

July 17, 2000

MEMORANDUM TO: John A. Grobe, Director
Division of Reactor Safety, Region III

FROM: Suzanne C. Black, Deputy Director */RA/*
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

SUBJECT: TASK INTERFACE AGREEMENT (TIA) 2000-02 REGARDING
WHETHER BRAIDWOOD'S ABSENCE CONTROL PROGRAM IS IN
CONFLICT WITH 10 CFR PART 26 (TAC NOS. MA8784 AND
MA8785)

By memorandum dated April 18, 2000, Region III requested assistance from the Office of Nuclear Reactor Regulation (NRR) in determining whether Braidwood's Absence Control Program concerning absences for scheduled work tours conflicts with 10 CFR Part 26 requirements. The attachment provides our response to the Region III request. This completes our efforts in response to TIA 2000-02 and under TAC Nos. MA8784 and MA8785.

Docket Nos. STN 50-456 and STN 50-457

Attachment: As stated

cc: W. Lanning, RI
C. Castro, RII
A. Howell, RIV

NRR'S RESPONSE TO TASK INTERFACE AGREEMENT 2000-02
REGARDING WHETHER BRAIDWOOD'S ABSENCE CONTROL PROGRAM
IS IN CONFLICT WITH 10 CFR PART 26
TAC NOS. MA8784 AND MA8785

INTRODUCTION

The staff has completed the review requested in the memorandum from John A. Grobe, Director, Division of Reactor Safety, Region III, to Suzanne C. Black, Deputy Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation (NRR), dated April 18, 2000. In the Region III memorandum, Mr. Grobe requested that the staff review whether Braidwood's Absence Control Program (Braidwood Station Policy Memorandum No. BR-001, Revision 0, dated February 23, 2000) concerning absences for scheduled work tours conflicts with 10 CFR Part 26.

BACKGROUND

Licensed operators at Braidwood Station recently went from an 8-hour to a 12-hour shift schedule during outages. Some of these operators have been late or absent from work because they claim that they were overly fatigued as a result of the new shifts. Several licensed operators have alleged that the current work schedules have caused them to be excessively fatigued and that the absence control policy pressures them to report to work because of the fear of possible discipline, including termination. The concerned individuals have indicated that their management's absence policy pressures individuals who are fatigued and believe themselves to be unfit for duty to come to work. They indicated that under those conditions, if they are late or absent because they need more rest, management can and has taken disciplinary personnel action.

When an individual calls in sick or fails to arrive for scheduled work, this absence is treated as an "occurrence" in accordance with the absence control policy and is tracked. This policy states that if an individual accumulates three "occurrences" within a 12-month period, the first-line supervisor should inform the employee of his or her status in the Absence Control Program, seek employee awareness, and obtain cooperation to minimize future absences. The policy also states that "individuals with chronic illness or with a multitude of absences due to a single injury or affliction may warrant special consideration." The absence control policy provides a structure and a mechanism by which multiple absences can be reviewed to confirm their legitimacy. Additionally, the policy provides an opportunity for the cognizant management personnel to ascertain the necessity of involving other company resources for the benefit of the employee (i.e., the Employee Assistance Program and Occupational Health Services).

The licensee tracks each day that an employee calls in sick or fails to arrive for scheduled work. When a review of absences indicates abuse of leave, appropriate disciplinary action is taken. The licensee maintains that the Absence Control Program provides protection for the employee by taking into consideration extenuating circumstances that may affect the individual's attendance.

DISCUSSION

Section 26.10(a) requires that fitness-for-duty (FFD) programs provide reasonable assurance that nuclear power plant personnel will perform their tasks in a reliable and trustworthy manner and that they are not under the influence of any substance, legal or illegal, and are not mentally or physically impaired from any cause that in any way adversely affects their ability to safely and competently perform their duties. Specifically, 10 CFR 26.20(a)(2) requires that the licensee's written FFD policy address factors that could affect FFD, such as fatigue. Further, 10 CFR 26.10(b) requires reasonable measures **for the early detection** [emphasis added] of persons **who are not fit** [emphasis added] to perform activities within the scope of 10 CFR Part 26.

10 CFR Part 26 does not specify any sanctions for instances in which a person is removed, or declares himself or herself unfit to work, because of a hazard to public health and safety, but does impose sanctions for drugs or alcohol or other actions or conditions specified as a violation of a licensee's FFD policy. Hazard-causing conditions could include fatigue, stress, depression. In their Employee Assistance Programs, licensees are allowed considerable flexibility in the way they handle these situations, and they are expected to use prudent judgment to ensure the public health and safety.

The rule's performance objectives in 10 CFR 26.10(a) and (b) provide general guidance regarding how FFD programs should handle workers who appear unfit for duty for any reason. In addition, 10 CFR 26.27(b)(1) requires that personnel whose fitness may be questionable be removed until they are determined to be fit. Questionable FFD may be the result of any of the factors noted in 10 CFR 26.20(a) and 26.24(a)(3), or may involve displays of aberrant behavior or violence that would cause doubt as to whether the worker could safely and competently meet his or her responsibilities.

The FFD rule permits escorted access when a person is not fit, and this provision is primarily intended to prevent a licensee from being automatically in violation if it determines that an employee is unfit for duty while at work. It also permits a licensee to use a person who may otherwise be unfit. Thus, the licensee can be aware of the worker's condition and determine that it must use this person to accomplish its objectives. It also means that the licensee can accommodate the situation to ensure there is no safety hazard to the worker, other workers, or the public. Licensees are expected to use prudent judgment in allowing employees with a condition that makes their FFD questionable to perform work under escort. The NRC recognizes that an employee's specific skills or expertise may make such an accommodation desirable in exceptional cases.

The current 10 CFR 26.20(e)(1) requires that a statement be made by a called-in person whether he or she has consumed alcohol within the period of time stated in the pre-duty abstinence policy. The new 10 CFR 26.20 will add the following statement: "whether he or she considers himself or herself fit to perform the task assigned."

The licensee's FFD procedure (SY-AA-102, Revision 3) states that individuals are responsible for "reporting to their supervisor when any conditions exist which impairs their ability to safely perform their assigned duties." This procedure further states that supervisors are responsible for "acting in a timely manner when a Fitness-For-Duty concern has been identified. If

someone's fitness is questionable, the supervisor shall immediately remove the person from work activities. The person shall be escorted at all times until the concern is satisfactorily resolved or until the person exits the protected area."

CONCLUSION

The staff has completed the review requested in the Region III Task Interface Agreement (TIA) 2000-02 and concludes that Braidwood's Absence Control Program sets out reasonable steps to control personnel absences and does not adversely affect the programmatic aspects of the licensee's FFD program (10 CFR Part 26). Appropriate implementation of the programs by the licensee must be maintained to ensure that all individuals granted unescorted access to protected areas are fit for duty and that its FFD procedure is followed when an employee's fitness is questionable.

Principal Contributor: G. West

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