



MAY 07 2009

L-2009-115
10 CFR 2.201
EA-09-012

Regional Administrator
U.S. Nuclear Regulatory Commission
Region III
2443 Warrenville Road, Suite 210
Lisle, IL 60532-4351

Point Beach Nuclear Plant, Units 1 and 2
Dockets 50-266 and 50-301
Renewed License Nos. DPR-24 and DPR-27

Subject: Response to Apparent Violations Inspection Report 05000266/2009008(DRS);
05000301/2009008(DRS) - EA-09-012

Reference: NRC letter to FPL Energy Point Beach, dated April 8, 2009,
Point Beach Nuclear Generating Plant, Units 1 and 2
NRC Inspection Report 05000266/2009008(DRS); 05000301/2009-008(DRS)

On March 9, 2009, the NRC completed a review of a medical condition concerning a Point Beach Nuclear Plant (PBNP) senior reactor operator (SRO) license. Based upon the results of the review, one apparent violation involving 10 CFR 50.9, "Completeness and Accuracy of Information," and one apparent violation involving 10 CFR 50.74(c), "Notification of Change in Operator or Senior Operator Status," were identified.

In accordance with 10 CFR 2.201, NextEra Energy Point Beach, LLC, (NextEra) has prepared a written response to the Notice of Violation (EA-09-012) for PBNP. The response is provided as an enclosure to this letter. NextEra concurs that the failure to provide complete and accurate information on a Senior Operator license renewal application and the failure to make a notification of a change in an Operator or Senior Operator health status were violations of NRC requirements. NextEra also concurs that the findings contained in the referenced inspection report have been properly characterized.

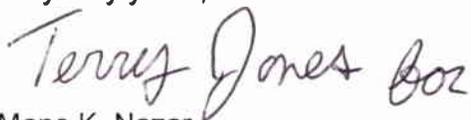
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This letter contains no new Regulatory Commitments or revisions to existing Regulatory Commitments.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 8, 2009.

Very truly yours,

A handwritten signature in cursive script that reads "Terry Jones Boz".

Mano K. Nazar
Senior Vice President and Chief Nuclear Officer
NextEra Energy Point Beach, LLC

Enclosure

cc: Document Control Desk, USNRC
Project Manager, Point Beach Nuclear Plant, USNRC
Resident Inspector, Point Beach Nuclear Plant, USNRC
PSCW

ENCLOSURE

NEXTERA ENERGY POINT BEACH, LLC

POINT BEACH NUCLEAR PLANT, UNITS 1 AND 2

**RESPONSE TO APPARENT VIOLATIONS IN
NRC INSPECTION REPORT 05000266/2009008(DRS); 05000301/2009008(DRS)
EA-09-012**

In accordance to 10 CFR 2.201, the NextEra Energy Point Beach, LLC, (NextEra) response to Inspection Report 05000266/2009008(DRS); 05000301/2009008(DRS) EA-09-012, is provided as requested in the Commission's letter dated April 8, 2009.

Apparent Violation 1

"Prior to becoming a licensed reactor operator (RO) in 1999, a non-licensed operator notified the station's medical staff that he began taking a prescribed medication for a potentially disqualifying medical condition in 1993. The NRC was not notified of the SRO's potentially disqualifying medical condition until October 20, 2008. Title 10 CFR 50.74(c), "Notification of Change in Operator or Senior Operator Status," requires the licensee to notify the NRC within 30 days of the licensee being informed of a permanent change in a licensed operator's medical condition. The licensee should have notified the NRC of the operator's potentially disqualifying medical condition when the operator applied for an NRC operating license in 1999. The time period between May 1999 and November 2008 exceeded the 30-day notification requirement. The licensee conducted a review of all licensed operator medical records to determine the extent of condition and initiated other compensatory measures to prevent recurrence of this condition.

