

November 5, 2010

MEMORANDUM TO: Frederick D. Brown, Director
Division of Inspection and Regional Support
Office of Nuclear Reactor Regulation

FROM: Undine Shoop, Chief */RA by Kamishan Martin, Acting for/*
Health Physics and Human Performance Branch
Division of Inspection and Regional Support
Office of Nuclear Reactor Regulation

SUBJECT NOTICE OF PUBLIC MEETING TO DISCUSS PART 26, SUBPART I
IMPLEMENTATION TO UNDERSTAND UNINTENDED
CONSEQUENCES OF THE MINIMUM DAY OFF REQUIREMENTS

DATE & TIME: Thursday, November 18, 2010
9:00 a.m. – 4:00 p.m.

LOCATION: **Location to be determined**
Rockville, Maryland 20852

PURPOSE: The purpose of this meeting is to allow interested stakeholders an opportunity to provide the Nuclear Regulatory Commission (NRC) information regarding industry's implementation of Part 26, Subpart I as part of NRCs efforts to monitor implementation status including unintended consequences associated with implementing Subpart I, Managing Fatigue.

Interested stakeholders are asked to come prepared to discuss the following issues, identified in the Nuclear Energy Institute (NEI) Request for Enforcement Discretion regarding Minimum Day Off Provisions of 10 CFR Part 26, "Fitness-for-Duty Programs"

For the following activities:

- Licensed Operator Off-Shift Functions
- First Line Supervisor Impacts
- Maintenance Impacts
- Quality of Life Impacts

CONTACT: Michael Boggi, NRR/DIRS
301-415-5309

Please discuss the following:

- How the activity is tied to safety or security
- A description of the unintended consequences and how the minimum day off requirements brought about the condition
- The extent of the stated condition
- How the requested enforcement discretion from the minimum day off requirements would mitigate the stated harm

In addition, for the following issues referenced in the NEI request for enforcement discretion, the staff will be prepared to discuss options for mitigation of the stated harm.

- Operations and Security Shift Manager Meetings
- Just-in-Time Training
- Management of Risk during an LCO (Limiting Condition for Operation)
- Certain Security Impacts

PARTICIPANTS:

NRC

B. Boger, NRR
Staff

Stakeholders

S. Bauer, NEI
General Public
Nuclear Power Reactor Licensees

CONTACT:

Michael Boggi, NRR/DIRS
301-415-5309

CATEGORY:

This is a category 3 meeting. The public is invited to participate in this meeting by providing comments and asking questions throughout the meeting.

ADMINISTRATIVE:

A telephone bridge line will be available to facilitate participation by interested stakeholders for this meeting. To participate via telephone, please call 877-918-5756. When prompted for a pass code, enter 40849#.

The NRC's Policy Statement, 'Enhancing Public Participation in NRC Meetings,' effective May 28, 2002, applies to this meeting. The policy statement may be found on the NRC Web Site, www.nrc.gov, and contains information regarding visitors and security.

Enclosure:

- (1) Public Meeting Agenda
- (2) NEI Request for Enforcement Discretion regarding Minimum Day Off Provisions of 10 CFR Part 26, "Fitness-for-Duty Programs"

Please discuss the following:

- How the activity is tied to safety or security
- A description of the unintended consequences and how the minimum day off requirements brought about the condition
- The extent of the stated condition
- How the requested enforcement discretion from the minimum day off requirements would mitigate the stated harm

In addition, for the following issues referenced in the NEI request for enforcement discretion, the staff will be prepared to discuss options for mitigation of the stated harm.

- Operations and Security Shift Manager Meetings
- Just-in-Time Training
- Management of Risk during an LCO (Limiting Condition for Operation)
- Certain Security Impacts

PARTICIPANTS:

NRC
B. Boger, NRR
Staff

Stakeholders
S. Bauer, NEI
General Public
Nuclear Power Reactor Licensees

CONTACT:

Michael Boggi, NRR/DIRS
301-415-5309

CATEGORY:

This is a category 3 meeting. The public is invited to participate in this meeting by providing comments and asking questions throughout the meeting.

ADMINISTRATIVE:

A telephone bridge line will be available to facilitate participation by interested stakeholders for this meeting. To participate via telephone, please call 877-918-5756. When prompted for a pass code, enter 40849#.

The NRC's Policy Statement, 'Enhancing Public Participation in NRC Meetings,' effective May 28, 2002, applies to this meeting. The policy statement may be found on the NRC Web Site, www.nrc.gov, and contains information regarding visitors and security.

Enclosure:

- (3) Public Meeting Agenda
- (4) NEI Request for Enforcement Discretion regarding Minimum Day Off Provisions of 10 CFR Part 26, "Fitness-for-Duty Programs"

DISTRIBUTION: See next page

ADAMS Accession No.: **ML103010347**

OFFICE	NRR/DIRS/IHPB	BC: NRR/DIRS/IHPB
NAME	MBoggi MB	UShoop KM for
DATE	11/05/2010	11/05/2010

Official Record Copy

DISTRIBUTION:

NRC

RidsNrrDirsResource
MAAshley
VBarnes
HBenowitz
MBoggi
BBoger
WChalk
DDesaulniers
CERlanger
GGulla
LHall
PHarris
SHelton
TInverso
DKi
MLemoncelli
CLui
KMartin
BPalagi
SPeters
TReed
MShannon
JShehee
Ushoop
JTrapp

