



NUCLEAR ENERGY INSTITUTE

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August 12, 2008

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

Subject: Request for Appeal Meeting Concerning NRC Staff Interpretations of 10 CFR Part 26 Subpart I

Project Number: 689

Dear Mr. Leeds:

The industry and NRC staff has been working together for over 10 years in the development of a revised 10 CFR Part 26 rule. While there is no historical basis that shows fatigue has had an adverse impact on nuclear safety at operating US nuclear power facilities, the industry has supported the development of a regulation that manages fatigue during normal operating and outage periods to further ensure fatigue will not adversely impact safety. This letter requests a meeting between you and industry leadership to discuss the remaining issues and develop an appropriate agreement.

During the development of the final rule on revisions to Part 26 concerning Fitness-For-Duty including fatigue management, the Nuclear Energy Institute (NEI) and the industry Work Hours Task Force have been working with the NRC staff on implementation guidance. The industry received several constructive comments from the NRC staff on the industry implementation guide. The comments have been appropriately addressed by revisions to the implementation guide and Draft E has been submitted to the NRC staff for review and endorsement.

There are three substantial areas where the NRC staff and the industry working group have not been able to reach a consensus approach to rule requirements. A detailed presentation of each of the areas is attached. The most significant of these areas involves worker eligibility for outage minimum days off (MDO) restrictions at multi-unit stations. We understand the NRC staff position to be that at a minimum 1 reactor operator and 1 senior reactor operator at each operating unit control room will not be eligible for outage MDO.

We conducted a survey to assess the impact of the NRC staff's position. The industry survey indicated that a significant number of license operators across the nation at multiple unit stations would be impacted by this NRC staff position. On average, 12 licensed operators at dual-unit

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stations and 24 licensed operators at three-unit stations would be maintained on normal minimum days off requirements. These numbers are based on meeting rotating shift, relief and contingency requirements.

This NRC staff position will restrict 12 to 24 of the most highly trained and experienced personnel at a nuclear reactor site from participating in the full implementation of an outage schedule. This NRC staff position (1) will result in a significant negative impact on plant outage resources and/or schedule, (2) will lead to unequal distribution of work hours between operating unit and outage unit personnel, a violation of collective bargaining agreements at many utilities, and (3) could have a negative impact on nuclear safety.

We believe that this position is not required by the revised Part 26 rule and contradicts our goal to have the best available personnel working on all activities to support the health and safety of the public.

We appreciate your prompt attention to this request as we work together to reach a common understanding for implementation of the new rule requirements. If you have any questions, please contact me or Jack Roe (202-739-8138; jwr@nei.org).

Sincerely,

A handwritten signature in cursive script that reads "Alex Marion".

Alexander Marion

Enclosure

c: Mr. David T. Diec, U.S. Nuclear Regulatory Commission
Dr. Julius J. Persensky, U.S. Nuclear Regulatory Commission
Dr. David R. Desaulniers, U.S. Nuclear Regulatory Commission
Dr. Valerie E. Barnes, U.S. Nuclear Regulatory Commission
Mr. Yavor H. Ivanchev, U.S. Nuclear Regulatory Commission