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NL-10-022

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U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Mail Stop O-P1-17
Washington, D.C. 20555-0001

Subject: Reply to Notice of Violation (NOV) EA-09-296 (Indian Point Generating Unit 2), NOV EA-09-296 (Indian Point Generating Unit 3), and Cover Letter Questions for NRC Integrated Inspection Reports 2009-005 (Indian Point Generating Units 2 & 3)
Indian Point Units Nos. 2 & 3
Docket Nos. 50-247 and 50-286
DPR-26 and DPR-64

References:
1. NRC Integrated Inspection Report 50-247/2009-005 and Notice of Violation (EA-09-296), dated February 9, 2010.
2. NRC Integrated Inspection Report 50-286/2009-005 and Notice of Violation (EA-09-296), dated February 9, 2010.
3. NRC Information Notice 2004-20,"Recent Issues Associated with NRC Medical Requirements for Licensed Operators," dated November 24, 2004.

Dear Sir or Madam:

Entergy Nuclear Operations, Inc. (Entergy) provides in Attachment 1, the response to the Notice of Violations issued in References 1 and 2 pursuant to the provisions of 10CFR2.201, in addition to the information requested in the cover letters of the referenced inspection reports related to Reference 3 and associated corrective actions.

Entergy acknowledges the violations and have corrected the condition. This letter contains no new commitments.

Should you have any questions regarding this matter, please contact Mr. Robert Walpole, Manager, Licensing, Indian Point Energy Center at (914) 734-6710.

Sincerely,

for J. POLLOCK

JEP/cbr

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NRR

Attachment 1. Entergy Response to Notice of Violations EA-09-296 (Indian Point Unit 2) and EA-09-296 (Indian Point Unit 3) and Cover Letter Questions for NRC Integrated Inspection Reports 2009-005 (Indian Point Generating Units 2 & 3)

cc: Mr. Samuel J. Collins, Region I Administrator, U.S. Nuclear Regulatory Commission
NRC Resident Inspectors, Indian Point Units 2 and 3.
Mr. Paul Eddy, New York State Department of Public Service
Mr. Francis J. Murray, Jr., President and CEO, NYSERDA

Attachment 1 to NL-10-022

ENTERGY RESPONSE TO NOTICE OF VIOLATIONS
EA-09-296 (INDIAN POINT UNIT 2) AND EA-09-296 (INDIAN POINT UNIT 3) AND
COVER LETTER QUESTIONS FOR NRC INTEGRATED INSPECTION REPORTS
50-247/2009-005 AND 50-286/2009-005 (INDIAN POINT GENERATING UNITS 2 & 3)

ENTERGY NUCLEAR OPERATIONS, INC.
INDIAN POINT NUCLEAR GENERATING UNIT NOS. 2&3
DOCKET NO. 50-247 and 50-286

NOTICE OF VIOLATION EA-09-296 (Indian Point Unit 2) and EA-09-296 (Indian Point Unit 3)

During an NRC inspection conducted from October 19 through October 22, 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.
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> 10 CFR 55.21 requires, in part, that an applicant for a license shall have a medical examination by a physician, and the licensee shall have a medical examination by a physician every two years. The physician shall determine that the applicant or licensee meets requirements of Section 55.33(a)(1).
>
> 10 CFR 55.33(a)(1) requires, in part, that an applicant's medical condition and general health will not adversely affect the performance of assigned operator job duties or cause operational errors endangering public health and safety.
>
> 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 5.4 provides specific minimum capacities required for medical qualifications. Section 5.14 requires, "Tactile discrimination sufficient to distinguish among various shapes of control knobs and handles by touch."
>
> Contrary to the above, from October 20, 2004, through October 22, 2009, Entergy Nuclear Operations, Inc. (Entergy) provided information to the NRC that was not complete and accurate in all material respects. Specifically, Entergy had not completed medical examinations of licensed operators in accordance with ANSI/ANS 3.4-1983. The licensee submitted numerous NRC Form 396s for renewal of Senior Reactor Operator and Reactor Operator licenses and for initial license applicants that certified that the applicants met the medical requirements of ANSI/ANS 3.4-1983 when, in fact, tactile testing had not been conducted.
>
> This is a Severity Level IV violation (Supplement VI).

NRC Inspection Reports 50-247/2009-005 (Indian Point Unit 2) and 50-286/2009-005 (Indian Point Unit 3) Cover Letter Requests

Although this violation has been placed in your corrective action program, a Notice of Violation is being issued and a response is being required to better understand: 1) what actions were taken in 2004 in response to NRC Information Notice (IN) 2004-20, "Recent Issues Associated with NRC Medical Requirements for Licensed Operators," which, in part, reminded facility licensees that licensed operators and the personnel who perform and interpret their medical examinations need to be familiar with the regulatory requirements and guidelines (it should be noted that this IN specifically described an instance in which a facility licensee had not conducted some tests required in the ANSI standard for any of its licensed operators); 2) why appropriate action was not taken in response to IN 2004-20 to identify appropriate tactile testing was being conducted; and 3) the corrective actions taken and planned at this time to assure all information submitted to the NRC is complete and accurate in all material respects.

