

file an annual report to the NRC containing a certification that financial assurance for decommissioning will be or has been provided in an amount which may be more, but not less than, the amount stated in the regulations, adjusted as appropriate for changes in labor, energy, and waste burial costs. The formula for adequate decommissioning funds includes an estimated waste disposal volume based on the plant design. The actual waste disposal volume may increase due to a leak or spill at a level that requires remediation. The licensee is responsible for payment of any increased waste disposal costs, whether paid for out of the allocated funds from the decommissioning fund or other assets. The current remediation of the tritium in soil and groundwater at VY has been funded as an operating expense and no money was used from the decommissioning trust fund. VY previously submitted a site-specific decommissioning cost analysis, which was approved by the NRC by letter dated February 3, 2009 (ADAMS Accession No. ML083390193). VY must address any required changes in their next annual report. Because no violations of NRC requirements were identified, enforcement action is not warranted for this concern.

#### *B. Additional NRC Actions Pertaining to Groundwater Contamination*

In March of 2010, NRC's EDO established a Groundwater Task Force (GTF) to review the NRC's approach to ground water contamination conditions, given the recent incidents of leaking buried pipes at commercial nuclear power plants. The charter of the Task Force was to reevaluate the recommendations made in the Liquid Radioactive Release Lessons Learned Task Force Final Report dated September 1, 2006 (ADAMS Accession No. ML062650312); review the actions taken in Commission Paper SECY-09-0174 "Staff Progress in Evaluation of Buried Piping at Nuclear Reactor Facilities" (ADAMS Accession No. ML093160004); and review the actions taken in response to recent releases of tritium into groundwater by nuclear facilities.

The GTF completed its work in June 2010 and provided its report to the EDO. The report characterized a variety of issues ranging from policy issues to communications improvement opportunities. The complete report may be found under ADAMS Accession No. ML101740509. The GTF determined that the NRC is accomplishing its stated mission of protecting public health, safety, and protection of the

environment through its response to groundwater leaks/spills. Within the current regulatory structure, the NRC is correctly applying requirements and properly characterizing the relevant issues. However, the GTF reported that there are further observations, conclusions, and recommendations that the NRC should consider in its oversight of groundwater contamination incidents.

The EDO appointed a group of NRC senior executives to review the report and consider its findings. The group reviewed the GTF final report, including the conclusions, recommendations, and their bases. They identified conclusions and recommendations that do not involve policy issues, and tasked the NRC staff to address them. They have also identified policy issues, and a policy paper has been sent to the Commission discussing those issues.

A public workshop was held on October 4, 2010, with external stakeholders to discuss the findings of the GTF Report and to receive input on the potential policy issues. In addition, a request for public comment was published in the **Federal Register** (75 FR 57987). These efforts help to ensure the NRC is considering the right issues on which to focus its attention as it moves forward. The transcript from this meeting is available on the NRC's Web site at: <http://www.nrc.gov/reading-rm/doc-collections/fact-sheets/buried-pipes-tritium.html>.

### **III. Conclusion**

As summarized above, the NRC staff did not identify any violations and the public health and safety remains reasonably assured. Thus, no enforcement action against VY is warranted. The NRC staff concludes that the petitioners' concerns have been addressed and resolved such that no further action is needed in response to the petitions.

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 11th day of March 2011.

For the Nuclear Regulatory Commission.

**Eric J. Leeds,**  
*Director, Office of Nuclear Reactor Regulation.*

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## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-271; NRC-2011-0060]

### **Entergy Nuclear Operations, Inc., Entergy Nuclear Vermont Yankee, LLC, Vermont Yankee Nuclear Power Station; License No. DPR-28, Receipt of Request for Action**

Notice is hereby given that petitions dated January 12, 2010, from Mr. Michael Mulligan, February 8, 2010, from Mr. Raymond Shadis, and February 20, 2010, from Mr. Thomas Saporito, have requested that, under Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206, "Requests for Action under this Subpart," the U.S. Nuclear Regulatory Commission (NRC) take action with regard to the Vermont Yankee Nuclear Power Station (VY).

Mr. Mulligan requested in his petition that (1) the radioactive leak into the environment of VY be immediately stopped, VY be immediately shut down, and all leaking paths be isolated, and (2) VY disclose its preliminary root cause analysis and the NRC release its preliminary investigative report on this analysis before plant startup.

