

December 2, 2003

EA-03-181

Mr. Alfred J. Cayia  
Site Vice-President  
Point Beach Nuclear Plant  
Nuclear Management Company, LLC  
6610 Nuclear Road  
Two Rivers, WI 54241-9516

SUBJECT: POINT BEACH NUCLEAR PLANT, UNITS 1 AND 2  
95003 SUPPLEMENTAL INSPECTION; PREDECISIONAL ENFORCEMENT  
CONFERENCE

Dear Mr. Cayia:

This letter refers to the emergency preparedness (EP) phase of the supplemental inspection recently conducted at Point Beach using Inspection Procedure (IP) 95003, "Inspection for Repetitive Degraded Cornerstones, Multiple Degraded Cornerstones, Multiple Yellow Inputs, or One Red Input." As discussed on December 1, 2003, with you, an apparent violation of NRC's regulations was identified during this phase of the inspection and is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. The current Enforcement Policy is included on the NRC's website at [www.nrc.gov](http://www.nrc.gov). The apparent violation involved changes made to the Emergency Action Level (EAL) scheme at Point Beach that reduced the effectiveness of the Emergency Plan without requesting and receiving prior NRC approval. Specific information about the apparent violation was discussed with you and members of your staff at the conclusion of the onsite portion of the emergency preparedness phase of the inspection on August 27 and during the telephone conference on December 1, 2003.

Based on the results of the EP phase of the IP 95003 supplemental inspection, a significant discrepancy was identified regarding the EAL scheme currently used at Point Beach as compared to the EAL scheme approved in 1984 via a Safety Evaluation Report after NRC review of a revision of the Emergency Plan. The scheme approved in 1984 was based on NUREG 0654/FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," Revision 1. This discrepancy involved eight EALs that had been changed from the 1984-approved scheme and should have been submitted to NRC's Office of Nuclear Reactor Regulation (NRR) for review and approval prior to implementation because the changes resulted in a decrease in effectiveness of the Emergency Plan. The changes, discussed below, decreased the effectiveness of the Emergency Plan in that emergency conditions that could have resulted in classifications at the General Emergency (GE), Alert, and Notification of Unusual Event (NOUE) levels would result in a lesser classification under the current EAL scheme.

**GENERAL EMERGENCY** - EAL GE-1, as approved in 1984, required, in part, the declaration of a GE if a field dose rate corresponding to a 5 Rem committed dose equivalent to the thyroid (for 1 hour of inhalation) was measured. With the revision of this EAL on October 28, 1998, in Revision 32 to Emergency Plan Implementing Procedure (EPIP) 1.2, the current EAL wording does not require a GE declaration directly from a field dose rate measurement corresponding to a 5 Rem committed dose equivalent to the thyroid (for 1 hour of inhalation). This revision resulted in a less conservative criterion for a GE declaration.

EAL GE-5(b), as approved in 1984, required, in part, the declaration of a GE for a transient causing loss of all feed/condensate and all AFW (auxiliary feedwater) for greater than one hour. With the revision of this EAL on December 29, 1999, in Revision 33 to EPIP 1.2, the current EAL required a loss of vital alternating current for greater than 15 minutes, and replaced the greater than one hour loss of all feed/condensate requirement with steam generator level and AFW flow criteria that would indicate a significant loss of feed. The addition of the loss of vital electrical power criterion is a more restrictive condition.

**ALERT** - EALs A-18a and A-18b involved "other hazards being experienced or projected." The first EAL involved an aircraft crash in the protected area, and the second involved a missile impact from any source by visual observation. Both EALs had a more restrictive condition added to say that the hazard was "affecting operability of one (1) train of a safety system."

These two EALs were revised on December 29, 1999, in Revision 33 to EPIP 1.2, which was also part of Revision 14 to the Emergency Plan Index.

**NOUE** - EALs UE-14c and UE-14d, involved "other hazards," including explosion and toxic/flammable gas release. While the original EALs included the owner controlled area, the EALs were changed to exclude areas of the site outside the protected area, resulting in a more restrictive condition.

EAL UE-13 involved a tornado sighting. While the original EAL was applicable if a tornado was visible from the site, the EAL was changed to make it applicable only if a tornado was within the protected area or switchyard, resulting in a more restrictive condition.