Stakeholders

CAli
HAnderson
JArias
TArnold
JBauer
SBauer
PBemis

MBirch
BBirchell
DBrian
VBrown
MBryce
JButler
TByrne
KCarter
RCasey
JCastro
NChapman
NCoddington
JCollier
PDeflippi
DDrobnich
PFowler
MGiancini
MHale
GHalnon
JHansen
CHassler
MJaworsky
GKaegi
JKammer
TKing
KKingsley
SKirven
SKoen
TKoser
KLiefief
ALindsay
JLines
SLines
LMarabella
BMcCabe
RMcNiel

R.Meyer
DMiller
GMiller
DMullen
LNance
TNewkirk
MOKeefe
AOrr
VPancurar
JPinzon
BQuigley
DRaleigh
LRRippy
RRitzman
MRochester
THohe
BRooks
RRosa
MSalazar
MShaffer
CSisco
RSmith
WSmith
DSorfleet
KTaplett
GThu
TUnderwood
DVincent
TWallace
CWaltos
TWaselus
GWheeler
JWicks
MYun
JYunk
DZiebell

MEETING AGENDA FOR THE CATEGORY 3 PUBLIC MEETING
TO DISCUSS PART 26, SUBPART I IMPLEMENTATION

November 18, 2010; 9:00 a.m. – 4:00 p.m.
U.S. Nuclear Regulatory Commission
Location to be determined
Rockville, MD 20852-2738

The NRC staff is conducting this public meeting regarding implementation issues, including unintended consequences, and a request for enforcement discretion regarding 10 CFR Part 26, Subpart I, "Managing Fatigue."

9:00 a.m. – 9:15 a.m.	Welcome/introductions/meeting purpose
9:15 a.m. – 9:30 a.m.	NRC presentation on enforcement discretion
9:30 a.m. – 10:15 a.m.	NRC presentation
10:15 a.m. – 10:30 a.m.	Break
10:30 a.m. – 12:00 p.m.	Stakeholder presentations
12:00 p.m. – 1:00 p.m.	Lunch break
1:00 p.m. – 3:00 p.m.	Stakeholder presentations
3:00 p.m. – 3:55 p.m.	NRC presentation
3:55 p.m. – 4:00 p.m.	NRC closing remarks and adjournment



Anthony R. Pietrangelo
SENIOR VICE PRESIDENT
AND CHIEF NUCLEAR OFFICER

September 23, 2010

Mr. R. William Borchardt
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: Request for Enforcement Discretion regarding Minimum Days Off Provisions of 10 CFR Part 26, "Fitness-for-Duty Programs"

Project Number: 689

Dear Mr. Borchardt:

In October 2009, nuclear plant licensees began implementing Subpart I of 10 CFR Part 26, the revised fitness-for-duty rule. While the rule was intended to enhance safety by requiring actions to manage fatigue, compliance with the rule has impeded many safety-beneficial practices at plant sites, adversely impacted the quality of life of covered workers, and resulted in conflicts between rule requirements and represented bargaining unit agreements. On September 3, 2010, the Nuclear Energy Institute, on behalf of its members, submitted a Petition for Rulemaking, Docket Number PRM-26-5, further delineating the unintended consequences from complying with certain fatigue management provisions of Part 26 and seeking appropriate modification of the regulations. The purpose of this letter is to request that NRC exercise enforcement discretion from the minimum days off provisions of the rule as detailed below until the final disposition of our petition.

Specifically, we request that the NRC exercise enforcement discretion with regard to the minimum days off provisions at §26.205(d)(3), (4), (5), and (6) of 10 CFR Part 26, Subpart I provided that licensees conduct the review at §26.205(c)(1)(i) on a quarterly basis, consistent with our Petition for Rulemaking. This would provide the safety benefits of the rule that the minimum days off provisions were intended to achieve, i.e. establish maximum average work weeks in the range of 48-54 hours, but without the unintended consequences noted above.

September 23, 2010

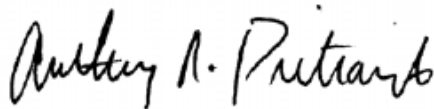
Page 2

Grant of this request would be consistent with the Commission practice of developing Interim Enforcement Policies. For example, in the past, in order to accommodate industry practice, the NRC adopted an Interim Enforcement Policy pertaining to certain requirements of 10 CFR Part 26 related to unescorted access. See "NRC Enforcement Policy," pp. 60-62. As in that case, grant of the enforcement discretion requested here would improve the efficiency of the regulatory process without interfering with the intended effect of the subject regulation.

It is requested that the enforcement discretion provision remain in place until final action is taken on the Petition for Rulemaking submitted by NEI. In that regard, NEI believes that grant of this request for enforcement discretion would in no way prejudice the merits of the subject Petition.

We appreciate your attention to this matter. If you have any questions concerning this request, please contact me at 202.739.8081; arp@nei.org or Scott Bauer at 202.739.8058; sab@nei.org.

Sincerely,



Anthony R. Pietrangelo

c: Chairman Gregory Jaczko
Commissioner Kristine Svinicki
Commissioner William Magwood
Commissioner William Ostendorff
Commissioner George Apostolakis
Mr. Eric Leeds, NRR, NRC
Mr. Roy Zimmerman, OE, NRC
Mr. Steve Burns, OGC, NRC