



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I**
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

March 16, 2015

EA-14-180

Mr. Lawrence Coyle
Vice President, Operations
Entergy Nuclear Operations, Inc.
Indian Point Energy Center
450 Broadway, GSB
P.O. Box 429
Buchanan, NY 10511-0249

**SUBJECT: INDIAN POINT ENERGY CENTER UNIT 3 – NRC INSPECTION REPORT
05000286/2015008; AND NOTICE OF VIOLATION**

Dear Mr. Coyle:

This letter provides you the NRC enforcement decision for the apparent violations documented in Inspection Report 05000247/2014005 and 05000286/2014005, issued to Entergy Nuclear Operations' (Entergy's) Indian Point Energy Center (IP) on February 5, 2015 (ML15037A011)¹. The apparent violations, associated with licensed reactor operator medical examinations and related NRC reporting requirements, were discussed with Entergy representatives at an inspection exit meeting on December 17, 2014, and documented in the subject inspection report.

The February 5, 2015, NRC letter transmitting the inspection report notified you that the apparent violations were being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. In the letter, we provided you the opportunity to address the apparent violations by attending a pre-decisional enforcement conference (PEC) or by providing a written response before we made our final enforcement decision. In the letter we also informed you that we had sufficient information regarding the apparent violations and Entergy's corrective actions to make an enforcement decision without the need for a PEC or a written response. On February 13, 2015, Mr. Robert Walpole of your organization informed Mr. Arthur Burritt, Chief, Branch 2, Division of Reactor Projects that Entergy did not require a PEC and did not intend to send a written response.

Therefore, based on the information developed during the inspection, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding them are described in detail in the subject inspection report and in the NRC's February 5, 2015, letter.

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available using the accession number in ADAMS.

The first violation involved Entergy's failure to notify the NRC within 30 days after learning, on October 25, 2012, of a change in a Unit 3 reactor operator's (RO's) medical condition that involved a permanent disability/illness (sleep apnea). Entergy also did not request an amended license with a condition to account for the medical issue, resulting in the RO performing licensed operator duties without a properly restricted license. The second violation involved Entergy's submittal of information to the NRC in a December 3, 2012, application for renewal of the RO's license that was not complete and accurate in all material respects. Specifically, the application did not specify that the RO had a medical condition that required a restriction (for use of a Continuous Positive Airway Pressure (CPAP) machine). Based, in part, on this inaccurate information, the NRC issued a license renewal that did not contain the necessary restriction.

The NRC has concluded that both violations occurred as a result of insufficient understanding of the process and requirements for notification and a lack of formality in the process for reporting changes in medical status. Accordingly, these violations have been categorized collectively as a SL III problem to emphasize the importance of providing suitable training, oversight, and focus on licensed operator medical requirements.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$70,000 is considered for a Severity Level III problem involving a power reactor licensee. Because Entergy's IP facility has been the subject of escalated traditional enforcement action within the last two years², the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC has concluded that credit is warranted for identification because Entergy identified the issue through an internal audit that was part of a fleet-wide effort to review licensed operator medical records for reportable conditions. Additionally, the NRC has concluded that credit is warranted for Entergy's corrective actions. Specifically, Entergy has: (1) requested the NRC amend the operator's license to include a restriction for the use of a CPAP (on August 14, 2014, the NRC issued the amended license with the new restriction); (2) initiated an Apparent Cause Evaluation that included an extent of condition review of all operators to determine if there are any further unknown medical conditions; (3) trained all licensed operators on the process and requirements for reporting changes in medical conditions; and, (4) trained licensee contract physicians on NRC medical restriction requirements.

Therefore, to encourage prompt identification and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding: (1) the reasons for the violations; (2) the actions planned or already taken to correct the violations and prevent recurrence; and (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report 05000247/2014005 and 05000286/2014005 and in this letter. 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.

² A Severity Level III Notice of Violation was issued on April 29, 2014 (EA-13-076; ML14118A124)

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room and in 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 should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information.

If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA David C. Lew for:/

Daniel H. Dorman
Regional Administrator

Docket Nos. 50-247; 50-286
License Nos. DPR-26; DPR-64

Enclosure: Notice of Violation

cc w/enclosure: Distribution via ListServ

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room and in 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 should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information.

