

January 11, 2007

David Lochbaum
Director, Nuclear Safety Project
Union of Concerned Scientists
1707 H Street NW., Suite 600
Washington, DC 20006

Dear Mr. Lochbaum:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to your letter dated April 24, 2006, in which you asked four questions regarding security force personnel fatigue. The NRC shares your concern regarding the potential for fatigue-related impairment of licensees' security force personnel and whether such instances are being adequately entered into the corrective action program (CAP). As you know, the NRC issued Orders on April 29, 2003, to power plant owners to implement compensatory measures to address issues that may arise from work-hour-related fatigue of nuclear facility security force personnel. The work-hour-related Orders help to ensure that excessive work hours do not challenge the ability of nuclear power plant security personnel to remain vigilant and effectively perform their duties. As you are also aware, the NRC is nearing completion of a rulemaking to incorporate fatigue-related requirements in 10 CFR Part 26, "Fitness for Duty." Specific responses to your questions are provided below.

Q. 1. Is it the NRC's expectation that all its nuclear plant licensees would enter discovery of a security force member being asleep on duty into the corrective action program?

NRC Response:

Yes. A security guard asleep while fulfilling a requirement of the licensee's security plan would be a violation if that act effectively removes the person from the required number of responders in the security plan. One of the fundamental principles of the reactor oversight process is that licensees enter deficiencies into their CAP. Failure to fulfill a commitment in the security plan could result in a Notice of Violation. In assessing the appropriate action for such deficiencies, the NRC staff considers a number of factors including the adequacy of the corrective actions taken by the licensee.

Q. 2. If not, why not?

NRC Response:

As indicated above, the NRC expects licensees to enter such events into their CAPs. Further, NRC inspections indicate that licensees have entered such incidents into the CAP and initiate a condition report.

Q. 3. If so, how does the Reactor Oversight Process (ROP) handle situations where licensees are **not** entering such incidents into the corrective action program?

NRC Response:

As part of the ROP, if an inspector determines that a licensee has failed to enter such incidents into its CAP and the incident is determined to be more than minor, then the finding is documented in an inspection report to the licensee. NRC devotes a portion of its inspection resources to the assessment of the licensee's corrective action process through the implementation of the baseline and supplemental inspection programs. The inspection program requires inspectors to review documents (such as the security log), observe conditions, and interview personnel. An issue of significance recorded in the security log or identified by other means, but not entered into its CAP, and left uncorrected, may result in a significant finding, violation and expanded NRC inspection.

Q. 4. But what if a licensee is not entering an entire category of incidents—such as security force personnel falling asleep while on duty into the corrective action program? How do NRC inspectors using Inspection Procedure (IP) 71152 evaluate information **not** in the corrective action program but that should be in it?

NRC Response:

As discussed in the response to your previous question, the inspector can uncover issues that the licensee either has failed to identify or may not be documenting in its CAP. Through NRC's inspection process, the inspector reviews documents, directly observes conditions, and interviews personnel. In accordance with NRC IP 71152, Section 2.01, "Routine Review of Identification and Resolution of Problems," the inspector verifies "that equipment, human performance, and program issues are being identified by the licensee at an appropriate threshold and are being entered into the problem identification and resolution program." Also, while the NRC expects its licensees to implement an effective process for problem identification and resolution, a licensee or contractor employee might provide information to the inspector in the form of an allegation. This may result in inspector review of the licensee's process for resolving safety or security-related concerns.

I hope this information will be useful to you and addresses your concerns.

Sincerely,

Daniel H. Dorman, Director /RA/
Division of Security Operations
Office of Nuclear Security and Incident Response

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*see previous concurrence

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