



July 25, 2003

Order EA-03-038
10 CFR 2.202

Samuel J. Collins
Director, Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Duane Arnold Energy Center
Docket 50-331
License No. DPR-49

Palisades Nuclear Plant
Docket 50-255
License No. DPR-20

Kewaunee Nuclear Power Plant
Docket 50-305
License No. DPR-43

Point Beach Nuclear Plant, Units 1 and 2
Dockets 50-266 and 50-301
License Nos. DPR-24 and DPR-27

Monticello Nuclear Generating Plant
Docket 50-263
License No. DPR-22

Prairie Island Nuclear Generating Plant,
Units 1 and 2
Dockets 50-282 and 50-306
License Nos. DPR-42 and DPR-60

SUPPLEMENTAL ANSWER TO APRIL 29, 2003, ORDER FOR COMPENSATORY MEASURES RELATED TO FITNESS-FOR-DUTY ENHANCEMENTS APPLICABLE TO NUCLEAR FACILITY SECURITY FORCE PERSONNEL (EA-03-038)

By letter dated July 10, 2003, "Relaxation of the Order, Exercising Enforcement Discretion, and Extension of the Time to Submit an Answer or Request a Hearing Regarding Order EA-03-038, Fitness-For-Duty Enhancements for Nuclear Security Force Personnel, for: Duane Arnold Energy Center, Kewaunee Nuclear Power Plant, Monticello Nuclear Generating Plant, Palisades Plant, Point Beach Nuclear Plant Unit Nos. 1 and 2, and Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2" ("NRC letter"), the NRC responded to the June 3, 2003, submittal of Nuclear Management Company, LLC (NMC) to the NRC's April 29, 2003, Order for Compensatory Measures Related to Fitness-For-Duty Enhancements Applicable to Nuclear Facility Security Force Personnel (EA-03-038) ("Order").

Pursuant to the NRC letter, this letter supplements NMC's response. This letter also contains a request for relief pursuant to Section III of the Order (as discussed below) which permits the Director, Office of Nuclear Reactor Regulation, to "relax or rescind any of the above conditions upon demonstration by the Licensee of good cause."

Answer and Response:

NMC consents to the Order and does not request a hearing as allowed for in Section IV. NMC has started implementing the requirements of Attachment 2 to the Order and, as indicated in NMC's response dated June 3, 2003, implementation is scheduled to be completed by October 29, 2003, as required by Section III.A and C.1 of the Order. At this time, NMC knows of no matters about which the Commission must be notified pursuant to Section III.B.1 or B.2 of the Order, but will promptly notify the Commission if any such matters arise in NMC's further implementation of the Order.

Basis for the Order:

NMC appreciates the NRC providing the basis for the Order as requested in NMC's submittal of June 3, 2003, to enable NMC to more fully understand the NRC's intent in promulgating the Order. However, after reviewing the basis provided in Enclosure 1 to the NRC letter, NMC does not believe that the rationale appropriately supports many of the requirements established by the Order. Working through the Nuclear Energy Institute (NEI), NMC intends to continue discussions with the NRC to bring greater clarity to those matters to ensure that the implications of the Order and related issues are fully addressed, including how they might apply in the broader context of revisions to 10 CFR Part 26.

Request for Relief Pursuant to the Order:

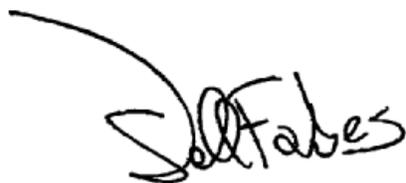
Section 4 of the NRC letter states that licensees must include shift turnover time in the calculation of group work-hour controls. NMC believes that this interpretation of the Order's requirements does not promote safety or prevent fatigue, deviates from the precedent established in Generic Letter 82-12, Nuclear Power Plant Staff Work Hours, and in the context of implementing the other requirements of the Order, its application will be unnecessarily burdensome. Therefore, pursuant to the provisions of Section III of the Order, and consistent with the Staff Requirements Memorandum to William D. Travers dated March 31, 2003, NMC hereby requests that the Director, Office of Nuclear Reactor Regulation rescind the interpretation in the NRC letter that shift turnover time must be included in the calculation of group work-hour controls. The enclosure to this document provides a more detailed explanation that NMC believes constitutes the good cause basis upon which the requested relief should be granted.

Further, NMC requests that the Director, Office of Nuclear Reactor Regulation, pursuant to Section III of the Order, relax the application of the group work-hour controls during the preparation for and conduct of pilot force-on-force exercises. The pilot force-on-force exercises conducted to date demonstrate that an extraordinary amount of time is involved in preparing for and conducting those exercises. The pilot force-on-force exercises are by their very nature developmental and are occurring during the same period of time as licensees are implementing the other April 29, 2003, security-related orders. Thus, there is good cause for relaxing the group work-hour control requirements.

Exercise of Enforcement Discretion:

Finally, NMC hereby confirms its understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order. NMC further understands that the Commission will exercise enforcement discretion for the period necessary to resolve such issues and to integrate the requirements of the Order with the other Orders issued April 29, 2003, and February 25, 2002, as well as with other pertinent regulatory requirements, and NMC's safeguards contingency plans, security plans and security officer training and qualification plans.

