



UNITED STATES
NUCLEAR REGULATORY COMMISSION
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PLEASE RESPOND BY:
April 20, 2023

COMAXC-23-0001

April 6, 2023

MEMORANDUM TO: Chair Hanson
Commissioner Baran
Commissioner Wright
Commissioner Crowell

FROM: Commissioner Caputo 

SUBJECT: ENABLING THE MISSION - A MEASURED APPROACH TO THE
FUTURE OF WORK

SUMMARY

The U.S. Nuclear Regulatory Commission (NRC) is facing a range of near-term challenges in the execution of its safety and security mission. The most high-profile of these is the readiness and ability to review advanced reactor and possibly fusion applications. The agency is also in the midst of a workforce transition that will require significant efforts to hire, train, and integrate a sizeable segment of new employees. In addition to the ongoing licensing and oversight of operating reactors, existing licensees are likely to pursue increasing numbers of license extensions and power uprates spurred by the improved economics of nuclear energy.¹ Lastly, as nuclear fuel needs grow and change, there will be increased licensing needs in this sector also. The NRC needs to become more focused, efficient, and innovative to meet these challenges.

Telework, if implemented as NRC staff plans suggest, will substantially alter how the NRC executes its work and interacts externally. As such, the long-term ramifications for the agency's workforce, for its mission execution and performance, and for external stakeholders are significant. Once made, this decision will be extremely difficult to revisit. A well developed and documented plan based on evidence, and meaningful and measurable performance indicators is crucial to support a sound decision. This is also a decision that should be transparent both to employees and external stakeholders. It is for these reasons that I believe that the Commission must engage, provide direction, and require approval regarding workplace flexibility policies.

DISCUSSION

The NRC staff faced numerous challenges during the 2020 public health emergency and did so with courage, cooperation, empathy for fellow employees, and dedication to the mission. Since

¹ See Letter from Dr. Jennifer Uhle, Nuclear Energy Institute, to Brooke Clark, NRC, "Industry Comments on Fiscal Year 2023 Proposed Fee Rule (NRC Docket ID NRC-2021-0024)," at 3 (Mar. 31, 2023) (ADAMS Accession No. ML23093A188).

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the agency's re-entry date of November 7, 2021, the NRC staff has largely been in an increased telework posture when compared to the posture prior to the public health emergency. In a recent report to Congress on the status of telework in the federal government, the Director of the Office of Personnel Management (OPM) noted that while workplace flexibilities must be embraced, decisions about telework must support the mission.² To be clear, I support workplace flexibilities, including telework, but enabling successful mission execution must remain the primary goal regardless of where employees work.

The agency has an opportunity to challenge ourselves and innovate how we manage and implement our workplace flexibilities. However, insufficient planning and foresight during and after re-entry has resulted in formation of multiple working groups,³ subsequent pivots, lack of clarity among the staff about the agency's plans, and abandonment of a telework pilot, altogether creating continuing uncertainty about the path forward, eroding trust, and potentially compromising the agency's organizational health.⁴ Enabling the mission – at its core – means ensuring employees understand what is expected of them and providing them with flexible tools and guidance to accomplish their functions, paired with active leaders who build appropriate strategies and plans, holding themselves accountable to staff and stakeholders.

On February 21, 2023, the Executive Director for Operations held a town hall meeting for agency employees "dedicated to discussing [staff leadership's] plans for piloting a more flexible work model" and announced that a one-year pilot, as recommended by the Telework Policy and Implementation Working Group, would be initiated in May 2023.⁵ This decision has since been

² OPM, "Status of Telework in the Federal Government Report to Congress" (Dec. 2022), <https://www.telework.gov/reports-studies/reports-to-congress/2022-report-to-congress.pdf>.

³ The Executive Director for Operations tasked the formation of two working groups in 2022 to study telework and hybrid work models. The Hybrid Environment Assessment and Review Team was formed in April 2022 to "provide recommendations to agency senior leadership on how to optimize organizational health in a hybrid work environment, now and in the future." "Hybrid Environment Assessment and Review Team Final Report," at 2 (Sept. 2022) (ML22271A894 (package)) (non-public) (HEART Report). In July 2022, senior staff leadership formed the Telework Policy and Implementation Working Group to assess the NRC's telework policy and its implementation. This working group's final report contained several recommendations separated into a two-phase pilot. "U.S. Nuclear Regulatory Commission Telework Policy and Implementation Working Group Final Report" (Oct. 2022) (ML22300A218) (non-public) (TPIWG Report).

⁴

[REDACTED] Indeed, one of the agency-level objectives and key results for 2023 is to "[f]oster a healthy organizational culture in which the workforce is engaged, adaptable, and receptive to change and makes data-driven and evidence-based decisions." SECY-23-0008, "Agency-Level Objectives and Key Results for Calendar Year 2023," at 3 (Jan. 30, 2023) (ML22353A016).