ENTERGY RESPONSE TO NOTICE OF VIOLATION EA-09-296 (Indian Point Unit 2) and EA-09-296 (Indian Point Unit 3)

1. Admission or Denial of the Alleged Violation

Entergy Nuclear Operations, Inc. (Entergy) acknowledges the Severity Level IV violations of 10CFR50.9,"Completeness and accuracy of information," due to Entergy submittals of inaccurate medical information for licensed operators.

2. Reason for the Violation

The failure to adequately test licensed operators for tactile discrimination in accordance with ANSI/ANS 3.4-1983 (Medical Certification and Monitoring of Personnel Requiring Operator Licenses for Nuclear Power Plants), Section 5.4.14 (Neurological) at Indian Point Energy Center (IPEC) occurred because the procedures in use at the time period provided only general guidance to the site medical staff in regards to testing for tactile discrimination. The Entergy procedure EN-NS-112,"Medical Program," did not contain an acceptable standard method with complete testing details and acceptance criteria for testing that would meet the requirements of ANSI/ANS 3.4-1983. The IPEC physician's method for testing licensed operators to determine tactile function was a combination of individual history, physical exam and observation of the individual to determine if they were encumbered when performing tasks with their hands and fingers, and if they were able to perform tasks using their hands and fingers. The IPEC physician performed neurological evaluations but not a tactile discrimination test to show sufficiency by the licensed operator to distinguish among various shapes of control knobs and handles by touch to meet the criteria of ANSI/ANS 3.4-1983. It was believed that this method of evaluation provided sufficient information to make a determination of tactile discrimination capability.

3. Corrective Steps that have been Taken and Results Achieved

- Upon determination that tactile discrimination testing did not meet the requirements specified in ANSI/ANS 3.4-1983, Section 5.4.14, corrective actions were initiated. A test for tactile function was developed which consisted of five (5) control knobs and handles (selected by operations training and provided to medical), and a picture of each knob and handle. The five objects were to be placed in an opaque container and the licensed operator tested would be shown a picture of one of the shapes and have to remove the correct object corresponding to the picture without seeing the objects. This would continue until all five objects have been identified and removed.
- All licensed operators were successfully re-tested using the new test method.
- Procedure EN-NS-112 (Medical Program) was revised to incorporate the new testing method for tactile discrimination. The procedure revision was completed on December 15, 2009.
- An extent of condition review was performed to verify adequate evaluation and testing is being performed to meet all the requirements specified in ANSI/ANS 3.4-1983.

- IPEC medical personnel were briefed on the expectations and standards for the effective use of human performance tools such as self-checking and peer review. Medical personnel were also briefed on the medical procedure revisions to ensure there was a clear understanding of the testing requirements.
- Procedures for the use of human performance tools (EN-HU-104) have been improved since 2004 when the initial missed opportunity did not adequately review IN 2004-20 (Recent Issues Associated with NRC Medical Requirements for Licensed Operators) dated November 24, 2004.
- The OE procedure (EN-OE-100) has been revised since 2004 and the current revision now requires that incoming OE items such as NRC IN's are screened by a team of OE coordinators for impact on Entergy plants. The results of the screening process are then reviewed by the Condition Review Group (CRG) at each Entergy site, which was not required back in 2004. The CRG is composed of a cross section of station personnel. This additional oversight provides added checks to ensure proper actions are being taken and to determine if possible additional reviews are required. The current revision of the OE program procedure (EN-OE-100) specifically refers to INs as requiring evaluation if a condition adverse to qualify or non-conforming condition is identified and initiation of a condition report (CR) in accordance with the CAP (EN-LI-102). The process has changed since 2004 where now there is only one fleet OE manager for all Entergy sites thereby providing a single point review. This provides another opportunity to recognize gaps or inconsistencies across the Entergy fleet which the process in 2004 did not afford.
- An internal OE was issued as part of the corrective actions to address inadequacies in procedure EN-NS-112 per CR-HQN-2009-00955. The OE's objective was to identify and transfer lessons learned into actions that enhanced the reliability of the Entergy medical staff's physical testing of licensed operators to ensure the requirements of 10CFR55.33(a)(1) were met.

4. Corrective Steps that will be Taken to Avoid further Violations

   No additional corrective actions are planned.

5. Date when Full Compliance will be Achieved

   Full compliance was achieved on December 15, 2009, when procedure EN-NS-112 (Medical Program) was revised to incorporate the new test method that complies with the testing requirements of ANSI/ANS 3.4-1983 and all licensed operators were successfully re-tested.

