



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

December 1, 2016

IA-16-075

Mr. Casey Pooler
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT 1-2015-029

Dear Mr. Pooler:

This letter refers to an investigation initiated on August 24, 2015, by the NRC Office of Investigations (OI) and conducted 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 inside the barrel. Based on the evidence gathered during the investigation, the NRC preliminarily determined that you deliberately placed the material inside of the weapon. This caused NextEra to be in apparent violation of the NRC requirements that all firearms necessary to implement the site security plans and protective strategy are in working condition. A copy of a letter to NextEra discussing the OI investigation and apparent violation, which includes a Factual Summary of OI Investigation Report 1-2015-029, is provided as Enclosure 1 to this letter.

The NRC has also preliminarily determined that you committed an apparent violation of Title 10 of the Code of Federal Regulations (CFR) 50.5(a)(1), "Deliberate Misconduct." The NRC's deliberate misconduct rule prohibits employees of any licensee from engaging in deliberate misconduct that causes, or would have caused if not detected, a licensee to be in violation of NRC requirements. Your apparent violation is being considered for escalated enforcement action 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>. A copy of your apparent violation is provided as Enclosure 2 to this letter. Since the NRC has not made a final determination in this matter, a Notice of Violation is not being issued at this time. Please be advised that the number and characterization of the apparent violation may change as a result of further NRC review.

We believe we have sufficient information to make an enforcement decision regarding the apparent violation and are considering issuing to you an Order prohibiting your involvement in NRC regulated activities for some period not likely to exceed three years. However, before the NRC makes its final enforcement decision, we are providing you an opportunity to provide your perspective on this matter, including the significance, cause, and corrective actions, as well as any other information that you believe the NRC should take into consideration by: (1) requesting a pre-decisional enforcement conference (PEC) to meet with the NRC and provide your views in person; (2) requesting Alternative Dispute Resolution (ADR); (3) responding to the apparent violation in writing; or, (4) accepting the violation as characterized in this letter and notifying us of that decision within 10 days.

If you choose to request a PEC, the meeting should be held in our office in King of Prussia, PA, within 30 days of the date of this letter. The conference will include an opportunity for you to provide your perspective on these matters and any other information that you believe will assist the NRC in making an enforcement decision.

In lieu of a PEC, you may also 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; a voluntary, informal process in which a trained neutral 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 ADR program can be obtained 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 program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR. The ADR mediation session should be held in our office in King of Prussia within 45 days of the date of this letter.

Either the PEC or the ADR would be closed to public observation because the NRC's preliminary findings are based on an NRC OI report that has not been publicly disclosed. However, the time and date of the PEC or ADR will be publicly announced.

If you choose to provide a written response, it should be sent to the NRC within 30 days of the date of this letter. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. You should clearly mark the response as a "Response to Apparent Violations in NRC Investigation No. 1-2015-029; IA-16-075," 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, King of Prussia, PA 19406.

Please contact Fred Bower, Chief, Division of Reactor Projects Branch 3, at 610-337-5200 within **10** days of the date of this letter to notify the NRC which of the above options you choose. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

A copy of this letter will not be made publicly available at this time. However, if the NRC subsequently issues an enforcement action to you, 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 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). ADAMS is accessible from the NRC Web site at www.NRC.gov/reading-rm/adams.html.

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 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, may be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

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>.

If you have any questions related to this matter, please contact Mr. Bower of my staff at 610-337-5200.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Scott", with a long horizontal flourish extending to the right.

Michael L. Scott, Director
Division of Reactor Projects

Enclosures:

1. Letter to NextEra Regarding OI Investigation Report No. 1-2015-029
2. Apparent Violation Being Considered for Escalated Enforcement

ENCLOSURE 1

LETTER TO NEXTERA REGARDING OI INVESTIGATION REPORT NO. 1-2015-029



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

December 1, 2016

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 - NRC INVESTIGATION REPORT 1-2015-029

Dear Mr. McCartney:

This letter refers to an investigation initiated on August 24, 2015, by the NRC Office of Investigations (OI) and conducted 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 inside the barrel. Based on the evidence gathered during the investigation, the NRC preliminarily determined that a (now-former) NextEra contract employee at Seabrook deliberately placed the material inside of the weapon. This caused NextEra to be in apparent violation of the NRC requirements that all firearms necessary to implement the site security plans and protective strategy are in working condition. The apparent violation (AV) is being considered for escalated enforcement action and a civil penalty in accordance with the NRC Enforcement Policy. The current Enforcement Policy is available on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. A summary of the OI investigation is included as Enclosure 1 to this letter and the AV is described in Enclosure 2.

Before the NRC makes its enforcement decision regarding the AV, we request that you provide information about NextEra's corrective actions for the issue. The written response should include: (1) the reason for the AV or, if contested, the basis for disputing the AV; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. You should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the AV. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful.

