



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

July 22, 2015

IA-15-033

Mr. Frederick Horvath  
HOME ADDRESS DELETED  
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION

Dear Mr. Horvath:

On May 8, 2015, the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) completed an investigation to determine, in part, whether you deliberately provided incomplete and inaccurate information to NextEra Energy, LLC (NextEra) on February 11, 2015. At that time, you were working at NextEra's Seabrook Station (Seabrook) as an electrical maintenance first line supervisor. The investigation was initiated after the NRC received notification from NextEra on February 12, 2015, indicating that you had subverted the Seabrook fitness-for-duty (FFD) program. Specifically, NextEra indicated that, on February 11, 2015, you were selected for a random FFD test, and were instructed to report to the FFD sample collection location at a designated time. However, you did not report to the collection location when required. Instead, you left the site and informed your supervisor that you had a family emergency.

After your supervisor subsequently informed you that if you did not report for the FFD test that day, you would be considered as having refused testing, you returned to the site and submitted to the test approximately six and one half hours after the original designated time. Your supervisor also informed you that you had to provide documentation of the family emergency. The following day, you told your supervisor that there had not been a family emergency and that you had actually left the site because you believed you would not pass the FFD test. NextEra terminated your site access authorization, in accordance with the requirements specified in Title 10 of the Code of Federal Regulations (CFR) Part 26.75(b), which states that any act or attempted act to subvert the FFD testing process, including, but not limited to, refusing to provide a specimen, must result in the immediate unfavorable termination of the individual's authorization and permanent denial of authorization thereafter.

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Based on the results of the NRC OI investigation, including your testimony that you left the site and did not report for the FFD test when required, the NRC determined that, contrary to 10 CFR 50.5(a)(2) you deliberately provided incomplete and inaccurate information to NextEra that was material to the NRC by attempting to subvert Seabrook's FFD process. Specifically, you provided false information to NextEra about why you did not report to the FFD sample collection site at the specified time. This information was material to the NRC because the NRC requires that individuals selected for random testing report to the collection site within the time period specified in the site FFD program policy. Seabrook's FFD program policy requires such individuals to report at the designated time.

During a telephone conversation with Marjorie McLaughlin of my staff on June 30, 2015, you were provided the results of the NRC investigation. You were also provided the opportunity to address the apparent violation by either attending a pre-decisional enforcement conference (PEC) or by providing a written response before the NRC made its final enforcement decision. In that conversation, you indicated that you did not intend to submit a written response and that a PEC was not necessary. Accordingly, based on the evidence obtained through the NRC OI investigation, the NRC has determined that a violation of NRC requirements occurred. 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 from drugs and alcohol, and the effects of the use of these substances. By attempting to subvert the FFD program, you could have prevented NextEra from complying with this requirement. Because of the significance of the underlying issue, the deliberate nature of your actions, and your position as a first line supervisor at Seabrook, the violation is categorized as a Severity Level III violation in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation is cited in the enclosed Notice of Violation (Notice).

Since you are no longer employed by NextEra, and are no longer eligible for unescorted access authorization, in accordance with 10 CFR 26.75(b), you are not required to respond to this letter. 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 chose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from 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>. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." This system, which is not publicly-accessible, includes all records pertaining to individuals who are being considered for, or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

F. Horvath

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Please note that final NRC investigation documents, such as the OI report described in this letter, 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," a copy of which is enclosed for your information.

Sincerely,

**/RA/**

Daniel H. Dorman  
Regional Administrator

Enclosures: As stated

cc (w/encl):  
Mr. Dean Curtland, Vice President, Seabrook Station

Letter to Mr. Frederick Horvath from Mr. Daniel Dorman

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B Bickett, RI

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Region I OE Files (with concurrences)

F. Horvath

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Sincerely,

**/RA/**

Daniel H. Dorman  
Regional Administrator

Enclosures: As stated

cc (w/encl):  
Mr. Dean Curtland, Vice President, Seabrook Station

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ADAMS Document Accession No. ML15203A644

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OFFICE	RI/ORA	RI/DRS	RI/DRP	RI/DRP	RI/ DRS	RI/ORA
NAME	M McLaughlin/ MMM*	A Dimitriadis/ AD*	G Dentel/ GTD*	H Nieh/ HKN*	R Lorson/ RKL*	B Klukan/ BMK*
DATE	6/30/15	7/02/15	7/02/15	7/06/15	7/02/15	7/06/15
OFFICE	RI/ ORA	OE	OGC	NRR	RA	
NAME	B Bickett/ BAB*	G Figueroa via email	NLO S Lewman via OE email	D Willis via OE email	D Dorman/	
DATE	7/07/15 *	7/15/15	7/15/15	7/15/15	7/22/15	

\*See previous concurrence page    OFFICIAL RECORD COPY

## NOTICE OF VIOLATION

Frederick Horvath  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

IA-15-033

Based on the results of an NRC investigation completed on May 8, 2015, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.5(a)(2) states, in part, that any employee of a licensee may not deliberately submit to a licensee information that the person knows to be incomplete or inaccurate in some respect material to the NRC.

10 CFR 26.71(a) states, in part, that individuals may maintain authorization under the condition that the individual remains subject to a drug and alcohol testing program that meets the requirements of 10 CFR 26.31, including random testing.

10 CFR 26.31(d)(2)(iii) states, in part, that as a general requirement for drug and alcohol testing, random testing must require that individuals selected for random testing report to the collection site as soon as reasonably practicable after notification, within the time period specified in the fitness for duty (FFD) program policy.

NextEra Energy implementing procedure for the FFD program policy, SY-AA-100-1000, "Fitness for Duty," Section 4.10, "Random Testing," states, in part, that the FFD program shall require individuals who are selected for random testing to report to the collection site at the designated time, but no later than two hours after notification.

Contrary to the above, on February 11, 2015, while employed at Seabrook Station as an electrical maintenance first line supervisor with access authorization to the site, you deliberately submitted to the licensee information that you knew to be incomplete or inaccurate in some respect material to the NRC. Specifically, after you were notified that you had been selected for a random drug and alcohol test and were required to report to the collection site at a designated time, you left the site and informed licensee staff that you had to leave because of a family emergency. However, you actually left the site because you feared your FFD test would be positive for drugs and/or alcohol. At the direction of licensee staff, you returned to the site, approximately six and a half hours after the designated time, and submitted to the test. The information you provided to the licensee was material to the NRC because the NRC requires that individuals selected for random testing report to the collection site within the time period specified in the site FFD program policy. Seabrook's FFD program policy requires such individuals to report at the designated time.

This is a Severity Level III violation (Policy Example 6.9)

Since you are no longer employed by NextEra, and are no longer eligible for unescorted access authorization, in accordance with 10 CFR 26.75(b), you are not required to respond to this letter. However, if you wish to respond, the reply should be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 2100 Renaissance Boulevard, King of Prussia, PA 19406, and marked "Open by Addressee Only." 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.

Because your response, should you chose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from 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, it 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, then 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 material, 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). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 22<sup>nd</sup> day of July, 2015.