

June 24, 2009

EA-09-012

Mr. Larry Meyer  
Site Vice President  
NextEra Energy Point Beach, LLC  
6610 Nuclear Road  
Two Rivers, WI 54241

SUBJECT: NOTICE OF VIOLATION – POINT BEACH NUCLEAR GENERATING PLANT,  
UNITS 1 AND 2, NRC INSPECTION REPORT NOS. 05000266/2009009(DRS);  
05000301/2009009(DRS)

Dear Mr. Meyer:

This refers to the inspection conducted on November 25, 2008 through March 9, 2009, to review your request to medically condition a Point Beach Nuclear Generating Plant operator's senior reactor operator (SRO) license. During the inspection, two apparent violations of U.S. Nuclear Regulatory Commission (NRC) requirements were identified. Details regarding the apparent violations were provided in NRC Inspection Report Nos. 05000266/2009008(DRS); 05000301/2009008(DRS) dated April 8, 2009.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violations identified in the report by either attending a Predecisional Enforcement Conference or by providing a written response before we made our final enforcement decision. In a letter dated May 7, 2009, you provided your response to the apparent violations.

Based on the information developed during the inspection and the information that you provided in your response, the NRC has determined that two violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report.

On January 23, 2008, you submitted NRC Form 396 for renewal of an SRO's license certifying that the applicant met the medical requirements of American National Standards Institute/ American Nuclear Society (ANSI/ANS) 3.4-1983. We renewed the SRO's license without any restrictions on February 22, 2008, based on the NRC Form 396. On October 20, 2008, we received a license change request for the same SRO to add a "Must Take Medication as Prescribed to Maintain Medical Qualifications" license restriction. During our review of the second licensing action, we determined that the individual had notified your medical staff in February 1993, that he began taking medication for a potentially disqualifying medical condition. In May 1999, the individual applied for his initial reactor operator license which was issued on August 27, 1999.

Your failure to notify the NRC of the change in the operator's medical condition within 30 days of May 1999 was a violation of 10 CFR 50.74(c), which requires the licensee to notify the appropriate NRC Regional Administrator within 30 days of a permanent disability or illness of a licensed operator. Additionally, as a result of inaccurate information in the renewal request, we renewed the operator's license on February 22, 2008, without a restriction for the medical condition. The incomplete and incorrect information in the renewal application was material to the NRC because it had the ability to and did incorrectly influence an NRC licensing action. This was a violation of 10 CFR 50.9. You determined that the reason for the 10 CFR 50.9 violation was that NextEra had not changed its NRC licensed operator medical condition reporting practices in 2006 when the NRC clarified its expectations to meet regulatory medical reporting requirements. As a result, available operating experience had not been reviewed and incorporated into applicable station procedures. Additionally, the NRC Operator Licensing webpage frequently asked questions (FAQs) had not been monitored for relevant changes nor had the applicability of recent revisions of NUREG-1021 been incorporated into site processes, procedures, and training programs.

The NRC entrusts licensed operators with the safe operation of nuclear power plants and these individuals must be capable of performing their assigned duties under normal, abnormal, and emergency conditions. The NRC requires facility licensees to closely monitor the physical condition and general health of licensed operators in an effort to minimize the potential for the sudden incapacitation of a licensed operator. Minimum medical qualification requirements for licensed operators are provided in the ANSI standard and are used by the NRC, in part, to determine if specific restrictions should be included in an operator's license. A licensee's failure to notify the NRC of medical conditions, which may require the inclusion of specific restrictions in an operator's license, may result in an unnecessary risk to safe plant operations. The NRC also expects licensees to provide information in a timely and prompt manner. With regard to licensed operators, the NRC requires that licensees provide information regarding changes to the medical condition of a licensed operator within 30 days.

The inspection results indicated that you had information regarding the operator's change in medical condition as early as May 1999 and did not provide that information to the NRC in a prompt and timely manner. The inspection results further indicated that you did not provide complete and accurate information regarding the operator's medical condition in January 2008, when you requested renewal of the operator's license. As a result, the NRC did not have an opportunity to include restrictions on the operator's license in August 1999 and issued an incorrect renewal of the operator's license in February 2008. Therefore, the violations have been collectively categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III problem.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$65,000 is considered for a Severity Level III problem. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for Corrective Action in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. The NRC determined that credit was warranted for your corrective actions which included, but were not limited to: (1) providing the correct information to the NRC and requesting an amendment to the SRO's license; (2) performing an

extent of condition evaluation which identified 12 additional licensed operators having medical conditions that required their licenses be amended; (3) reviewing the NRC Operator Licensing FAQ webpage and NUREG-1021, Revision 9, Supplement 1; (4) revising procedures associated with licensed operator recordkeeping and submittal of applications; (5) conducting a series of information sharing sessions with licensed operators; (6) revising the administrative procedure defining licensed operator application requirements; and (7) performing periodic self-assessments of the operator license medical condition reporting program.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, to not propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken to correct the violations and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in your letter L-2009-115 dated May 7, 2009. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

As noted above, you performed an extent of condition evaluation for the cited violation as part of your corrective actions. During the evaluation, you identified 12 additional examples of licensed operators having medical conditions that you were required to report and for which we subsequently amended their licenses. During our review of the additional examples, we determined that the additional examples of the cited violation: (1) were licensee identified; (2) had the same root cause as the cited violation; and (3) will be corrected, including implementation of immediate and long term corrective actions to prevent recurrence, as a part of your corrective actions for the cited violation. Therefore, in accordance with Section VII.B.4 of the NRC Enforcement Policy, the NRC is refraining from issuing a Notice of Violation for the additional examples of the cited violation.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to respond, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to respond, 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, 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 information, 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

L. Meyer

-4-

required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at ([http://www.nrc.gov/reading\\_rm/doc\\_collections/enforcement/actions/](http://www.nrc.gov/reading_rm/doc_collections/enforcement/actions/)).