The written response should be sent to the NRC within 30 days of the date of this letter. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. You should clearly mark the response as a "Response to an Apparent Violation in NRC Investigation No. 1-2015-029; 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, NRC Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, PA 19406. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a pre-decisional enforcement conference (PEC).

In lieu of providing this written response, you may choose to provide your perspective on this matter, including the significance, cause, and corrective actions, as well as any other information that you believe the NRC should take into consideration by: (1) requesting a PEC to meet with the NRC and provide your views in person; or (2) requesting Alternative Dispute Resolution (ADR).

If you choose to request a PEC, the meeting should be held in our office in King of Prussia, PA, within 30 days of the date of this letter. The conference will include an opportunity for you to provide your perspective on these matters and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the PEC may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned.

In lieu of a PEC, you may also 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; a voluntary, informal process in which a trained neutral 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 ADR program can be obtained 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 program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR. The ADR mediation session should be held in our office in King of Prussia within 45 days of the date of this letter.

Either the PEC or the ADR would be closed to public observation because the NRC's preliminary findings are based on an NRC OI report that has not been publicly disclosed. However, the time and date of the PEC or ADR will be publicly announced. Please contact Fred Bower, Chief, Division of Reactor Projects Branch 3, at 610-337-5200 within **10** days of the date of this letter to notify the NRC which of the above options you choose.

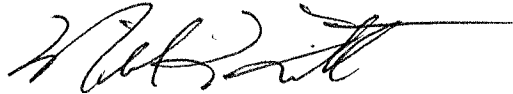
Please be advised that the number and characterization of apparent violations described in the enclosures may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room and from the NRC Agency-wide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-material-rm/adams.html>.

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>.

The apparent violation will be administratively tracked under Inspection Report No. 05000443/2016010. If you have any questions related to this matter, please contact Mr. Bower of my staff at 610-337-5200.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Scott", with a long horizontal line extending to the right.

Michael L. Scott, Director
Division of Reactor Projects

Enclosures:

1. Factual Summary of OI Investigation Report 1-2015-029
2. Apparent Violation being considered for escalated enforcement action
3. Excerpt from Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action"

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

cc: Distribution via ListServ

Enclosure 1

Factual Summary of NRC Office of Investigations (OI) Case No. 1-2015-029

A weapon that had been staged at a security post on August 2, 2015, at the NextEra Energy Seabrook, LLC (NextEra) Seabrook Station (Seabrook) was returned to the armory on August 21, 2015, for routine cleaning. While cleaning the weapon, the armorer found that a foam earplug insert and two pieces of rolled up paper had been stuffed in the barrel. NextEra notified the NRC Senior Resident Inspector at Seabrook, who in turn, informed regional staff and management. The region immediately dispatched security inspectors and investigators and, on August 24, 2015, formally launched a high-priority OI investigation.

OI interviewed site security personnel who had access to the weapon. During initial interviews on August 24, one security officer (SO) acknowledged to OI that he had stood watch in the position with the affected rifle on two occasions during the subject period. However, the SO testified that he had not placed the materials in the weapon and that he had no information about how the materials got inside of it. Afterward, the SO commented to some of his coworkers that the OI interview had made him feel like he had something to do with the tampered weapon. He made several comments to other SOs indicating that he may have been involved in tampering with the rifle. He asked a coworker to contact the OI agents and ask them to meet him at an off-site location. Although OI contacted the SO, he declined to meet with them at that time.

On multiple occasions between August 27 and September 24, OI attempted to re-interview the SO, but he declined each request. On October 19, 2015, the SO spoke with OI and stated that he believed he placed the materials in the weapon. The SO told OI that he did not know why he did it, and adamantly stated that he was not trying to hurt anyone or to assist anyone with gaining access to the site. He acknowledged that it was reasonable to assume that he didn't come forward about what he had done because he was afraid of being fired. The SO also affirmed that he was not aware of adverse issues with any other weapons or equipment at the site.

OI concluded that the SO deliberately placed the materials in the rifle.

ENCLOSURE 2
APPARENT VIOLATION

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. Because of the foreign material, the rifle could not have been ensured to fire properly.

ENCLOSURE 2

APPARENT VIOLATION BEING CONSIDERED FOR ESCALATED ENFORCEMENT

10 CFR 50.5(a)(1) states, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation issued by the Commission.

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, on August 14, 2015, while employed by NextEra Energy Seabrook, LLC (NextEra) as a security officer at Seabrook Station, you engaged in deliberate misconduct that caused NextEra to be in violation of an NRC regulation. Specifically, you placed foreign material into the barrel of a rifle that had been staged at a security post. Because of the foreign material, the rifle could not have been ensured to fire properly. As a result, NextEra did not ensure that all firearms necessary to implement the site security plans and protective strategy were in working condition.