The EAL scheme approved by the NRC in 1984 included an NOUE (Category 18a) for uncontrolled control rod withdrawal. This EAL was removed from the EAL scheme with an explanation that an uncontrolled rod withdrawal event was encompassed in the Alert EAL for a Reactor Protection System (RPS) failure. However, the inspectors concluded that this explanation was incorrect, since EALs for RPS failure do not address an uncontrolled rod withdrawal. The inspectors concluded that there were no EALs in the current EAL scheme for an uncontrolled control rod withdrawal.

These four EALs were revised on December 29, 1999, in Revision 33 to Emergency Plan Implementing Procedure (EPIP) 1.2, which was also part of Revision 14 to the Emergency Plan's Index.

The changes in EALs between October 1998 and December 1999 from the scheme approved in 1984 are an apparent violation of 10 CFR 50.54(q) and 10 CFR 50.47(b). 10 CFR 50.54(q) states, in part, that emergency plans which meet the standards in §50.47(b) must be maintained and followed; that emergency plans can be changed without Commission approval only if the changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of §50.47(b); and that proposed changes that decrease the effectiveness of the approved emergency plans may not be implemented without application to and approval by the Commission. 10 CFR 50.47(b) requires that emergency plans meet each of 16 planning standards, of which, planning standard 4 requires that a standard scheme of EALs is in use. Chapter 4 of the Point Beach Emergency Plan (Revision 38, dated February 6, 2002) stated that the emergency classification scheme was based on NUREG 0654, Revision 1, Appendix 1. The inspectors determined that the changes to the EAL scheme discussed above resulted in deviations from the NUREG 0654 standard scheme and in a decrease in the effectiveness of the emergency plan without prior NRC approval. This issue has been entered by Point Beach into its corrective action program as CAP034787. As of August 2003, when onsite inspection activities of the EP phase of the IP 95003 supplemental inspection were concluded, appropriate corrective actions for this issue had not been completed.

An open predecisional enforcement conference to discuss this apparent violation will be scheduled with you at a later date. The decision to hold a predecisional enforcement conference does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference is being held to obtain information to assist the NRC in making an enforcement decision. This may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. The conference will provide an opportunity for you to provide your perspective on this matter and any other information that you believe the NRC should take into consideration in making an enforcement decision.

Since the NRC has not made a final determination regarding the apparent violation involving the EALs, no Notice of Violation is being issued at this time and no written response regarding this apparent violation is required at this time.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be 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>.

Sincerely,

**/ RA /**

Steven A. Reynolds  
Acting Director  
Division of Reactor Projects

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

cc w/encl: R. Kuester, President and Chief  
Executive Officer, WE Generation  
J. Cowan, Executive Vice-President  
Chief Nuclear Officer  
Licensing Manager  
D. Weaver, Nuclear Asset Manager  
Plant Manager  
Regulatory Affairs Manager  
Training Manager  
J. Rogoff, Esquire General Counsel  
D. Cooper, Senior Vice-President  
J. O'Neill, Jr., Shaw, Pittman,  
Potts & Trowbridge  
K. Duveneck, Town Chairman  
Town of Two Creeks  
D. Graham, Director  
Bureau of Field Operations  
A. Bie, Chairperson, Wisconsin  
Public Service Commission  
J. Kitsembel, Electric Division  
Wisconsin Public Service Commission  
State Liaison Officer

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| OFFICE | RIII           |  | RIII     |  | RIII     |  | RIII      |  | OE       |  |
| NAME   | MKunowski/trn* |  | KRiemer* |  | AVegel*  |  | BClayton* |  | FCongel* |  |
| DATE   | 11/04/03       |  | 11/05/03 |  | 11/18/03 |  | 11/19/03  |  | 11/24/03 |  |

|        |          |  |   |  |                                      |  |           |  |
|--------|----------|--|---|--|--------------------------------------|--|-----------|--|
| OFFICE | NRR      |  | NRR                                     |  | NRR                                  |  | RIII      |  |
| NAME   | TQuay*   |  | AVegel for<br>SRichards*<br>(via email) |  | AVegel for<br>Bruland<br>(via email) |  | SReynolds |  |
| DATE   | 11/24/03 |  | 11/21/03                                |  | 11/21/03                             |  | 12/02/03  |  |

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FCongel concurred via phone from J. Dixon-Herrity.  
 Tquay concurred via telecon with K. Riemer and T. Quay.

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