



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

Region III
2443 Warrenville Road, Suite 210
Lisle IL 60532-4352

July 24, 2012

EA-12-106

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

SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF A WHITE FINDING WITH ASSESSMENT FOLLOWUP AND NOTICE OF VIOLATION; NRC INSPECTION REPORT NOS. 05000266/2012504 AND 05000301/2012504; POINT BEACH NUCLEAR PLANT, UNITS 1 AND 2

Dear Mr. Meyer:

This letter provides you the final significance determination of the preliminary White finding discussed in our previous communication dated June 1, 2012, which included U.S. Nuclear Regulatory Commission (NRC) Inspection Report Nos. 05000266/2012503 and 05000301/2012503. The finding involved an apparent logic error in a Point Beach emergency planning implementing procedure that directed the emergency director to revisit the question of impediments to evacuation after a prior decision to evacuate affected downwind sectors had been implemented by local authorities, resulting in a contradictory recommendation for sheltering being given during an exercise. Additionally, the NRC determined that Point Beach did not initiate protective action recommendations when the projected dose to an individual was 1 rem beyond the 10-mile plume exposure pathway.

In a telephone conversation with Mr. Melvin Holmberg of NRC, Region III, on June 11, 2012, you indicated that NextEra Energy Point Beach, LLC did not contest the characterization of the risk significance of this finding and that you declined your opportunity to discuss this issue in a Regulatory Conference or to provide any additional information concerning the validity of the finding or the significance determination in a written response. NextEra Energy Point Beach, LLC followed this verbal notification with a letter dated June 29, 2012.

Therefore, after considering the information developed during the inspection, the NRC has concluded that the finding is appropriately characterized for Units 1 and 2 as White, a finding of low to moderate risk significance.

According to NRC Inspection Manual Chapter 0609, Attachment 2, "Process for Appealing NRC Characterization of Inspection Findings (SDP Appeal Process)," appeal rights only apply to those licensees that have either attended a Regulatory Conference or have submitted a written response to the preliminary determination letter which submits additional information not previously considered by the NRC staff. In its June 29, 2012, letter, NextEra Energy Point Beach, LLC noted that it concurred with the finding and did not request a Regulatory Conference or provide a written response containing additional information concerning the

validity of the finding or the significance determination. By this statement, NextEra Energy Point Beach, LLC gave up its right to appeal the finding.

In its June 29, 2012, letter, NextEra Energy Point Beach, LLC suggested that the cross-cutting aspect appeared to be more appropriately categorized in the area of Human Performance, Decision Making, Systematic Process (H.1(a)) rather than in the area of Human Performance, Resources, Documentation (H.2(c)). The NRC reviewed the information provided and determined that the original cross-cutting aspect will be retained.

The NRC has also determined that a violation was associated with the finding, as cited in the Notice of Violation (Notice) provided in the enclosure. The circumstances surrounding the violation were described in detail in NRC Inspection Report Nos. 05000266/2012503; 05000301/2012503. In accordance with the NRC Enforcement Policy, the Notice is considered escalated enforcement action because it is associated with a White finding.

The NRC has concluded that information regarding the reasons for the violation, the corrective actions taken and planned to be taken to correct the violation, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report Nos. 05000266/2012503; 05000301/2012503. 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 a result of our review of Point Beach's performance, including this White finding, we have assessed the plant to be in the Regulatory Response column of the NRC's Action Matrix, effective the second quarter of 2012. Therefore, we plan to conduct a supplemental inspection using Inspection Procedure 95001, "Inspection for One or Two White Inputs in a Strategic Performance Area," when your staff has notified us of your readiness for this inspection. This inspection procedure is conducted to provide assurance that the root cause and contributing causes of risk significant performance issues are understood, the extent of condition and the extent of cause are identified, and the corrective actions are sufficient to prevent recurrence.

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 provide one, 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

L. Meyer

-3-

should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,

/RA/

Charles A. Casto
Regional Administrator

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

Enclosure:
Notice of Violation

cc: Distribution via ListServ

NOTICE OF VIOLATION

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

Docket Nos. 50-266; 50-301
License Nos. DPR-24; DPR-27
EA-12-106

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted from April 16 through 20, 2012, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the Code of Federal Regulations (CFR) 50.54(q)(2) requires licensees to follow and maintain the effectiveness of an emergency plan that meets the requirements in Appendix E to 10 CFR Part 50 and the planning standards of 50.47(b).

Title 10 CFR 50.47(b)(10) requires, in part, for licensees to develop and have in place guidelines for the choice of protective actions during an emergency that were consistent with Federal guidance.

Federal guidance in EPA 400-R-92-001, "The Manual of Protective Action Guides and Protective Actions for Nuclear Incidents," states on page 5-3, "Withdrawal of protective actions from areas where they have already been implemented is usually not advisable during the early phase because of the potential for changing conditions and confusion." Also, Federal guidance in NUREG-0654, FEMA-REP-1, Revision 1, Supplement 3, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," similarly states licensees should not relax protective actions until the source of the threat is under control.

Additionally, Federal guidance in EPA 400, Table 2-1 states, in part, that protective actions, evacuation or sheltering, are normally to be initiated when the projected dose to an individual is 1 rem. These protective actions are not limited by distance. In the absence of an acceptable licensee-proposed alternative method, the NRC utilizes this guidance for determining compliance with the applicable regulation.

Contrary to the above, as of April 20, 2012, the licensee failed to provide guidelines consistent with Federal guidance in its emergency procedures. Specifically the Point Beach emergency plan implementing procedure, EPIP 1.3, "Dose Assessment and Protective Action Recommendations":

- a) allowed the emergency response organization to make a protective action recommendation (PAR) during an exercise that had the effect of withdrawing an earlier PAR that the local authorities had already started to implement, and
- b) did not initiate PARs when the projected dose to an individual was 1 rem beyond the 10 mile plume exposure pathway.

This violation is associated with a White Significance Determination Process finding.

Enclosure

The NRC has concluded that information regarding the reasons for the violation, the corrective actions taken and planned to be taken to correct the violation, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report Nos. 05000266/2012503; 05000301/2012503. 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, EA-12-106" 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, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, and a copy to the NRC Resident Inspector at the Point Beach Nuclear facility, 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, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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

Dated this 24th day of July 2012

L. Meyer

-2-

should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Sincerely,

/RA/

Charles A. Casto
Regional Administrator

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

Enclosure:
Notice of Violation

DISTRIBUTION:
See next page

SEE PREVIOUS CONCURRENCE

FILE NAME: G:\ORAI\IEICS\ENFORCEMENT\Cases\Enforcement Cases 2012\EA-12-106 Point Beach EP
PARS\EA-12-106 Point Beach Final determination letter.docx

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NAME	Lougheed PRP for	Holmberg	Reynolds	Zimmerman ¹ LRC for	Orth PL for	Casto
DATE	07/09/12	07/09/12	07/10/12	07/18/12	07/20/12	07/19/12

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¹ OE concurrence received via e-mail from L. Casey on July 18, 2012.

Letter to Larry Meyer from Charles A. Casto dated July 24th, 2012

SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF A WHITE FINDING WITH ASSESSMENT FOLLOWUP AND NOTICE OF VIOLATION; NRC INSPECTION REPORT NOS. 05000266/2012504 AND 05000301/2012504; POINT BEACH NUCLEAR PLANT, UNITS 1 AND 2

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