dated November 12, 2004, which transmitted the subject inspection report.

This preliminary White finding involved the failure to establish a means to provide early notification and clear instruction to a portion of the populace within the plume exposure pathway emergency planning zone (EPZ), as required by the Vermont Yankee Emergency Plan. Specifically, a portion of the populace that was within the Vermont Yankee EPZ, but outside of siren coverage, was not issued tone alert radios so that they could be notified in case of an emergency.

In our letter dated November 12, 2004, the NRC provided you an opportunity to either request a regulatory conference to discuss this finding, or to explain your position in a written response. On December 8, 2004, Mr. R. Wanczyk of your staff informed Mr. R. Conte of NRC, Region I, that Entergy declined the opportunity to discuss this issue in a Regulatory Conference, but would provide a written response.

In your response dated December 15, 2004, you stated that sirens and tone alert radios were the two primary means to notify the populace within the EPZ of an emergency, and that you concurred with our assessment that Vermont Yankee did not provide adequate active measures to positively assure distribution of tone alert radios. However, you believed that the safety significance of this condition was substantially mitigated by the fact that other means of notification were available, including radio and television broadcasting, use of automatic telephone dialing/notification systems, pagers, and cell phones.

After considering the information developed during the inspection and the information provided in your letter, the NRC has concluded that the inspection finding is appropriately characterized as White, an issue with low to moderate increased importance to safety that may require additional inspections. The issue is White because an emergency preparedness risk significant planning standard, namely, the ability to provide early notification and clear instruction to the populace within the plume exposure pathway EPZ, was degraded. Although sirens provided coverage for most of the EPZ, a portion of the EPZ population outside of the siren coverage area did not have tone alert radios because Entergy did not have a reliable "best effort" process in place to offer them tone alert radios. The NRC recognizes that some of the individuals who were not issued tone alert radios may be notified via other various informal and unplanned methods. However, as described in your response dated December 15, 2004, you do not take credit for these other methods of notification in your Alert and Notification System design. Therefore, the NRC can not assume that these methods would be successful.

You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for the identified White finding. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2.

The NRC has also determined that not establishing the means to provide early notification and clear instruction to a portion of the populace within the plume exposure pathway EPZ is a violation of 10 CFR 50.47(b)(5), as cited in the enclosed Notice of Violation (Notice). The circumstances surrounding the violation are described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, NUREG-1600, this Notice of Violation is considered 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 by separate correspondence of that determination.

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 available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

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
D. L. Pace, Vice President, Engineering
B. O'Grady, Vice President, Operations Support
J. M. DeVincentis, Manager, Licensing, Vermont Yankee Nuclear Power Station
Operating Experience Coordinator - Vermont Yankee Nuclear Power Station
J. F. McCann, Director, Nuclear Safety Assurance
M. J. Colomb, Director of Oversight, Entergy Nuclear Operations, Inc.
J. M. Fulton, Assistant General Counsel, Entergy Nuclear Operations, Inc.
S. Lousteau, Treasury Department, Entergy Services, Inc.
Administrator, Bureau of Radiological Health, State of New Hampshire
Chief, Safety Unit, Office of the Attorney General, Commonwealth of Mass.
D. R. Lewis, Esquire, Shaw, Pittman, Potts & Trowbridge
G. D. Bisbee, Esquire, Deputy Attorney General, Environmental Protection Bureau
J. Block, Esquire
J. P. Matteau, Executive Director, Windham Regional Commission
M. Daley, New England Coalition on Nuclear Pollution, Inc. (NECNP)
D. Katz, Citizens Awareness Network (CAN)
R. Shadis, New England Coalition Staff
G. Sachs, President/Staff Person, c/o Stopthesale
J. Sniezek, PWR SRC Consultant
R. Toole, PWR SRC Consultant
D. Bell, RAC Chair, FEMA Region I
Commonwealth of Massachusetts, SLO Designee
State of New Hampshire, SLO Designee
State of Vermont, SLO Designee

Mr. Jay K. Thayer

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*via e-mail from A. Hayes

Enclosure

NOTICE OF VIOLATION

Entergy Nuclear Operations, Inc.
Vermont Yankee Nuclear Power Station

Docket No. 50-271
License No. DPR-28
EA-04-173

During an NRC inspection conducted between July 26, 2004 through July 30, 2004, and on October 12, 2004, for which exit meetings were held on July 30 and October 12, 2004, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.54(q) requires a licensee authorized to possess and operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards in 10 CFR 50.47(b).

10 CFR 50.47(b)(5) requires in part, that means to provide early notification and clear instruction to the populace within the plume exposure pathway emergency planning zone (EPZ) have been established.

The Vermont Yankee Emergency Plan, Section 11.2, "Public Notification," refers to Appendix H for details concerning the prompt public notification methods for the Vermont Yankee area. Appendix H describes equipment necessary to alert the public within the Vermont Yankee EPZ as sirens and tone alert radios.

Contrary to the above, as of September 23, 2004, the licensee failed to follow its emergency plan to establish the means to provide early notification and clear instruction to the populace within the plume exposure pathway EPZ. Specifically, a portion of the populace within the EPZ, who are outside of the range of sirens, did not have tone alert radios.

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, D.C. 20555 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-04-173" and should include for the violation: (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 previous 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, United States Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible at NRC's Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response 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 two working days.

Dated this 2nd day of February 2005.