Because the issue affected the NRC's ability to perform its regulatory function it was evaluated using the traditional enforcement process. The finding was determined to be of low safety significance because the SRO was taking the medications as prescribed and had not made any operational errors during any emergency condition. The regulatory significance was important because plant staff failed to notify the NRC of a permanent disability or illness of an SRO within 30 days. This was preliminarily determined to be an apparent violation of 10 CFR 50.74(c). The cause of the apparent violation is related to the cross-cutting element of problem identification and resolution in the area of operating experience. P.2(b)"

Apparent Violation 2

"Every six years an operator's NRC operating license must be renewed. When the licensee submits the request for license renewal, the licensee must certify to the NRC that the operator is medically capable of performing license duties. This is done by completing an NRC Form 396, 'Certification of Medical Examination by Facility Licensee.' When signed by senior station management, the NRC Form 396 certifies that an operator is able to perform operator duties. The form contains several standard license conditions that restrict operator activities to ensure their ability to perform license duties. In this SRO's case, the licensee certified to the NRC in a letter dated January 23, 2008, that the operator was capable of performing license duties with no restrictions. The licensee provided incomplete and inaccurate information on the accompanying NRC Form 396 in that the licensee failed to inform the NRC that the SRO was taking medication for a potentially disqualifying medical condition so the NRC could properly restrict the SRO's operating license to have a 'Must Take Medication as Prescribed to Maintain Qualifications' license restriction.'

Because the issue affected the NRC's ability to perform its regulatory function, it was evaluated using the traditional enforcement process. The finding was determined to be of low safety significance because the SRO had taken medications as prescribed and had not made errors during any emergency condition prior to the license being amended. However, the regulatory significance was important because the incomplete and inaccurate information was provided under a signed statement to the NRC and impacted a licensing decision for the SRO. This was preliminarily determined to be an apparent violation of 10 CFR 50.9, 'Completeness and Accuracy of Information.' The cause of the apparent violation is related to the cross-cutting element of problem identification and resolution in the area of operating experience. P.2b"

NextEra Response to Apparent Violations

NextEra concurs with the apparent violations as stated in Inspection Report 05000266/2009008(DRS); 05000301/2009008(DRS) EA-09-012, dated April 8, 2009.

Reasons for the Apparent Violations:

NextEra personnel were notified by the NRC on December 29, 2008, regarding the issues documented in this inspection report. Immediately following notification, the condition was entered into the site's corrective action program so (1) a causal evaluation could be performed and the apparent cause identified; (2) the extent of condition could be determined; and (3) corrective actions could be developed and implemented to address both the apparent cause and the extent of condition.

The reason that Apparent Violations 1 and 2 occurred was because 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 practices and 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 to NUREG 1021 been incorporated into site processes, procedures and training programs.

The extent of condition review performed by NextEra initially encompassed a review of the medical records for all 57 Point Beach Nuclear Plant (PBNP) Reactor Operator and Senior Reactor Operator

licensees by the Occupational Health Nurse, supported as required, by the Examining Physician. This initial review disclosed there were 12 additional licensed operators having medical conditions that required their licenses be amended. Each of the 12 cases could have been reported earlier at a biennial medical examination or license renewal.

The results of the records review and associated follow-up with the affected individual licensees to validate the medical information revealed that:

- A "Must Take Medications as Prescribed" restriction should be requested for seven (7) individuals who had previously been diagnosed with a potentially disqualifying medical condition but for which there was no documentation that they would incur the condition without taking the medication.
- A "Must Take Medications as Prescribed" restriction should be requested for four (4) licensed individuals who had previously been diagnosed with medical conditions that were considered to still meet minimum medical qualification requirements.
- A "Must Take Medications as Prescribed" restriction should be requested for one individual who had a "No-Solo" license restriction for an extended period of time.
- Additional medical information, not associated with a potentially disqualifying condition, should be submitted for five additional licensed operators.

The extent of condition review was expanded to include a written communication to all licensees that requested full verification of medical conditions. The expansion was as a result of a thirteenth operator disclosing on his biennial medical examination that he had been taking medications for a reportable condition for approximately the previous six months. The individual believed that the condition was not reportable because the medication was being taken for a temporary condition. Subsequent to the written communication, a fourteenth individual reported a condition that had not been previously reported. A fifteenth individual was identified by the medical staff as needing an amendment to provide an annual medical update.