Response to NRC Inspection Report 50-247/2009-005 (Indian Point Unit 2) and 50-286/2009-005 (Indian Point Unit 3) Cover Letter Request

1. What actions were taken in 2004 in response to NRC Information Notice (IN) 2004-20, "Recent Issues Associated with NRC Medical Requirements for Licensed Operators."

   Upon receipt of NRC Information Notice (IN) 2004-20 (Reference 3 of cover letter to NL-10-022), Entergy Nuclear Northeast, Corporate Operating Events (OE) management entered the IN into the Entergy Corrective Action Program (CAP) OE process per procedure EN-OE-100 (Operating Experience Program) and initiated a corrective action (CA) to the nuclear sites requiring an evaluation. Responsible Indian Point Energy Center (IPEC) OE personnel initiated a CA to the IPEC medical supervisor for review and evaluation (LO-NOE-2004-00648). IPEC medical personnel reviewed the IN, discussed the IN with the IPEC physician and reviewed the standard against the testing being conducted at the time. The focus at the time was on timely notification to the NRC of changes in licensed operator medical changes and the processing of the NRC Form 396. IPEC believed at the time that the physician's method of evaluation by obtaining information through personal history, and performing a physical of the individual that included observation of the person performing fine motor skills was sufficient to make a determination of adequate tactile discrimination ability. The physician's evaluation methods did not include identifying handles and knobs by touch. The review concluded that the processes at IPEC were adequate to ensure timely notification of the NRC upon identification of changes in the medical status of licensed operators and no further action was identified to be necessary.

2. Why appropriate action was not taken in response to IN 2004-20 to identify appropriate tactile testing was being conducted.

   There was an inadequate review of the Information Notice (IN) 2004-20 (Reference 3 of cover letter to NL-10-022). The review failed to fully address all the issues in the IN. The IN review focused on the adequacy of the process for notifying the NRC of changes in licensed operator medical status. The review relied on the physician's expertise in performing adequate testing to meet requirements. There was a missed opportunity when reviewing NRC IN 2004-20 to perform an in-depth review of the testing method being used by the IPEC physician. The inadequate review was attributed to a lack of rigor and insufficient use of human performance tools such as self-checking and peer checking. The review was narrowly focused on timely notification to the NRC and the licensing department being notified to submit medical status changes using NRC Form 396 and did not take into account the process of testing being used by the IPEC physician. IPEC believed at the time, that the physician's method of evaluation by obtaining information through history, a physical of the individual, in addition to observation of the licensed operator performing fine motor skills, was sufficient to make a determination of adequate tactile discrimination ability. The test methods did not include identifying handles and knobs by touch. This resulted in a missed opportunity to identify that the process did not meet ANSI/ANS 3.4-1983 standards and correct it.

NRC IN 2004-20 was reviewed in accordance with Entergy procedure EN-OE-100 (Operating Experience Program), Revision 1. In the 2004, there were no specific procedural requirements for INs. NRC INs were processed in accordance with the procedure for the OE program (EN-OE-100) and not the corrective action program (CAP) (EN-LI-102). The OE evaluation process allowed for a CR to be initiated if during the evaluation a non-conforming conditions or conditions adverse to quality was identified.

3. The corrective actions taken and planned at this time to assure all information submitted to the NRC is complete and accurate in all material respects.

It is the policy of Entergy that all correspondence with regulatory agencies be true, accurate and complete. Entergy has an established certification process to provide assurance that correspondence is complete and accurate. Entergy procedure EN-LI-106 (NRC Correspondence) details the review, concurrence and certification process to include the requirement for objective evidence for certified statements. The latest revision of the OE procedure (EN-OE-100, Revision 9) now requires that if an IN is applicable to a site, a site CR is to be initiated. The current revision of EN-OE-100 requires all incoming OE items such as NRC INs to be screened by a team of OE coordinators for impact on Entergy plants. Additionally, OE items that are screened by OE coordinators are then reviewed at a Condition Review Group (CRG) meeting. This CRG review determines whether or not any OE requires additional site specific reviews. This review provides added checks and assessments for additional action. Under the current process, additional measures are provided to assure all Entergy medical groups would receive applicable NRC INs for review. If applicable, a CR would be initiated and upon completion of the response to the CR a closure review is now required to be completed. The current OE program is more rigorous through the single point review of all site's responses to an OE by the OE manager thereby allowing comparison of all site responses.

At a periodic management Leadership and Alignment meeting, personnel were briefed on the requirements for complete and accurate information in correspondence with the NRC. The brief included the requirements of 10CFR50.9, the Atomic Energy Act, definition of material false statements, Entergy's policy and procedures, and the role of supervision. The specific event at IPEC concerning tactile discrimination was discussed along with events at other utilities.