



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, IL 60532-4352

October 27, 2009

EA-09-193

Mr. Mark A. Schimmel
Site Vice President
Prairie Island Nuclear Generating Plant
Northern States Power Company, Minnesota
1717 Wakonade Drive East
Welch, MN 55089

SUBJECT: NOTICE OF VIOLATION – PRAIRIE ISLAND NUCLEAR GENERATING PLANT
UNITS 1 AND 2; NRC INSPECTION REPORT 050000282/2009014(DRS);
05000306/2009014(DRS)

Dear Mr. Schimmel:

This refers to the inspection conducted on May 1, 2009, through August 10, 2009, to review your request to medically condition a Prairie Island Nuclear Generating Plant operator's senior reactor operator (SRO) license. During the inspection, an apparent violation of U.S. Nuclear Regulatory Commission (NRC) requirements was identified. Details regarding the apparent violation were provided in NRC Inspection Report Nos. 050000282/2009012(DRS); 05000306/2009012(DRS) dated September 3, 2009.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation 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 September 30, 2009, you provided your response to the apparent violation.

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

On May 11, 2007, you requested the NRC to condition an SRO's license with a "Corrective Lenses Must Be Worn When Performing Licensed Duties" restriction. On May 22, 2007, we renewed the SRO's license with a corrective lenses restriction. On May 1, 2009, you requested the NRC to condition the SRO's license with a "Must Take Medication as Prescribed to Maintain Medical Qualifications" restriction. While reviewing the medical information supporting the requested license restriction, we identified that the SRO had been taking medication for a potentially disqualifying medical condition since July 1998. The May 2007 renewal request did not include a request to have the SRO's license conditioned with a "Must Take Medication as

Prescribed to Maintain Medical Qualifications” restriction. 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.

Your failure to provide complete and accurate information regarding the medical condition of the SRO and failure to request that a medical restriction to be included in the SRO’s license in the NRC Form 396 provided to the NRC on May 11, 2007, is a violation of 10 CFR 50.9. As a result of inaccurate information in the renewal request, the NRC renewed the SRO’s license 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. You determined that the reason for the violation was that in 2007 the station had not yet incorporated the revised NRC Form 396 reporting requirements into the applicable processes and procedures.

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 by the American National Standards Institute 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 provide complete and accurate information to the NRC regarding 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. Therefore, the violation has been categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III violation.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$65,000 is considered for a Severity Level III violation. 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 correcting the NRC Form 396 for the SRO license on May 1, 2009, initiating Action Request No. 1184252, incorporating the revised 2006 NRC Form 396 requirements into Procedure FP-T-SAT-74, “NRC Operator License Application and Renewal Requirements,” validating that all operator license renewals submitted after the 2006 change had appropriate restrictions placed on their licenses, and validating that all operator license amendments submitted after the 2006 change included all appropriate restrictions.

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. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action, which may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in your letter L-PI-09-104 dated September 30, 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.

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 Agencywide Documents Access and Management 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 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/).

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. 50-282; 50-306
License Nos. DPR-42; DPR-60

Enclosure:
Notice of Violation

cc: Distribution via Listserv

Letter to Mr. Mark A. Schimmel from Mr. Mark A. Satorius dated October 27, 2009

SUBJECT: NOTICE OF VIOLATION – PRAIRIE ISLAND NUCLEAR GENERATING PLANT
UNITS 1 AND 2; NRC INSPECTION REPORT 050000282/2009014(DRS);
05000306/2009014(DRS)

DISTRIBUTION:

ADAMS (PARS)

RidsSecyMailCenter.Resource

OCADistribution

Bill Borchardt

Bruce Mallett

Cynthia Carpenter

Belkys Sosa

Marvin Itzkawitz

Catherine Scott

Eric Leeds

Bruce Boger

Mark Satorius

Cynthia Pederson

Daniel Holody

Carolyn Evans

Steven Orth

William Jones

Gerald Gulla

Marcy Ann Ashley

Holly Harrington

Hubert Bell

Guy Caputo

Mona Williams

James Lynch

Viktoria Mitlyng

Prema Chandrathil

Harral Logaras

Jared Heck

Allan Barker

Patricia Lougheed

Paul Pelke

Magdalena Gryglak

OEMAIL Resource

OEWEB Resource

Susan Bagley

RidsNrrPMPrairieIsland

RidsNrrDorlLp3-1 Resource

RidsNrrDirslrib Resource

Carole Ariano

Linda Linn

DRPIII

DRSIII

ROPreports Resource

NOTICE OF VIOLATION

Northern States Power Company
Prairie Island Nuclear Generating Plant

Docket No. 50-282; 50-306
License No. DPR-42; DPR-60
EA-09-193

During an NRC inspection conducted on May 1, 2009, through August 10, 2009, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

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.

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."

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 3.4-1983, "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.

ANSI/ANS 3.4-1983, 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 May 11, 2007, 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 which certified that the applicant met the medical requirements of ANSI/ANS 3.4-1983 with only a restriction for corrective lenses. However, in July 1998, the senior reactor 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 and renewed the senior reactor operator's license pursuant to 10 CFR Part 55 without a restriction that the senior reactor operator was required to take medication as prescribed to maintain his qualification.

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

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in your letter L-PI-09-104 dated September 30, 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 Agencywide Documents Access and Management 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 27th day of October 2009

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in your letter L-PI-09-104 dated September 30, 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.

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 Agencywide Documents Access and Management 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 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/).

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. 50-282; 50-306
 License Nos. DPR-42; DPR-60

Enclosure:
 Notice of Violation

cc: Distribution via Listserv

DISTRIBUTION:

See next page

FILE NAME: G:\EICS\ENFORCEMENT\Enforcement Cases 2009\EA-09-193 Prairie Island OL Case\EA-09-193 Final Prairie Island OL letter NOV.doc

Publicly Available Non-Publicly Available Sensitive Non-Sensitive

To receive a copy of this document, indicate in the box: "C" = Copy w/o att/encl "E" = Copy w/att/encl "N"

OFFICE	RIII	RIII	RIII	D: OE	RIII	RIII
NAME	Pelke	Palagi for Peterson	O'Brien for Boland	Bowman for Carpenter ¹	Orth	Satorius
DATE	10/23/09	10/23/09	10/26/09	10/23/09	10/26/09	10/27/09

OFFICIAL RECORD COPY

¹ OE concurrence received via e-mail from G. Bowman on October 23, 2009.