

U.S. NUCLEAR REGULATORY COMMISSIONDOCKET NO. 50-271LICENSE NO. DPR-28ENERGY NUCLEAR VERMONT YANKEE, LLCAND ENERGY NUCLEAR OPERATIONS, INC.NOTICE OF ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision with regard to a petition dated May 3, 2005, filed pursuant to Title 10 of the *Code of Federal Regulations* (CFR), Section 2.206, by Mr. Raymond Shadis on behalf of the New England Coalition (NEC), hereinafter referred to as the "Petitioner." The petition was supplemented on May 17, 2005. The petition concerns the use of the Hemyc electric raceway fire barrier system (EFRBS) at Vermont Yankee Nuclear Generating Station (Vermont Yankee).

NRC Information Notice 2005-07, "Results of Hemyc Electrical Raceway Fire Barrier System [ERFBS] Full Scale Fire Testing," dated April 1, 2005, informed the operators of nuclear power plants that the Hemyc ERFBS did not perform for one hour as designed. The NRC listed Vermont Yankee Nuclear Power Station (Vermont Yankee) among the sites that had installed Hemyc ERFBS. The NEC petition requested that the NRC promptly restore reasonable assurance of adequate protection of public health and safety with regard to the fire barriers in electrical cable protection systems at Vermont Yankee, or otherwise to order a derate of Vermont Yankee until such time as the operability of the fire barriers can be assured. Specifically, the petition requested that the Commission take the following actions: (1) require Entergy Nuclear Vermont Yankee (ENVY) to promptly conduct a review at Vermont Yankee to determine the extent of condition, including a full inventory of the type, amount, application, and

placement of Hemyc, and an assessment of the safety significance of each application; (2) require ENVY to promptly provide justification for operation in nonconformance with 10 CFR Part 50, Appendix R; and (3) upon finding that Vermont Yankee is operating in an unanalyzed condition and/or that assurance of public health and safety is degraded, promptly order a power reduction (derate) of Vermont Yankee until such time as it can be demonstrated that ENVY is operating in conformance with 10 CFR Part 50, Appendix R, and all other applicable regulations.

Mr. Raymond Shadis, in his capacity as the petitioner's Staff Technical Advisor, participated in a telephone conference call with the NRC's Petition Review Board (PRB) on May 17, 2005, to discuss the petition. The results of that discussion were considered in the PRB's determination regarding the Petitioner's request for action and in establishing the schedule for the review of the petition. During the May 17, 2005, PRB conference call, the Petitioner requested that the licensee review fire barriers beyond the Hemyc electric raceway fire barrier system. This request was not accepted under the 2.206 process because the petitioner did not provide adequate information to justify expanding the scope of the review.

In an acknowledgment letter dated June 15, 2005, the NRC informed the Petitioner that the petition was accepted, in part, for review under 10 CFR 2.206 and had been referred to the Office of Nuclear Reactor Regulation for appropriate action.

The NRC staff sent a copy of the proposed Director's Decision to the Petitioner for comment on October 11, 2005. The NRC staff did not receive any comments.

The Director of the Office of Nuclear Reactor Regulation has determined that the NRC has in effect granted the Petitioner's request. The reasons for this decision are explained in the Director's Decision pursuant to 10 CFR 2.206 (DD-05-07). The Petitioner's concerns regarding the use of Hemyc at Vermont Yankee have been adequately resolved such that no further

action is needed. The licensee has replaced the Hemyc on all equipment that is relied upon for compliance with 10 CFR Part 50, Appendix R.

The documents cited in this Director's Decision are available for inspection at the Commission's Public Document Room (PDR) at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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 at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 23rd day of December 2005.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

R. W. Borchardt, Acting Director
Office of Nuclear Reactor Regulation