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**Cc:** [Lashley, Phil H.](#); [McCreary, Dave M \(EH\)](#)  
**Subject:** Verbal Beaver Valley Part 26 Exemption- Delivered 4/18/20 at 7:00 p.m.  
**Date:** Saturday, April 18, 2020 7:23:00 PM

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Good evening Mr. Penfield,  
Please find below a written documentation of the verbal exemption to Part 26 that NRC provided this evening (4/18/2020). This email will be made publicly available and will be followed up with a written response next week.

Please contact me with questions or concerns.

Thanks!  
-Jenny

**Participants:**

<u>NRC</u>	<u>Energy Harbor</u>
Craig Erlanger	Rod Penfield
James Danna	Phil Lashley
Jenny Tobin	Kathy Nevins
	Julie Hartig
	Robert Kristophel
	Steve Sawtschenko

VERBAL AUTHORIZATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION  
PART 26 WORK HOURS EXEMPTION  
BEAVER VALLEY POWER STATION, UNITS 1 AND 2  
ENERGY HARBOR NUCLEAR CORP.  
DOCKET NUMBERS 50-334 AND 50-412  
APRIL 18, 2020

On April 18, 2020, while at 100 percent power (Unit 1) and 0 percent power (Unit 2), Energy Harbor Nuclear Corp. identified a need for an exemption from the requirements of 10 CFR 26.205(d)(1) through (d)(7). This need was communicated by Rod L. Penfield to the plant Project Manager via e-mail dated April 18, 2020.

My name is Craig Erlanger, the Director of the Division of Operating Reactor Licensing. In consultation with the relevant NRC technical branches, I make the following findings.

The U.S. Nuclear Regulatory Commission (NRC) has approved the requested exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, "Fitness for Duty Programs," Section 26.205, "Work hours." This action is in response to your application dated April 18, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20109A008), which cited the March 28, 2020 (ADAMS Accession No. ML20087P237), letter from Mr. Ho Nieh describing a process to request expedited review of certain exemptions from 10 CFR Part 26 during the COVID-19 Public Health Emergency (PHE).

In your letter, you provided the following information:

- A statement that you can no longer meet the work-hour controls of 10 CFR 26.205(d) for certain positions;
- A list of positions for which you will maintain current work-hour controls under 10 CFR 26.205(d)(1)-(d)(7);
- The date and time when you will begin implementing site-specific COVID-19 PHE fatigue-management controls for personnel specified in 10 CFR 26.4(a);
- A statement that your site-specific COVID-19 fatigue-management controls are consistent with the constraints outlined in the March 28, 2020, letter; and
- A statement that you have established alternative controls for the management of fatigue during the period of the exemption and, at a minimum, the controls ensure that, for individuals subject to these alternative controls:
  - Individuals will not work more than 16 work hours in any 24-hour period and not more than 86 work hours in any 7-day period, excluding shift turnover;
  - A minimum 10-hour break is provided between successive work periods;
  - 12-hour shifts are limited to not more than 14 consecutive days;
  - A minimum of 6 days off are provided in any 30-day period; and
  - Requirements have been established for behavioral observation and self-declaration during the period of the exemption.

Therefore, the NRC finds that the technical basis for an exemption described in the March 28, 2020, letter is applicable to your specific request.

Section 26.9, "Specific exemptions," allows the NRC to grant exemptions from the requirements of 10 CFR Part 26. The NRC staff has determined that granting the licensee's requested exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest.

The underlying purpose of 10 CFR 26.205(d) is to prevent impairment from fatigue due to duration, frequency, or sequestering of successive shifts. Based on the evaluation provided in the NRC's March 28, 2020, letter and the criteria discussed above, no new accident precursors are created by utilizing whatever licensee staff resources may be necessary or available during the term of this exemption to respond to a plant emergency and to ensure that the plant maintains a safe and secure status. Therefore, the probability of postulated accidents is not increased. Also, the consequences of postulated accidents are not increased because there is no change in the types of accidents previously evaluated. The requested exemption would allow the utilization of licensee staff resources as may be necessary to maintain safe operation of the plant and to respond to a plant emergency. Therefore, the NRC finds that there is no undue risk to public health and safety from granting the requested exemption.

The requested exemption would allow the utilization of licensee security staff resources as may be necessary to ensure the common defense and security. Therefore, the NRC finds

that there is no impact on common defense and security from granting the requested exemption.

Due to the impacts that the COVID-19 PHE has had on the licensee's ability to comply with the work hour controls of 10 CFR 26.205(d), the importance of maintaining the operations of the Beaver Valley Power Station, Units 1 and 2, and the controls the licensee has established, the NRC finds that granting the requested exemption is in the public interest.

NRC approval of this exemption request is categorically excluded under 10 CFR 51.22(c) (25)(vi)(I), and there are no extraordinary circumstances present that would preclude reliance on this exclusion. The NRC staff has determined that approval of this exemption involves no significant hazards consideration; no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; no significant increase in individual or cumulative public or occupational radiation exposure; no significant construction impact; and no significant increase in the potential for or consequences from radiological accidents. In addition, the NRC staff has determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. As such, there are no extraordinary circumstances present that would preclude reliance on this categorical exclusion. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption.

Based on the above, the NRC staff finds that (1) the exemption is authorized by law, (2) the exemption will not endanger life or property or the common defense and security, and (3) the exemption is otherwise in the public interest.

This exemption is effective until 12:00 a.m. on June 18, 2020.

All other requirements of the code, for which an exemption was not specifically requested and authorized by the NRC staff remain applicable.

This verbal authorization does not preclude the NRC staff from asking additional clarification questions regarding the proposed alternative, while preparing the subsequent written evaluation.