

UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION
 OFFICE OF NUCLEAR REACTOR REGULATION

J. E. Dyer, Director

In the Matter of)	Docket No. 50-271
)	
ENERGY NUCLEAR VERMONT YANKEE, LLC)	License No. DPR-28
and)	
ENERGY NUCLEAR OPERATIONS, INC.)	
)	
Vermont Yankee Nuclear Power Station)	

DIRECTOR'S DECISION UNDER 10 CFR 2.206

I. INTRODUCTION

By letter dated May 3, 2005, Mr. Raymond Shadis of the New England Coalition (NEC or the Petitioner) filed a petition pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, with the Nuclear Regulatory Commission (NRC or the Commission). 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) promptly conduct a review at Vermont Yankee to determine the extent of condition (e.g., the extent to which Hemyc is used at Vermont Yankee), 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 Entergy Nuclear Vermont Yankee (ENVY or the licensee) 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 teleconference was transcribed and the transcription was treated as a supplement to the petition. In the conference call, the Petitioner modified the first request because it did not constitute a request for enforcement action consistent with the 10 CFR 2.206 process. The request was modified to require the licensee, rather than the NRC, to conduct the review to determine the extent of condition. During the conference call, the Petitioner also requested that the licensee review fire barriers beyond the Hemyc ERFBS.

After the conference call, the PRB discussed the request to promptly order a derate of Vermont Yankee and to review fire barriers beyond Hemyc. The NRC had already determined that immediate action was not necessary. When the Hemyc test results became available, the NRC staff examined whether there was an immediate and significant risk to safety. Because fire detection, prevention, and suppression measures were already in place to minimize both the probability of occurrence and consequences of a fire that could prevent the performance of safe shutdown functions, the staff concluded that continued plant operation while corrective actions were implemented did not pose an undue risk to public health and safety. In addition, the NRC staff confirmed that fire watches were implemented at Vermont Yankee as a

compensatory measure until the corrective actions were completed (i.e., replacement of the Hemyc ERFBS). As for the request that the licensee review fire barriers beyond the Hemyc ERFBS, the Petitioner did not provide adequate information to justify expanding the scope of the review. On June 13, 2005, the NRC staff notified the Petitioner that, based on the recommendations of the PRB, the request for immediate action and the request to expand the scope to cover additional fire barriers were denied.

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.

Copies of the petition, transcript, and acknowledgment letter 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> under ADAMS Accession No. ML051610117. Persons who do not have access to ADAMS or who have problems in accessing the documents 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 pdrr@nrc.gov.

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

II. DISCUSSION

As a basis for the requested actions, the Petitioner's primary concern was the quality of the Vermont Yankee fire barriers, including Hemyc, and the effect on compliance with the requirements of 10 CFR Part 50, Appendix R. However, in its inspections of fire protection at

Vermont Yankee, which included the review of numerous fire barriers and penetrations, the NRC did not identify any safety concerns other than the unresolved item related to Hemyc ERFBS (NRC Inspection Report 05000271/2001-003, July 27, 2001, ADAMS Accession No. ML012080293). Furthermore, by letter dated August 17, 2005, ENVY stated that on July 28, 2005, they completed replacement of Hemyc on systems that are credited in the Vermont Yankee safe shutdown capability analysis. This is the analysis that supports compliance with 10 CFR Part 50, Appendix R. Therefore, the staff concludes that the Petitioner's concerns have been adequately addressed by the licensee's corrective actions.

III. CONCLUSION

The NRC staff has reviewed the basis for the Petitioner's requested actions. Based on the information provided in Section II, the staff concludes that the 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. Based on these conclusions, the NRC in effect granted the Petitioner's request by resolving the Petitioner's primary concern of the quality of the Hemyc fire barriers at Vermont Yankee.

As provided in 10 CFR 2.206(c), a copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission to review. As provided for by this regulation, the 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 Decision within that time.

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

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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