

WILLIAM H. SORRELL
ATTORNEY GENERAL

J. WALLACE MALLEY, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM E. GRIFFIN
CHIEF ASST. ATTORNEY GENERAL



TEL: (802) 828-3171

FAX: (802) 828-2154

TTY: (802) 828-3665

CIVIL RIGHTS INTAKE: (888) 745-9195

STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER
05609-1001

March 15, 2001

Glenn M. Tracy
Office of Nuclear Reactor Regulation
Nuclear Regulatory Commission
Washington DC 20555-0001

Dear Mr. Tracy:

First, I would like to thank you for the time and effort you put into answering a few important questions that came up in the context of the lawsuit filed by Vermont Yankee Nuclear Power Corporation against the EEOC and the Vermont Attorney General. As you might know, we have resolved the issues in that case, which pertained to disclosure of information.

I am seeking your assistance again, with a request to answer a few more related questions which have come up in the context of the underlying charge against Vermont Yankee:

1) Is there any NRC regulation, directive or policy which gives the MRO the authority to make the final decision about whether an employee is able to work while taking a prescription drug which is not listed in Part 26, Appendix A, § 2.1(a)? *In reading 10 C.F.R. §26.27, it appears that management of the facility decide whether an employee should be removed from his work responsibilities if he is unfit for duty. Nowhere in that section does it state that the MRO is responsible for making this determination, as it does in the drug testing section.*

2) You stated in your October 27, 2000 letter to John Moriarity that "the burden is on the licensee, specifically the MRO, to evaluate whether the use of any drug not listed in Part 26, Appendix A, § 2.1(a) would result in an individual being 'unfit' to perform his or her duties..." What did you mean by evaluate? Would it be enough for an MRO to recommend that an individual not be allowed to work because he is taking a prescription drug which the MRO believes, because of his general knowledge of the drug, makes the employee unfit for duty, without doing an individual assessment of the employee's functioning?

Thank you very much, in advance, for considering these questions. We greatly appreciate your assistance in helping us figure out this regulatory scheme.

Sincerely,

A handwritten signature in black ink, appearing to read 'Martha', with a stylized flourish at the end.

Martha E. Csala
Assistant Attorney General