This letter reiterates the commitment NMC made in its June 3, 2003, response to achieve compliance with all applicable requirements of the Order by October 29, 2003. This letter makes no new commitments.

A handwritten signature in black ink, appearing to read "Jeff Forbes". The signature is written in a cursive, somewhat stylized font. A long, sweeping line starts from the top left and curves over the name.

Jeffrey S. Forbes
Senior Vice President
Nuclear Management Company, LLC

Enclosure

CC: Regional Administrator, USNRC, Region III
Project Managers - Duane Arnold Energy Center, Kewaunee Nuclear Power Plant,
Monticello Nuclear Generating Plant, Palisades Nuclear Plant, Point Beach
Nuclear Plant, Prairie Island Nuclear Generating Plant
NRC Resident Inspectors - Duane Arnold Energy Center, Kewaunee Nuclear
Power Plant, Monticello Nuclear Generating Plant, Palisades Nuclear Plant, Point
Beach Nuclear Plant, Prairie Island Nuclear Generating Plant

NUCLEAR MANAGEMENT COMPANY, LLC

Duane Arnold Energy Center
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RATIONALE FOR NOT INCLUDING TURNOVER TIME IN
GROUP WORK-HOUR LIMITS

2 pages follow

RATIONALE FOR NOT INCLUDING TURNOVER TIME IN GROUP WORK-HOUR LIMITS

SAFETY IMPLICATIONS

As discussed in Section 3 of Enclosure 1 to the NRC letter of July 10, 2003, the Order appropriately excluded shift turnover time in the calculation of individual work-hour limits to avoid a potential unintended consequence with safety implications (i.e., an individual might rush the turnover process to ensure that he or she complied with the individual work-hour limits). NMC understands that issues related to management of shift turnover were extensively discussed in public meetings held as part of the 10 CFR 26 rulemaking process, and there was broad agreement that such a possibility could have potential safety implications that should be avoided. The same concerns support the exclusion of shift turnover time in the calculation of group work-hour controls.

MONITORING METRIC

NMC also understands the content of an appropriate mechanism for monitoring total hours worked to meet the group work-hour conditions was discussed extensively in the public meetings conducted as part of the 10 CFR 26 rulemaking process. The goal is to provide licensee management, and the NRC, with an indicator that would provide an early indication if an inadequate staffing situation were to occur. Such a metric should be well defined, straightforward in its implementation, provide meaningful results, and not be unnecessarily burdensome.

There has been broad agreement that some simplifications are necessary to establish an efficient and effective metric. Appropriate simplifications include the exclusion of individuals who work less than 75% of their scheduled time during a six-week monitoring period, the inclusion of meal time and breaks that occur during a shift, and the exclusion of transit time to and from the plant. Consistent with the goal of developing a simple, but effective, metric, excluding turnover time would simplify the necessary calculations and improve the precision of the data collected. Conversely, including shift turnover times in the group work-hour data would add significant and unnecessary complications to the metric, even though turnover time would represent a numerically insignificant amount of the total group work-hours worked. This would be contrary to the goal of the metric.

CONSISTENCY OF DATA

To be meaningful, group work-hour limits should be able to be applied, and measured, consistently across the industry. However, if shift turnover was required to be included in the group work-hour limit, different licensees potentially would compute different hours worked for an individual working the same eight- or twelve-hour shift because different licensees have different shift turnover practices and recordkeeping systems. Further, plants on an eight-hour shift rotation would be penalized because they would have more shift turnovers each day, and thus significantly more cumulative time would

RATIONALE FOR NOT INCLUDING TURNOVER TIME IN GROUP WORK-HOUR LIMITS

be spent on shift turnovers. Such a result would make plant-to-plant and industry-wide comparisons far less useful.

RECORD-KEEPING BURDEN

The inclusion of shift turnover time will require that licensees calculate the hours that each individual worked twice, once for the calculation of individual limits, which would exclude shift turnover time, and a second time for the calculation of the group limits, which would be required to include shift turnover time. This imposes a clearly unwarranted record-keeping burden with no significant benefit.

CONCLUSION

The group work-hour controls established by the Order are intended to preclude significant amounts of overtime being worked by security officers over long periods of time by requiring licensees to ensure that they have hired and trained a large enough work force to support routine operations. This intent is clearly consistent with Generic Letter 82-12, Nuclear Power Plant Staff Work Hours, which states, "Enough plant personnel should be employed to maintain adequate shift coverage without routine heavy use of overtime." Generic Letter 82-12 has been in effect for more than twenty years and, with but a few exceptions, has been effective in achieving its purpose, and shift turnover time has never been included. Including shift turnover time in the evaluation of security force staffing would represent an insignificant amount of time in the context of total hours worked, but it would impose an unnecessary burden on licensees without any commensurate benefit. Finally, there is no logic that supports treating shift turnover time differently for group work-hour purposes than for individual work-hour limits.