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rejected in favor of permanent, agency-wide implementation.⁶ Staff leadership now seeks to permanently implement “Presence with Purpose,”⁷ which presumes staff willingness to work in-person in excess of an approved telework agreement when asked by a supervisor. This is in combination with delegating additional authority to supervisors to approve telework agreements up to 80 percent telework, 20 percent in office (i.e., two in-office days per pay period).⁸ The practical implementation and ramifications of these changes, while well-intentioned, are unclear. Any decision to proceed should have a strong analytical foundation of meaningful performance metrics with a clear and actionable plan to support timely execution of the current and future of work. Despite the direct impact to our employees and our stakeholders, an in-depth strategy has not been presented that ensures the agency is accountable to its supervisors, staff, and the success of the mission.

While administrative functions are typically delegated to the Executive Director for Operations, policy and budget formulation lies within the responsibilities of the Commission.⁹ Performance indicators and other indicators required by the Government Performance and Results Act Modernization Act of 2010 are also within the purview of the Commission.¹⁰ To date, the plans presented by staff management do not contain meaningful metrics to measure the success of the telework program or the agency’s productivity. Rather, staff leadership states that it intends to primarily use the Quarterly Performance Review process to perform an assessment of the flexible work model in concert with survey results used to monitor organization health and stakeholder confidence. The Commission is not engaged in Quarterly Performance Review

⁶ In March 2023, the staff informed the Commission in response to questions that staff leadership was not pursuing a two-phased piloted approach, whereby data could be gathered about the presence with purpose guidance and the impacts of changes to the telework policy and implementation to organizational health, and instead, was pursuing plans to institute a permanent change to the agency’s work model.

⁷ Presence with Purpose is a philosophy that is not constructed to hold management or staff accountable nor is it a performance-based manner for staff to anticipate outcomes both now and in the future. See HEART Report at 9-11. It “emphasizes being intentional about connection and flexible regarding location of where work is performed.” TPIWG Report at 21; see also HEART Report at 9, 17. The Telework Policy and Implementation Working Group notes that “[i]n-person interactions should be considered for connection, collaboration, creation, and celebration. TPIWG Report at 21; see also HEART Report at 9.

⁸ The Telework Policy and Implementation Working Group recommended that such an approach be piloted for one year. As recommended, Phase 1 would pilot a reduction in the minimum number of in-office days from four to two per pay period, with supervisors having the discretion and authority to exceed the two-day minimum in order to “support necessary in-person [Presence with Purpose] activities.” TPIWG Report at 8-10. Phase 2 would pilot the minimum amount of fixed in-person days to twice per month. TPIWG Report at 8, 14-17. At the conclusion of Phase 2, the working group “recommended the NRC complete a post-pilot assessment to determine a path forward for the agency’s teleworking policy, appropriately informed by the pilot results.” TPIWG Report at 8, 17.

⁹ See Energy Reorganization Plan No. 1 of 1980, at § 1(a); see also Internal Commission Procedures, Chapter I, Commission Responsibilities, at 1 (ML16112A099). Telework policy development and implementation has been further delegated from the Executive Director of Operations to the Chief Human Capital Officer. See Management Directive 10.166, “Telework,” at 2-3 (July 13, 2017) (ML18073A302).

¹⁰ See Management Directive and Handbook 6.9, “Performance Management,” at 3 (Aug. 15, 2016) (ML18073A261). Inconsistent with this Management Directive, the Commission was not afforded the opportunity to make changes and approve the Annual Performance Plan and Report.

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meetings nor invited to them, lacking the ability to discern the success of the work model in a transparent and timely manner. Further, the data on the Quarterly Performance review dashboard is largely retrospective. Hence, staff leadership is unlikely to recognize a problem until after it manifests.

In order to determine whether changes to the agency's work model prove to be successful, there must be meaningful metrics by which to measure such success. Staff leadership's current draft plans do not effectively address how it will measure or address the potential impacts of its change to the agency's work model on knowledge management, retention, and recruiting. Among the challenges identified by the Telework Policy and Implementation Working Group was the impact that "further reducing the amount of in-person presence for the telework baseline" would have on "the agency's ability to recruit and retain staff" for positions where the work would not support an increase in the amount of telework, such as headquarters operations officers or resident inspectors.¹¹ The main goal of the telework pilot, as communicated by staff leadership in its February 2023 town hall, was to gather data to make an informed decision about permanent changes to the agency's work model.¹² Nonetheless, for reasons that are unclear, staff leadership has chosen to discard the pilot that would gather data staff leadership once believed necessary, to instead proceed with permanent changes to the agency's work model that could have far reaching, long-term impacts to agency staff and stakeholders.