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Sincerely,

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Daniel H. Dorman
Regional Administrator

Docket No. 50-286
License No. DPR-64

Enclosure: Notice of Violation

cc w/enclosure: Distribution via ListServ

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ENCLOSURE
NOTICE OF VIOLATION

Entergy Nuclear Operations, Inc.
Indian Point Nuclear Generating Unit 3

Docket No. 50-286
License No. DPR-64
EA-14-180

During an NRC inspection conducted between September 15, 2014, and October 6, 2014, for which an exit meeting was conducted on December 17, 2014, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 55.3 requires, in part, that a person must be authorized by a license issued by the Commission to perform the function of a licensed operator or a licensed senior operator as defined in Part 55.

10 CFR 50.74(c) requires, in part, that each facility licensee notify the appropriate NRC Regional Administrator within 30 days of a permanent disability or illness as described in 10 CFR 55.25 involving a licensed operator or senior operator.

10 CFR 55.25 requires, in part, that if a licensed operator or licensed senior operator develops a permanent physical condition that causes the licensee to fail to meet the requirements of 10 CFR 55.21, the facility must notify the NRC within 30 days of learning of the diagnosis. For conditions where a license condition is required, the facility licensee must provide medical certification on NRC Form 396, "Certification of Medical Examination by Facility Licensee."

10 CFR 55.21 requires, in part, that individual licensed operators and senior operators shall have a medical examination by a physician every two years, and that the physician shall determine that the operator 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 55.33(b) states, in part, that if the general medical condition of an applicant does not meet the minimum standards under 10 CFR 55.33(a)(1), the Commission may approve the application and include conditions in the license to accommodate the medical defect.

Contrary to the above, on October 25, 2012, Entergy learned that an Indian Point Unit 3 reactor operator had a permanent disability or illness (sleep apnea); however, Entergy did not report this change in permanent medical condition to the NRC within 30 days nor did Entergy request an amended license with a condition to account for the medical issue until July 7, 2014.

- B. 10 CFR 50.9 requires, in part, that information provided to the Commission by a licensee shall be complete and accurate in all material respects.

10 CFR 55.21 requires, in part, that individual licensed operators and licensed senior operators shall have a medical examination by a physician every two years, and that the physician shall determine that the 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 55.33(b) states, in

part, that if the applicant's general medical condition does not meet the minimum standards under 10 CFR 55.33(a)(1), the Commission may approve the application and include conditions in the license to accommodate the medical defect.

10 CFR 55.23 requires, in part, that an authorized representative of the facility licensee shall certify the medical fitness of an applicant by completing and signing an NRC Form-396, "Certification of Medical Examination by Facility Licensee." The NRC Form-396, when signed by an authorized representative of the facility licensee, certifies that, based on the results of the physical examination, including information furnished by the applicant, the physician has determined that the applicant's physical condition and general health are such that the applicant would not be expected to cause operational errors endangering public health and safety, and documents whether the applicant's license should be conditioned with restrictions.

Contrary to the above, on December 3, 2012, Entergy provided information to the NRC that was not complete and accurate in all material respects. Specifically, Entergy submitted an NRC licensed operator renewal application with an NRC-Form 396 that certified the medical fitness of the applicant and that the only necessary restricting license conditions were for corrective lenses and medication. This information was inaccurate in that the applicant also had sleep apnea, another medical condition that did not meet the minimum standards of 10 CFR 55.33(a)(1) and that required a restricting license condition to use a therapeutic device.

These two violations represent a Severity Level III problem (Section 6.4).

The NRC has concluded that information regarding: (1) the reasons for the violations; (2) the actions planned or already taken to correct the violations and prevent recurrence; and (3) the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report 05000247/2014005 and 05000286/2014005 and in this letter. Therefore, you are not required to respond to this Notice. 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-14-180," 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 I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406, and a copy to the NRC resident inspector at Indian Point Energy Center, within 30 days of the date of the letter transmitting this 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, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

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

Dated this 16th day of March, 2015