

June 13, 2001

Mr. David A. Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists
1707 H Street NW Suite 600
Washington, DC 20006-3813

SUBJECT: ADDITIONAL INFORMATION REGARDING FORMAL ALLEGATION ABOUT
FATIGUE AND PLANT SECURITY

Dear Mr. Lochbaum:

Your letter dated April 23, 2001, to Mr. Glenn Tracy, Chief, Operator Licensing, Human Performance, and Plant Support Branch, NRR, (same subject) expressed a concern based on a Department of Labor/Occupational Safety and Health Administration (DOL/OSHA) investigator's documentation of a telephone conversation with an NRC security specialist on January 22, 2001. The investigator's documentation stated, "*The NRC considers the 72 hour rule [working 72 hours or less in a 7 day period] to be reasonable and fear that if an SO [Security Officer] is permitted to refuse to work based on fatigue it would create turmoil in the industry.*" You expressed concern that this statement did not correctly reflect the requirements of 10 CFR Part 26, Fitness-For-Duty Programs; and suggested that we clarify the NRC's policy on this matter. As you are aware, the NRC is currently acting on your previously submitted petition relative to fitness-for-duty issues at nuclear power plants in accordance with 10 CFR Part 2.206. In addition, the NRC is currently in the process of responding to a petition for rulemaking concerning personnel fatigue and will be evaluating the need for new or revised requirements and the appropriate scope of personnel to whom such requirements should apply.

The "72 hour rule" refers to NRC's Generic Letter (GL) 82-12, dated June 15, 1982, "Nuclear Power Plant Staff Working Hours." GL 82-12 promulgated the NRC's "Policy on Factors Causing Fatigue of Operating Personnel at Nuclear Reactors." Through this policy the NRC conveyed the expectation that licensees assure, to the extent practicable, that personnel are not assigned to shift duties while in a fatigued condition that could significantly reduce their mental alertness or decision-making ability. The policy set forth the expectation that licensees would establish controls for shift staffing and the use of overtime and that these controls would apply to personnel who perform safety-related functions (e.g., senior reactor operators, reactor operators, auxiliary operators, health physicists, and key maintenance personnel). The policy established an objective of a 40-hour week and included specific guidelines for limiting overtime (e.g., an individual should not be permitted to work more than 72 hours in any 7-day period). These guidelines apply to temporary conditions in which licensees may find it necessary to require substantial amounts of overtime due to unforeseen problems or during extended periods of plant shutdown.

NRC expects that all licensed activities be conducted in a manner that provides reasonable assurance of adequate protection of the public health and safety. To this end, 10 CFR 26 specifies that licensees establish fitness-for-duty programs that, "... provide reasonable assurance that nuclear power plant personnel... will perform their tasks in a reliable and trustworthy manner and are not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause that adversely affects their ability to safely and competently perform their duties." In addition, 10 CFR 26.20 states that licensee policy should address other factors that can affect fitness-for-duty "such as mental stress, fatigue, and illness." Part 26 applies to all persons granted unescorted access to a facility's protected area, including security officers.

Although the policy described in Generic Letter 82-12 specifically applies to staff that perform safety-related functions (such as operating personnel), the guidelines may also be considered as a reasonable way to manage the amount of overtime worked by security officers to reduce the potential for fatigue. However, limiting overtime in accordance with the policy guidelines does not by itself provide a basis to conclude that an individual is alert and fit for duty. Rather, the NRC expects licensee management to assure that the staff is fit and able to perform assigned duties; take appropriate actions when an individual is assessed as impaired for any reason, including fatigue; and assure that important functions and duties, including those performed by security officers, are effectively and safely conducted in conformance with NRC rules and regulations.

In retrospect, the NRC security specialist could have better communicated NRC's expectations by providing more detail and information in response to the DOL/OSHA investigator's questions. Accordingly, we have contacted the DOL/OSHA investigator and are providing a copy of this letter to clarify understanding of this matter.

We appreciate you bringing this matter to our attention. If you have further questions, please contact Mr. John R. White, Chief, Radiation Safety and Safeguards Branch, at (610) 337-5114.

Sincerely,

/RA/

Wayne D. Lanning, Director
Division of Reactor Safety

cc:

Teri M. Wigger, DOL/OSHA

Mr. David A. Lochbaum

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