



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, IL 60532-4352

August 24, 2012

Mr. David K. Anderson
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: POSITIVE FITNESS-FOR-DUTY EVENT NOTIFICATION

Dear Mr. Anderson:

This letter refers to an Event Notification (EN 47896) made by NextEra Energy Point Beach LLC, on May 3, 2012, to the U.S. Nuclear Regulatory Commission (NRC). The event notification was to inform the NRC that you had tested positive for alcohol during a for-cause breathalyzer Fitness-for-Duty (FFD) test conducted on that date while you were in the Point Beach Nuclear Plant protected area. The NRC received additional information from NextEra Energy Point Beach, LLC, dated May 29, 2012, about your confirmed positive FFD test for alcohol and the subsequent actions that were taken.

Based on confirmed positive test results for alcohol and being an NRC licensed senior operator, the NRC evaluated the circumstances of your actions for enforcement consideration. Title 10 CFR 55.53(j) states, in part, that a licensee (licensed operator) shall not perform activities authorized by a license while under the influence of alcohol that could adversely affect his ability to safely and competently perform his licensed duties. We understand that, at the time of the positive test for alcohol, you were assigned duties and responsibilities as an operations check operator and not executing duties authorized by an NRC operator license. The for-cause FFD test for alcohol revealed that you were above the facility's allowed cutoff level pursuant to 10 CFR Part 26, "Fitness for Duty Programs." Although you had not actually performed any watchstation responsibilities, your actions with respect to being in the plant as a licensed operator under the influence of alcohol represented an impairment that may have impacted safety. The NRC takes the safe operation of nuclear power plants very seriously, as operational errors of the station's controls caused by personnel under the influence of drugs or alcohol may impact the health and safety of the general public. Had you been called to the control room and assumed responsibility of the controls of the plant under the influence of alcohol, a significant violation of 10 CFR 55.53(j) would have occurred.

The NRC holds Licensed Operators to a higher standard than other persons holding unescorted access to a nuclear power plant because of the nature of their responsibilities. Title 10 CFR 26.4(a)(1) specifically states, in part, that personnel who operate or direct the operation of risk-significant plant equipment are subject to the station's FFD program. Furthermore, 10 CFR 55.53(k) specifically requires licensed operators to participate in the drug and alcohol testing program established pursuant to 10 CFR Part 26. The purpose of the Commission's FFD requirements is to provide reasonable assurance that nuclear power plant

personnel work in an environment that is free of drugs and alcohol and the effects of the use of these substances. The use of alcohol such that an operator exceeds the cutoff limits specified in 10 CFR Part 26, Appendix A, or in the licensee's FFD program, is a serious matter.

Title 10 CFR 55.61 (b)(5) states, in part that, "Any license may be revoked, suspended, or modified, in whole or in part: For the sale, use or possession of illegal drugs, or refusal to participate in the facility drug and alcohol testing program, or a confirmed positive test for drugs, drug metabolites, or alcohol in violation of the conditions and cut-off levels established by §55.53(j)." However, taking into account that, at the time of testing, you were not directly performing duties or had responsibilities with respect to your operator license, the NRC concluded that no violation of 10 CFR 55.53(j) occurred. Therefore, no action will be taken against your operator license at this time, and no response to this letter is required. A copy of this letter will be placed in your 10 CFR Part 55 docket file.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter with your home address removed will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records System (PARS) component of 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> (the Public Electronic Reading Room).

Should you have any questions concerning this action, please contact Mr. Hironori Peterson of my staff. Mr. Peterson can be reached at either the address listed above or 630-829-9707.

Sincerely,

/RA/

Steven A. Reynolds, Director
Division of Reactor Safety

Docket No. 55-33464
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Steven A. Reynolds, Director
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