Mr. Shadis requested in his petition that the NRC (1) require VY to go into cold shutdown and depressurize all systems in order to slow or stop the leak, (2) act promptly to stop or mitigate the leak(s) and not wait until all issues raised by New England Coalition are resolved, (3) require VY to reestablish its licensing basis by physically tracing records and reporting physical details of all plant systems that would be within scope as "buried pipes and tanks" in NUREG-1801, "Generic Aging Lessons Learned (GALL) Report," and under the requirements of 10 CFR 50.54, "Conditions of Licenses," (4) investigate and determine why Entergy has been allowed to operate VY since 2002 without a working knowledge of all plant systems, and why the NRC's Reactor Oversight Process (ROP) and review process for license renewal amendment did not detect this dereliction, (5) take notice of Entergy Nuclear Vermont Yankee's many maintenance and management failures (from 2000 to 2010) and the ROP's failure to detect them early and undertake a full diagnostic evaluation team inspection or NRC Inspection

Procedure 95003, "Supplemental Inspection for Repetitive Degraded Cornerstones, Multiple Degraded Cornerstones, Multiple Yellow Inputs or One Red Input," and (6) require Entergy VY to apply for an amendment to its license renewal that would address both aging analysis and aging management of all buried piping carrying or with the potential to carry radionuclides and/or the potential to interact with any safety or safety-related system.

Mr. Saporito requested in his petition that the NRC (1) order a cold-shutdown mode of operation for VY because of leaking radioactive tritium and (2) issue a confirmatory order modifying the NRC-issued license for VY so that the licensee must bring the nuclear reactor to a cold-shutdown mode of operation until the licensee can provide definitive reasonable assurance to the NRC, under affirmation, that the reactor will be operated in full compliance with the regulations in 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," and General Design Criteria 60, "Control of Releases of Radioactive Materials to the Environment," and 64, "Monitoring Radioactivity Releases," of Appendix A, "General Design Criteria for Nuclear Power Plants," to 10 CFR Part 50, and with other NRC regulations and authority.

The requests are being treated under 10 CFR 2.206 of the Commission's regulations. The requests have been referred to the Director of the Office of Nuclear Reactor Regulation (NRR). As provided by 10 CFR 2.206, the NRC will take appropriate action on this consolidated petition within a reasonable time.

Each petitioner stated that the tritium leak is just one example of many maintenance and management failures at VY. All three raised a concern about what they perceive as the NRC's failure to examine the deficiencies at VY in an integrated manner. Although the individual petition was written to request enforcement action specifically because of the tritium leak, during each of the transcribed phone calls, each petitioner urged the NRC to take a broader view and assess operational and performance failures at VY collectively instead of individually. This concern has met the criteria for review in accordance with Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions."

Subsequently, the Petition Review Board recommended that the NRC accept the consolidated petition for review for the following specific issues and concerns identified in the petitions and supplemented during the teleconferences:

1. Increasing concentrations of radiocontaminants in the soil and groundwater at VY, as well as an increasing area of contamination, are manifest on a daily basis. VY risks aggravating the contamination by continuing to run the reactor at full power while attempting over a period of a month to triangulate the location of a presumed leak by drilling a series of test wells in the affected area.

2. During the license renewal application proceeding, the licensee averred that it was unaware of the existence of some buried pipes, now uncovered, and it has yet to discover their path and purpose.

3. Entergy has, in 8 years of ownership, failed to learn and understand VY's design, layout, and construction. This failure to comprehend and understand the layout, function, and potentially the interaction of the plant's own piping systems constitutes a loss of design basis.

4. The NRC's ROP has apparently failed to capture, anticipate, and prevent ongoing maintenance, engineering, quality assurance, and operation issues that have manifested themselves in a series of high-profile incidents since Entergy took over VY. The agency has repeatedly failed to detect root cause trends until they have, as in this instance, become grossly self-revealing.

5. The NRC should ensure that Entergy has adequate decommissioning funds. The tritium leak will increase decommissioning costs because of the need for site radiological examination and soil remediation.

The NRC sent a copy of the proposed Director's Decision to the petitioners and the licensee for comment on January 20, 2011. The staff did not receive any comments on the proposed Director's Decision.

The NRR staff determined that the activities requested by the petitioners have been completed, with the exception of immediate cold shutdown of Vermont Yankee. Therefore, the Director of NRR concludes that the petition has been granted in part and denied in part. The reasons for this decision are explained in the Director's Decision (DD-11-03) pursuant to 10 CFR 2.206.

Copies of the petitions (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML100190688, ML100470430, and ML100621374) and the Director's Decision (ADAMS Accession No. ML110540558) are available for inspection at the Commission's Public Document Room (PDR) at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville,

Maryland 20852, and from the NRC's ADAMS Public Electronic Reading Room on the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. NRC Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions" (ADAMS Accession No. ML041770328), describes the petition review process. 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 [pdr.resource@nrc.gov](mailto:pdr.resource@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 11th day of March, 2011.

For the Nuclear Regulatory Commission.

**Eric J. Leeds,**

*Director, Office of Nuclear Reactor Regulation.*

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## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

#### *Extension:*

Rule 611; SEC File No. 270-540; OMB Control No. 3235-0600.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval for Rule 611 (17 CFR 242.611)—Order Protection Rule.

On June 9, 2005, effective August 29, 2005 (*see* 70 FR 37496, June 29, 2005), the Commission adopted Rule 611 of Regulation NMS under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et*