Should you have any questions, please contact Mr. Hironori Peterson, Chief, Operations Branch, at (630) 829-9707.

Sincerely,

*/RA/*

Mark A. Satorius  
Regional Administrator

Docket Nos. 50-266; 50-301  
License Nos. DPR-24; DPR-27

Enclosure:  
Notice of Violation

cc w/encl: M. Nazar, Senior Vice-President and Chief Nuclear Officer  
Khanpour, Vice-President, Engineering Support  
M. Warner, Vice-President, Nuclear Plant Support  
Licensing Manager, Point Beach Nuclear Plant  
R. Hughes, Director, Licensing and Performance Improvement  
M. Ross, Managing Attorney  
A. Fernandez, Senior Attorney  
T. O. Jones, Vice-President, Nuclear Operations,  
Mid-West Region  
P. Wells, Vice-President, Safety Assurance  
J. Bjorseth, Plant General Manager  
K. Duveneck, Town Chairman, Town of Two Creeks  
Chairperson, Public Service Commission of Wisconsin  
J. Kitsembel, Electric Division, Public Service Commission of Wisconsin  
P. Schmidt, State Liaison Officer  
D. Lauterbur, Training Manager

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Sincerely,  
**/RA/**  
Mark A. Satorius  
Regional Administrator

Docket Nos. 50-266; 50-301  
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Notice of Violation

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M. Warner, Vice-President, Nuclear Plant Support  
Licensing Manager, Point Beach Nuclear Plant  
R. Hughes, Director, Licensing and Performance Improvement  
M. Ross, Managing Attorney  
A. Fernandez, Senior Attorney  
T. O. Jones, Vice-President, Nuclear Operations,  
Mid-West Region  
P. Wells, Vice-President, Safety Assurance  
J. Bjorseth, Plant General Manager  
K. Duveneck, Town Chairman, Town of Two Creeks  
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P. Schmidt, State Liaison Officer  
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DATE	06/16/09	06/19/09	06/19/09	06/16/09	06/16/09	06/22/09	06/24/09

**OFFICIAL RECORD COPY**

1 OE concurrence by G. Gulla received via e-mail from G. Gulla on June 16, 2009.

2 NRR concurrence per M. Ashley received via e-mail from G. Gulla on June 16, 2009.

Letter to Mr. Larry Meyer from Mr. Mark A. Satorius dated June 24, 2009

SUBJECT: NOTICE OF VIOLATION – POINT BEACH NUCLEAR GENERATING PLANT,  
UNITS 1 AND 2, NRC INSPECTION REPORT NOS. 05000266/2009009(DRS);  
05000301/2009009(DRS)

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## NOTICE OF VIOLATION

NextEra Energy Point Beach, LLC  
Point Beach Nuclear Power Plant  
Units 1 and 2

Docket Nos. 50-266; 50-301  
License Nos. DPR-24; DPR-27  
EA-09-012

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on November 25, 2008 through March 9, 2009, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

1. Title 10 CFR 50.74(c) requires that each licensee notify the appropriate NRC Regional Administrator within 30 days of a permanent disability or illness, as described in 10 CFR 55.25, of a licensed operator or a senior operator.

Contrary to the above, from May 1999 until October 20, 2008, a period greater than 30 days, the licensee failed to notify the NRC Region III Regional Administrator of a permanent disability or illness of a licensed operator. Specifically, the licensee was informed in February 1993 that the non-licensed operator was taking prescribed medication for hypertension, a permanent disability or illness. The non-licensed operator applied for an NRC operating license in May 1999. The NRC issued the operator a reactor operator license August 27, 1999, and a senior reactor operator license on February 22, 2002, with no restrictions. The licensee did not inform the NRC of the operator's medical condition until October 20, 2008.

2. Title 10 CFR 50.9 requires, in part, that information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, Orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

Title 10 CFR 55.23 requires, in part, that to certify the medical fitness of the applicant, an authorized representative of the facility licensee shall complete and sign NRC Form-396, "Certification of Medical Examination by Facility Licensee."

The NRC Form-396, when signed by an authorized representative of the facility licensee, certifies that a physician conducted a medical examination of the applicant and that the guidance contained in American National Standards Institute/American Nuclear Society (ANSI/ANS) Standard 3.4-1996, "Medical Certification and Monitoring of Personnel Requiring Operator Licenses for Nuclear Power Plants" was followed in conducting the examination and making the determination of medical qualification.

The ANSI/ANS 3.4-1996, Section 5.3, provides, in part, that the presence of certain medical conditions, unless adequately compensated by the methods specified in Subsections 5.3.1 through 5.3.9, shall disqualify the individual.

Contrary to the above, on January 28, 2008, the facility licensee provided information to the NRC that was not complete and accurate in all material respects. Specifically, the licensee submitted an NRC Form-396 for renewal of a senior reactor operator's license and the NRC Form-396 certified that the applicant met the medical requirements of ANSI/ANS 3.4-1996 with no restrictions. However, In February 1993, the operator was prescribed medication to adequately compensate for a disqualifying medical condition. The certification by the senior licensee facility representative was material to the NRC because the NRC relied upon this certification to renew the senior reactor operator's license pursuant to 10 CFR Part 55 when the license should have been modified with a restriction that the senior reactor operator was required to take medication as prescribed to maintain his qualification.

This is a Severity Level III problem (Supplement VII).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in your letter L-2009-115 dated May 7, 2009. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," include the EA number, and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region III, 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).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC 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.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 24<sup>th</sup> day of June 2009