



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

February 15, 2017

EA-16-170

Mr. Eric McCartney
Site Vice President
Seabrook Nuclear Power Plant
NextEra Energy Seabrook, LLC
c/o Mr. Kenneth Browne
P.O. Box 300
Seabrook, NH 03874

SUBJECT: SEABROOK STATION - NOTICE OF VIOLATION - NRC INVESTIGATION
REPORT NO. 1-2015-029

Dear Mr. McCartney:

This letter provides you the NRC enforcement decision for an apparent violation (AV) identified during an investigation by the NRC Office of Investigations (OI) conducted between August 24, 2015, and August 5, 2016, at the NextEra Energy Seabrook, LLC (NextEra) Seabrook Station (Seabrook). The investigation was conducted to evaluate the circumstances surrounding a security response weapon that NextEra staff identified as having foreign material lodged inside the barrel.

Based on the results of the OI investigation, the NRC determined that a violation of NRC requirements occurred. Specifically, a (now-former) NextEra contract employee at Seabrook deliberately placed the material inside the weapon, possibly resulting in the weapon being non-functional. This is an AV of the NRC requirement that licensees ensure that all firearms necessary to implement the site security plans and protective strategy are in working condition. The AV was described in an enclosure to the NRC letter sent to you on December 1, 2016 (ML16334A416¹). In the letter, we informed you that to make an enforcement decision, we required additional information regarding the corrective actions taken by NextEra. We also provided you the opportunity to address the AV by attending a pre-decisional enforcement conference (PEC) or requesting Alternative Dispute Resolution (ADR). In a letter dated December 30, 2016 (ML17003A272), NextEra provided a response that accepted the AV and described the corrective actions taken and planned to address the matter.

Therefore, based on the information developed during the investigation, the NRC has determined that the violation of NRC requirements occurred. The violation, which is cited in the enclosed Notice of Violation (Notice), involves the (now-former) contract security officer (SO) at Seabrook who, on August 14, 2015, deliberately placed foreign material inside the barrel of a security response weapon. As a result, while the material was inside, the weapon may not have been in working condition.

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

Because licensees are responsible for the actions of their employees, and because the SO's actions were willful, the violation was evaluated under the NRC's traditional enforcement process, as set forth in Section 2.2.4(c) of the NRC Enforcement Policy. After careful consideration, the NRC concluded that the violation is best categorized at Severity Level III (SL III). In reaching this determination, the NRC considered that the underlying technical concern would have been evaluated as having very low security significance (i.e. green) under the Physical Protection Significance Determination Process of the Reactor Oversight Process. However, because it involved willfulness, the NRC increased the significance of the violation, in accordance with Section 2.2.1.d of the Enforcement Policy. Willful violations are of particular concern because the NRC's regulatory program is based, in part, on licensees and their employees acting truthfully and with integrity.

In accordance with Section 8 of the Enforcement Policy, a base civil penalty in the amount of \$140,000 is considered for a SL III violation involving a power reactor licensee. Because the violation was willful, 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 the licensee's identification of the violation. Specifically, while performing routine cleaning of the weapon in accordance with site procedures, NextEra contract staff identified that the foreign material was inside the weapon. NextEra immediately notified the NRC and initiated an investigation into the matter, concluding that the issue was an isolated, intentional act by an individual in the security organization, and that no other badged personnel at the site were aware of, or failed to inform management about the event.

The NRC has also concluded that credit is warranted for the licensee's corrective actions in response to the violation. Namely, NextEra immediately: (1) increased security observations for potential indications of unauthorized entry; (2) commenced unannounced supervisory inspections of security posts and security tour/patrol conduct; (3) initiated an extent of condition inspection of security contingency equipment for signs of tampering and to verify weapons readiness; (4) hired an external contractor to review the impact of this event on NextEra's ability to respond to a design basis threat; and, (5) reviewed the corrective action program to search for other reports involving damaged security equipment. In addition to these completed actions, NextEra also plans to: (1) implement a firearms field inspection process to validate, once per shift, the working condition of firearms, and has implemented interim actions until this process is in place; (2) develop a case study about the event and its consequences to be presented during initial SO training and annually thereafter to existing security personnel; (3) provide a briefing on standards associated with supervisor behavioral observation program requirements and behavior indications that may warrant follow-up; and (4) provide a case study for station review on the consequences of deliberate misconduct. 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 reason for the violation; (2) the actions planned or already taken to correct the violation and prevent recurrence; and, (3) the date when full compliance was achieved, is already adequately addressed on the docket in the NRC letter dated December 1, 2016, in your letter dated December 30, 2016, 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.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral third-party (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Fred Bower at 610-337-5200 within 10 days of the date of this letter. You may also contact both the ICR and Mr. Bower for additional information.

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 and in the NRC's Agency-wide 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, if you choose to provide one, 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).

Please note that final NRC investigation documents, such as the OI report described above, may be made available to the public under the Freedom of Information Act (FOIA) subject to redaction of information appropriate under the FOIA. Requests under the FOIA should be made in accordance with 10 CFR 9.23, Requests for Records. Additional information is available on the NRC website at <http://www.nrc.gov/reading-rm/foia/foia-privacy.html>.

E. McCartney

4

This enforcement action will be administratively tracked under Inspection Report No. 05000443/2017007. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Dorman", with a small "fn" to the right.

Daniel H. Dorman
Regional Administrator

Docket No. 50-443
License No. NPF-86

Enclosure: Notice of Violation

cc w/enclosure: Distribution via ListServ

NOTICE OF VIOLATION

NextEra Energy Seabrook, LLC
Seabrook Station

Docket No. 50-443
License No. NPF-86
EA-16-170

During an NRC investigation conducted between August 24, 2015, and August 5, 2016, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 73.55(k)(2) requires licensees to ensure that all firearms, ammunition, and equipment necessary to implement the site security plans and protective strategy are in sufficient supply, are in working condition, and are readily available for use.

Contrary to the above, from August 14, 2015 – August 22, 2015, NextEra Energy Seabrook, LLC did not ensure that all firearms necessary to implement the site security plans and protective strategy were in working condition. Specifically, foreign material had been introduced into the barrel of a rifle staged at a security post that was established to implement the site protective strategy. While the foreign material was in the barrel, the licensee could not ensure that the rifle would fire properly.

This is a Severity Level III violation (Enforcement Policy Example Section 6.11).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in the NRC letter dated December 1, 2016, your letter dated December 30, 2016, and in this letter. 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-16-170)," 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, U.S., Nuclear Regulatory Commission, Region I, 2100 Renaissance Boulevard, King of Prussia, PA 19406, and a copy to the Resident Inspector at Seabrook Station, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

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.

Dated this 15th day of February 2017