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OFFICE OF SECRETARY
RULEMAKINGS AND ADJUDICATIONS STAFF

Ms. Annette L. Vietti-Cook
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Attention: Rulemaking and Adjudications Staff

Re: Comments on Petition for Rulemaking 26-2

Recently I had conversations with different people in different settings regarding my proposed rulemaking on fatigue. I also know that their misconceptions have been provided to the NRC. Please accept this letter as a comment on PRM 26-2. Also note that the public comment period ended on February 14, 2000. It is NRC policy to consider comments received after the closure date if it is practical to do so. I believe in this case since only 2 weeks have elapsed since the closure of the comment period in what is going to be a very long process, consideration of my comments will impose little burden on NRC resources or schedule. Additionally, my comments are more than a simple 'affirmation' or 'opposition' since they provide detail and logic that has a direct bearing on the proposed rulemaking. If this comment will not be considered in the PRM, please let me know.

The reliance and trust being placed on supervisory oversight to detect impairment or fatigue is way out of kilter with the reality of how things work. People in Washington D.C. are far removed for the day to day operation of plants; I'm there. Supervisor training does not always occur; it has been replaced by testing. For example, a recent annual generic exam contained only one question on how to identify abherrent behavior, it asked, "What type of behavior is it when you see someone sitting in the middle of the floor crying?" This in no way, shape or form qualifies a person to identify a fatigued or impaired worker. Reliance on observation may mean waiting for someone to make a mistake to show that he is impaired. This hardly seems to be the proactive approach the industry is always thumping its chest about.

Implicit in observation is that the supervisor is able to monitor the employees; in the control room this is not an issue. Monitoring of field employees is much less rigorous. Supervisors in the field are spread very thin and spend a good deal of their time 'fighting fires'; they go where the problems are. This does not assure observation until it's too late i.e., the impaired employee causes a problem. Some may try to take credit for meetings/briefings held at the beginning of the shift as observation. This is specious for two reasons, first the employee is not being observed in his normal work environment, second, he is being observed at the beginning of his shift when he has had the most rest. It's like taking Diesel Generator performance data at the beginning of a 24-hour surveillance run, instead of at the end. Of course it's a whole lot more likely to pass when you look at the beginning. Finally, some workers don't have supervisors! The new

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economics of de-regulation have caused some companies to stop paying overtime to supervisors. The supervisors in turn no longer come in on the weekends or backshifts. The end result is that health physics and chemistry technicians have NO supervision for entire shifts.

Are we really willing to risk nuclear safety to the handwaving, smoke and mirrors of training and observation?

An incredibly misleading statement is that few events are attributed to fatigue. This statement must be analyzed closely. Fatigue is a third-tier cause of an event. The first level is 'personnel error', the second level is 'personnel error due inattention to detail' and the third level is 'personnel error due inattention to detail caused by fatigue'. We don't see fatigue as causing an event simply because we don't look that deep. We stop at personnel error or inattention to detail; we never find out the higher tier causes. There are no events because we don't look hard enough. To rely on shallow or missing data to conclude that there is no problem with fatigue borders on irresponsibility.

Some maintain that current guidance on overtime is sufficient to prevent abuse. If this is true then why have the following abuses occurred?

- At least 10 reactors now exempt breaks, lunch, training, cleanup time and meetings from inclusion in the overtime figures. This allows fatigued workers to make bad decisions in meetings or causes them to fail to learn critical information.

- At a Region 2 plant, workers told their supervisors they were not fit for duty due to fatigue; this occurred 6 times in the last quarter of 1999. The operators were forced to work anyway. In at least one case, the person was the licensed operator of record for at least 12 hours.

- Operators who decline to work due to fatigue have had disciplinary letters placed in their personnel files.

- A West Coast plant planned an outage last fall that would require over 20 days straight of 12 hour shifts.

National Transportation Safety Board data should not be discounted; it is very relevant to nuclear power. A direct parallel can be drawn between the control room crews and the flight crews. Field operators, maintenance workers, engineers and technicians often work alone at boring tasks; the parallel for them in the NTSB data is the truck driver or train operator.

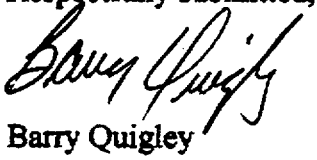
Per the backfit rule in 10CFR50, a backfit analysis is not required when the regulatory action involves defining or redefining what level of protection to the public health and safety or common defense and security should be regarded as adequate. Since the current rules for overtime could be the poster child for ambiguity while the proposed rules are a much better definition of protection, no backfit analysis is required.

Arguments relating to the potential expenses of implementation of the rule are misleading since they do not include the massive savings that would occur due to reductions in overtime.

Another potential problem that does not stand up to scrutiny is that the rule may cause unnecessary plant shutdowns due to the unavailability of specially trained personnel to repair safety-related systems. I have participated in several forced shutdowns, although demanding, I didn't find them to be unsafe. They are however not cheap. A plant that places themselves in the position where one or two key people are needed to keep a plant online suffers from abysmal resource management and deserves what they get. To prevent the shutdown, the plant could ask for a Notice of Enforcement Discretion.

Attempts to say that the current fitness for duty rule is adequate hinge on the advisory word 'should' in the general performance objectives. In late 1998, the NRC recognized the word 'should' as inadequate in the Maintenance Rule of 10CFR50. Rulemaking was begun to change the 'should' to a 'shall'. Why does the maintenance rule require more than the FFD rule?

Respectfully submitted,



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