Corrective Steps Taken and Results Achieved

1. As stated in NRC Inspection Report 05000266/2009008(DRS); 05000301/2009008(DRS), immediate corrective actions regarding the affected SRO license holder condition described in Apparent Violation 1 have been taken. The actions were taken via an October 15, 2008, letter to the Commission following a separate medical event which prompted NextEra to request the individual's license be amended to add two restrictions. The first restriction was that the licensee "Must Take Medication as Prescribed to Maintain Medical Qualifications," while the second restriction was that "Solo Operation is Not Authorized." The NRC's Medical Review Officer (MRO) reviewed the medical information and determined the restrictions were required. The SRO's license was conditioned accordingly and a revised license was issued to the SRO on December 1, 2008.
2. Temporary license restrictions were placed on the individuals identified in the extent of condition reviews pending NextEra submittal of recommended license restrictions and subsequent NRC review of the restrictions and issuance of amended licenses. As noted previously, proposed

changes in medical condition for the affected licensed individuals were submitted to the Commission for review via letters dated January 31, February 13 and February 20, 2009. The Commission has completed its review and has issued amended licenses to the licensed individuals.

Corrective Steps Taken to Avoid Further Violations

1. The occupational health nurse reviewed the NRC Operator Licensing Program Feedback FAQ webpage guidance and NUREG 1021, Revision 9, Supplement 1, with the Examining Physician. This action was completed on January 7, 2009.
2. The NRC webpage for Operator Licensing Program Feedback (FAQs) was added to the Licensed Operator Operating Experience monitoring program. Licensing will perform monitoring on a periodic basis in accordance with an established call-up and will disseminate new FAQs to Operations Training and Occupational Health for review. This action was implemented on January 15, 2009.
3. Procedures associated with licensed operator recordkeeping and submittal of applications were revised and issued on April 22, 2009. The revisions incorporate NRC guidance regarding the threshold of recommending license restrictions for permanent conditions that still meet minimum requirements of ANSI/ANS 3.4-1996 as well as the rationale for reporting of license medical conditions "for information only. "
4. The importance of thorough evaluations of changes to documents associated with Licensed Operator medical qualifications was reinforced with Operations Training personnel during information sharing sessions. This action was completed on February 19, 2009.
5. A series of information sharing sessions on new medical reporting requirements were held with licensed operators during Training Cycle 9A (1Q09). The purpose of these sessions was to discuss the threshold for "must take medication" license restrictions and to reinforce the expectation with every licensee that prompt reporting of changes in medical condition and prescription medications is required to ensure reporting requirements are met.
6. A review of changes to the Operator Licensing Program Feedback (FAQs) since October 2007 was completed on February 24, 2009.
7. The administrative procedure defining licensed operator application requirements was revised to specify that the Occupational Health Nurse and Examining Physician are responsible for designating the documentation that is provided for Form 396 submittals to the NRC, including license renewal applications. This action was completed on April 22, 2009. The procedure was also revised to require documentation of the licensee's review of Form 396 for accuracy prior to submittal to the Commission. The revised procedure was issued on April 22, 2009.
8. Lessons learned from this event were incorporated into the site regulatory correspondence procedure. The revised procedure was issued on February 25, 2009.

Corrective Steps To Be Taken to Avoid Further Violations

The following additional corrective steps will be taken to avoid further violations:

1. A qualified medical person, other than the examining physician and occupational health nurse, shall perform an independent verification of licensed operator medical condition changes prior to submittal to the Commission.
2. Periodic assessments will be performed of licensed operators using surveys and interviews to ensure medical condition information is current and has not changed.
3. Periodic self-assessments of the operator license medical condition reporting program will be performed.

These corrective steps are being tracked to completion in the site's corrective action program.

Date Full Compliance Will Be Achieved

Full compliance with NRC requirements was achieved on February 20, 2009, when all applications for operator license amendments were submitted to the Commission for review.

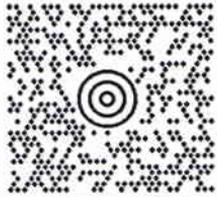
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