



Palo Verde Nuclear
Generating Station

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May 27, 2011

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

DOCKETED
USNRC

May 31, 2011 (7:57 am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Dear Sirs:

**Subject: Docket ID NRC-2011-0058
Palo Verde Nuclear Generating Station (PVNGS)
Units 1, 2, and 3
Docket Nos. STN 50-528/529/530
Comments on Proposed Rule – Alternative to Minimum Days Off
Requirements**

Federal Register Notice (76 FR 23208), dated April 26, 2011, provided an opportunity for public comment on the proposed rule related to the Alternative to Minimum Days Off Requirements associated with 10 CFR Part 26. The Enclosure to this letter provides the Arizona Public Service Company (APS) comments for the Palo Verde Nuclear Generating Station (PVNGS).

In addition to the generic industry comments provided by the Nuclear Energy Institute (NEI), APS is providing comments that may impact implementation of the alternative at PVNGS.

No commitments are being made to the NRC by this letter. Should you need further information regarding these comments, please contact Russell A. Stroud, Licensing Section Leader, at (623) 393-5111.

Sincerely,

TNW/RAS/CJS/gat

A member of the **STARS** (Strategic Teaming and Resource Sharing) Alliance

Callaway • Comanche Peak • Diablo Canyon • Palo Verde • San Onofre • South Texas • Wolf Creek

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Secretary, U.S. Nuclear Regulatory Commission
Comments on Proposed Rule – Alternative to Minimum Days Off Requirements

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Enclosure: PVNGS Comments on Proposed Rule – Alternative to Minimum
Days Off Requirements

cc: E. E. Collins Jr. NRC Region IV Regional Administrator (enclosure)
L. K. Gibson NRC NRR Project Manager for PVNGS (enclosure)
J. R. Hall NRC NRR Senior Project Manager (enclosure)
M. A. Brown NRC Senior Resident Inspector for PVNGS (enclosure)

ENCLOSURE

APS Comments on Proposed Rule
Alternative to Minimum Days Off Requirements

APS Comments on Proposed Rule – Alternative to Minimum Days Off Requirements

Introduction

Federal Register Notice (76 FR 23208), dated April 26, 2011, provided an opportunity for public comment on the proposed rule related to the Alternative to Minimum Days Off (MDO) Requirements of 10 CFR Part 26. This Enclosure provides the Arizona Public Service Company (APS) comments for the Palo Verde Nuclear Generating Station (PVNGS). In addition to the generic industry comments provided by the Nuclear Energy Institute (NEI), APS is providing comments that may impact implementation of the alternative at PVNGS.

Comment on the Proposed Rule

The staff analysis associated with the proposed rule is explicit in specifying adoption of one alternative for an entire site. The proposed rule language does not specifically reflect this position. The proposed rule simply requires that procedures clearly identify which provision is being used to ensure individuals comply with the cumulative fatigue provisions.

Licensees can specify which rule provision is being used programmatically on a covered work group basis. Plant procedures and management tools have the capacity to implement either alternative of cumulative fatigue management. Since both methods are effective in controlling cumulative fatigue, licensees should be able to select the method that works best for a given covered work group.

Split implementation (MDO vs. 54-hour weekly average) is reasonable because, for example, the 54-hour average alternative is better suited to operations leadership than the MDO provisions (which may be better suited for maintenance), it restores the long-standing safety beneficial practice of Shift Manager Meetings, and it effectively manages cumulative fatigue. As described in the implementation issues discussion that follows, not allowing split implementation may have the effect of delaying the restoration of the long-standing safety beneficial practices by approximately one year.

The relevant proposed rule language is as follows (emphasis added):

(d)(3) Licensees shall ***either*** ensure that ***individuals have***, at a minimum, the number of days off specified in this paragraph, ***or*** comply with the requirements for maximum average work hours in § 26.205(d)(7). For the purposes of this section, a day off is defined as a calendar day during which an individual does not start a work shift. For the purposes of calculating the average number of days off required in this paragraph, the duration of the shift cycle may not exceed 6 weeks.

(d)(7) Licensees may, as an alternative to complying with the minimum days off requirements in § 26.205(d)(3), comply with the requirements for maximum average work hours in this paragraph. Licensees voluntarily choosing to comply with the alternative maximum average work hours requirements in this paragraph are not relieved from complying with all other requirements in § 26.205 other than § 26.205(d)(3).

APS Comments on Proposed Rule – Alternative to Minimum Days Off Requirements

(i) **Individuals** may not work more than a weekly average of 54 hours, calculated using a rolling period of up to six (6) weeks, which rolls by no more than 7 consecutive calendar days at any time.

(ii) Each licensee shall state, in its FFD policy and procedures required by § 26.27 and § 26.203(a) and (b), **with which requirements the licensee is complying**: the minimum days off requirements in § 26.205(d)(3) **or** maximum average work hours requirements in § 26.205(d)(7).

A specific clarifying comment could be that (d)(7)(ii) have a phrase added at the end that reads: **"for each covered group."**

Implementation Issues

The industry is interested in restoring long-standing safety beneficial practices, such as Shift Manager Meetings. In order to accelerate implementation of these practices, licensees may use the published enforcement discretion (76 FR 22802, dated April 25, 2011) in preparation for transitioning to the final rule when issued.

Licensees use software to implement the existing work hour controls. The current software, while consistent with the existing rule MDO requirements, is not yet adapted to the proposed rule alternative (i.e., 54-hour weekly average, calculated over a floating 6 week cycle). Implementation of the alternative, in advance of the software development, requires a separate management tracking tool (e.g., database program or manual tracking methods). In addition, any MDO violations the existing software may identify while implementing the alternative would have to be addressed. It is impractical for most licensees to transition to the alternative, site-wide, prior to the existing software being adapted to the alternative described in the proposed rule.

The NRC staff analysis published with the proposed rule does not permit split implementation (i.e., by covered work group) of the alternatives at a given site. The enforcement discretion is not so proscriptive. The staff analysis is, therefore, not consistent with the enforcement discretion and the text of the proposed rule. If the final rule is enforced to preclude split implementation, any licensee that used split implementation under the enforcement discretion would have to revert back to the MDO rules, until the software was adapted site-wide. This would likely stop the safety beneficial practice of Shift Manager Meetings, for example, for that site.

The NRC is expected to issue the final rule before the implementing software is available. If the final rule permits split implementation of the alternatives for a given site, then licensees that have used split implementation under the enforcement discretion would be able to continue, while awaiting the site-wide fatigue management software update. The effect of not permitting split implementation may be a delay in the restoration of safety beneficial practices, such as Shift Managers Meetings, by approximately one year.

Rulemaking Comments

From: Carl.Stephenson@aps.com
Sent: Friday, May 27, 2011 7:06 PM
To: Rulemaking Comments
Cc: Russell.Stroud@aps.com
Subject: Comments on Proposed Rule - Alternative to Minimum Days Off Requirements
Attachments: 10206365 external Comments on Proposed Rule - MDO Alternative.pdf

Attached is the APS comments on the proposed rule, published in the Federal Register on April 26, 2011 (76 FR 23208).

Carl Stephenson
(623) 393-5760