

Nuclear Regulatory Commission

10 CFR Part 26

Docket No. PRM-26-6

NRC-2010-0310

Erik Erb; Notice of Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received a petition for rulemaking (PRM) dated August 17, 2010, submitted by Erik Erb (the Petitioner) and 91 co-signers. The petition was docketed by the NRC on September 17, 2010, and has been assigned PRM-26-6. The petitioner requests that the NRC amend its regulations to decrease the minimum days off (MDO) requirement for security officers working 12-hour shifts from an average of 3 days per week to 2.5 or 2 days per week. The NRC is also requesting public comments on the PRM.

DATES: Submit comments by **(insert date 75 days from date of publication)**.

Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC-2010-0310 in the subject line of your comments. For instructions on submitting comments and accessing documents related to this action, see "Submitting Comments and Accessing Information" in the

SUPPLEMENTARY INFORMATION section of this document. You may submit comments by any one of the following methods.

Federal Rulemaking Web site: Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2010-0310. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1966.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852 between 7:30 a.m. and 4:15 p.m. during Federal workdays (telephone: 301-415-1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

FOR FURTHER INFORMATION CONTACT: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-492-3667, toll free: 800-368-5642, e-mail: Cindy.Bladey@nrc.gov.

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal Rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not

want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O-1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, then contact the NRC's PDR reference staff at 800-397-4209, or 301-415-4737, or by e-mail to PDR.Resource@nrc.gov. The ADAMS accession number for the petition is ML102630127.

Federal Rulemaking Web site: Public comments and supporting materials related to this action, including the petition for rulemaking, can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2010-0310.

Petitioner

The petitioner is Erik Erb, a nuclear security officer at Constellation's Nine Mile Point Nuclear Station in Oswego, New York. Mr. Erb has held this position since April

2004. The petition has 91 co-signers; most co-signers have identified their position as nuclear security officer or guard.

Background

Grounds for Action Requested

The Petitioner proposes that the NRC amend its regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, Subpart I, to decrease the MDO requirement for security officers working 12-hour shifts from an average of 3 days per week to 2.5 or 2 days per week. Specifically, the Petitioner claims that the MDO requirement of 3 days per week has led to unintended detrimental consequences at the Nine Mile Point facility.

The Petitioner states that the MDO requirement has reduced the amount of overtime available to security officers at Nine Mile Point. The Petitioner states that this may provide the impetus for security officers to seek additional part-time employment. The Petitioner claims that hours worked at another place of employment would most likely be unrecorded, unmonitored, and unreported to the licensee. The Petitioner states that security officers working additional part-time hours to supplement lost income would “seem to be counterproductive to the aim of the MDO requirement.”

The Petitioner states that officers who previously did not work much overtime must now “pick up the slack,” sometimes to the point of being forced to work overtime. The Petitioner also states that training sometimes has to be rescheduled or canceled, because the officers facilitating the training have reached their MDO mandate.

The Petitioner states that non-management/non-supervisor security chiefs have been impacted by the use of the fatigue software, EmpCenter, at the Nine Mile Point facility. The Petitioner claims that when an employee is asked to work overtime, the chiefs must use the software to determine whether that employee will exceed the MDO

requirement. The petitioner describes this extra step as a burden on the chiefs. According to the petition, the attention/focus of the chiefs is diverted by the need to coordinate with their supervisors in order to ensure compliance with the MDO requirement.

The Petitioner also claims that licensees have had to increase their staffing across affected departments, in part due to the MDO requirement, thus increasing their costs. The Petitioner claims that licensees may be required to pass these extra costs onto the rate payer. Alternatively, the Petitioner claims that licensees may explore the option of contract security as a cost-saving measure.

The Petition

The Petitioner requests that the NRC amend its regulations in 10 CFR Part 26, Subpart I, to decrease the MDO requirement for security officers working 12-hour shifts from an average of 3 days per week to 2.5 or 2 days per week. The Petitioner claims that such a decrease in MDO would (1) bring the requirement in line with MDO requirements for Operations, Maintenance, and other personnel subject to the MDO requirements; and (2) have a sizeable impact on alleviating some of the issues the MDO requirements have caused or may cause in the future.

Dated at Rockville, Maryland, this 17th day of November, 2010.

For the Nuclear Regulatory Commission.

/RA/

Annette L. Vietti-Cook,
Secretary of the Commission.