On March 27, 2023, at the Commission's request, staff leadership provided drafts of its Presence with Purpose Framework Guidance and Flexible Work Model Implementation Guidance. After reviewing these documents, I remain concerned that the current Presence with Purpose approach is not consistent and actionable¹³ and that the current draft guidance lacks evidence and a data-driven process with the necessary specificity to measure progress and performance. For example, the staff's draft Presence with Purpose Framework Guidance lists public meetings with licensees or applicants as an activity that *could* benefit from in-person presence rather than work that *requires* in-person presence. Thus, each supervisor would be left to decide on a case-by-case basis from meeting to meeting whether to request their staff to be present in-person for meetings with the public, licensees, or applicants. Such guidance potentially results in inconsistent application among supervisors and creates uncertainty for staff. It would also create uncertainty for the public, licensees, and applicants about whether the majority of staff will be virtual or in-person for public meetings.

¹¹ TPIWG Report at 10, 50.

¹² Staff leadership communicated in the February 2023 town hall that the [REDACTED]

Additionally, staff leadership noted that as part of the pilot, [REDACTED]

[REDACTED] The Executive Director for Operations recognized in town hall that [REDACTED]

¹³ The Hybrid Environment Assessment and Review Team recognized "that the greatest challenge [to Presence with Purpose] would be managing consistency when determination of in-person presence is delegated to immediate supervisors." HEART Report at 11; see also TPIWG Report at 51. The Telework Policy and Implementation Working Group recommended "closely monitoring/measuring the pilot to ensure that work schedules and [Presence with Purpose] are implemented consistent with organizational needs." TPIWG Report at 51.

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An inconsistent application of Presence with Purpose or telework schedules could lead to an erosion of trust between both staff and management, with a potential to have a detrimental impact to our organizational health and to stakeholder confidence. Staff leadership's draft plans and guidance should have addressed: (1) evidence-based justification regarding its decision to reject a pilot; (2) meaningful performance measures and monitoring; and (3) consideration for unintended consequences (e.g., recruitment and retention; Resident Inspector, Intelligence Analysts, and Headquarters Operations Officer programs; office space and services; knowledge management; and accountability). Staff's plans should also have identified the conditions under which a change to the work model would be warranted.

A well developed and documented plan based on data is critical for the success of the agency. The number of pivots and false starts is indicative of attempting to proceed without a solid foundation of evidence and analysis as a sound basis for decision-making. In my view, the lack of a decision since re-entry and miscommunication by staff leadership now compels the Commission to act. We should not allow additional scrambling, ambiguity, and false starts. Frankly, our employees deserve better, and our decisions should be transparent to our employees, stakeholders, and the public. As leaders of this agency, we must ensure that innovation in workplace flexibilities is grounded in evidence and sound analysis and accompanied by data-driven plans and actionable guidance. The future of our work and our workforce rests with us.

CONCLUSION AND PROPOSED STAFF DIRECTION

It is incumbent upon the agency to plan for success in our ability to meet our safety and security mission both now and in the future. This success lies with our workforce and our organizational culture. It would be a disservice to our highly skilled and dedicated workforce not to have a sufficient strategy to enable successful mission execution. However, telework effectiveness will require clear implementation guidance and proper support of supervisors to ensure fair and consistent application of telework decisions. All employees and our stakeholders deserve transparency about how decisions around telework schedules are made, how the success of the telework program will be measured, and the decision criteria that would trigger changes to the telework program. The agency must implement clear guidance to enable successful mission execution and foster trust with NRC employees.

To be clear, I support workplace flexibility, view it as a beneficial tool, and appreciate that telework has been and will continue to be leveraged by the agency in the future. However, telework does not relinquish the agency of its obligation to taxpayers, licensees, applicants, and other stakeholders to make transparent, efficient, risk-informed, and data-driven decisions. It is crucial that the agency foster a culture of innovation, collaboration, and effective decision-making regardless of the telework posture. Thus, it is just as important to measure the agency's productivity as it is to measure the telework program's success. I believe the Commission should exercise its prerogative on telework policy. Accordingly, I propose that:

The staff should provide a notation vote paper for the Commission with telework policy options. In the paper, the staff should address considerations regarding telework and include a strategy focused on the following:

1. Propose revisions to the policy including resource implications;

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2. Gather and analyze data to inform decision-making, implementation, and monitoring regarding impacts to: recruitment and retention; Resident Inspector, Intelligence Analysts, and Headquarters Operations Officer programs; training and knowledge management; organizational health; office space; and productivity and performance;
3. Engage with licensees, applicants, and other stakeholders to gather feedback regarding the implications for interactions with the agency; and
4. Develop critical factors that impact mission delivery and criteria for determining when a detailed reevaluation and possible modification of the telework program might be required.

SECY, please track.

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