June 10, 2004

MEMORANDUM TO: Cathy Haney, Program Director
Reactor Policy and Rulemaking Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

FROM: Dave Skeen, Section Chief ***/RA/***
Reactor Policy and Rulemaking Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

SUBJECT: NOTICE CONCERNING PUBLIC MEETING TO DISCUSS THE FITNESS-FOR-DUTY PROPOSED RULE INCLUDING WORKER FATIGUE PROVISIONS

DATE AND TIME: Wednesday & Thursday, July 7 & 8, 2004
8:30 A.M. - 5:30 P.M.

LOCATION: Ramada Inn, "Randolph Congressional" room
1775 Rockville Pike (Twinbrook metro stop)
Rockville, Maryland

PURPOSE: To obtain stakeholder feedback regarding the draft proposed 10 CFR Part 26 (Fitness-For-Duty) rule, including worker fatigue provisions for nuclear power plants. The meeting agenda is provided as Attachment 1, and a listing of notable changes to the draft proposed rule is provided as Attachment 2. Draft rule text will be placed at the NRC's rulemaking website on June 14:
http://ruleforum.llnl.gov/cgi-bin/library?source=*&library=Part26_risk_lib&file=*&st=risk
The draft rule text being posted on June 14 will not include the new provisions in Subpart I, "Managing Fatigue". The draft Subpart I text, as well as additional supporting documents for the public meeting, will be posted on the website listed above when available, but no later than Monday, June 28.

CATEGORY 2: This is a Category 2 meeting. The public is invited to participate in this meeting by discussing regulatory issues with the NRC at designated points during the meeting. Feedback forms will be made available. A meeting summary with the list of participants will be placed on the NRC's rulemaking website (see link above).

PARTICIPANTS:	NRC	STAKEHOLDERS
	R. Karas	J. Davis (NEI)
	D. Desaulniers	et al.
	G. West	
	T. McCune	
	B. Richter	
	J. Persensky	
	M. Rothschild	

A limited number of lines are available for interested members of the public to participate in this meeting via a toll-free teleconference. For details, please call one of the NRC meeting contacts listed below.

Attachments: As stated

cc w/att: See next page

CONTACTS: Dave Desaulniers, NRR
301-415-1043, DRD@NRC.GOV

Rebecca Karas, NRR (after June 27 only)
301-415-3711, RLK@NRC.GOV

DISTRIBUTION FOR MEETING NOTICE WITH STAKEHOLDERS ON JULY 7-8, 2004

Hard copy:
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RPRP r/f
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NAME	R. Karas		T. McCune		D. Desaulniers		D. Skeen	
DATE	6/10/04		6/10/04		6/10/04		6 /10/04	

"C" = Copy without enclosures **"E"** = Copy with enclosures **"N"** = No copy

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MEETING WITH STAKEHOLDERS TO DISCUSS THE DRAFT

FITNESS-FOR-DUTY (PART 26) PROPOSED RULE,

INCLUDING WORKER FATIGUE PROVISIONS FOR NUCLEAR POWER PLANTS

JULY 7 & 8, 2004

NOTE: For background documents, go to the NRC's rulemaking website at http://ruleforum.llnl.gov/cgi-bin/library?source=*&library=Part26_risk_lib&file=*&st=risk

JULY 7:

8:30 A.M.-8:45 A.M.	REGISTRATION
8:45 A.M.-9:00 A.M.	INTRODUCTIONS AND OPENING REMARKS • Purpose, need and objectives for the meeting. (NRC) • Format and procedures for participation in the meeting. (NRC) • Introductory remarks. (Stakeholders)
9:00 A.M.-9:15 A.M.	BACKGROUND • History of Part 26 rulemaking initiatives for the overall Part 26 revision and worker fatigue. (NRC) • Combination of Fatigue rulemaking with larger Part 26 rulemaking and schedule. (NRC) • Comments and questions. (Stakeholders)
9:15 A.M.-10:15 A.M.	NOTABLE CHANGES RELATED TO DRUG AND ALCOHOL TESTING PORTIONS OF THE DRAFT PROPOSED RULE SINCE LAST STAKEHOLDER MEETING • Discussion of Items 1-30 listed on Attachment 2. (NRC) • Comments and questions. (Stakeholders)
10:15 A.M.-10:30 A.M.	BREAK
10:30 A.M.-12:00 P.M.	CONTINUATION...NOTABLE CHANGES RELATED TO DRUG AND ALCOHOL TESTING PORTIONS OF THE DRAFT PROPOSED RULE SINCE LAST STAKEHOLDER MEETING • Discussion of Items 1-30 listed on Attachment 2. (NRC) • Comments and questions. (Stakeholders)
12:00 P.M.-1:00 P.M.	BREAK FOR LUNCH
1:00 P.M.-2:30 P.M.	CONTINUATION...NOTABLE CHANGES RELATED TO DRUG AND ALCOHOL TESTING PORTIONS OF THE DRAFT PROPOSED RULE SINCE LAST STAKEHOLDER MEETING • Discussion of Items 1-30 listed on Attachment 2. (NRC) • Comments and questions. (Stakeholders)
2:30 P.M.-2:45 P.M.	BREAK
2:45 P.M.-3:45 P.M.	COMMENTS AND QUESTIONS (STAKEHOLDERS) ON ANY OTHER DRAFT RULE LANGUAGE RELATED TO DRUG AND ALCOHOL TESTING PORTIONS OF THE DRAFT PROPOSED RULE • Comments and questions. (Stakeholders)
3:45 P.M.- 4:00 P.M.	BREAK

ATTACHMENT 1

4:00 P.M.-5:30 P.M. PRESENTATION AND DISCUSSION OF REGULATORY ANALYSIS & OMB CLEARANCE ASSUMPTIONS RELATED TO DRUG AND ALCOHOL TESTING PORTIONS OF THE DRAFT PROPOSED RULE
- Discussion of OMB Paperwork Reduction Act data. (NRC)
- Presentation of data assumptions in the draft Regulatory Analysis, and changes since last stakeholder meeting. (NRC)
- Comments and questions. (Stakeholders)

JULY 8:

8:30 A.M.-10:15 A.M. SUBPART I, MANAGING FATIGUE (ITEM 31 OF ATTACHMENT 2) - FOCUS ON CHANGES SINCE THE LAST FATIGUE STAKEHOLDER MEETING
- Discussion of Subpart I, Managing Fatigue. (NRC)
- Comments and questions. (Stakeholders)

10:15 A.M.-10:30 A.M. BREAK

10:30 A.M.-12:00 P.M. CONTINUATION...SUBPART I, MANAGING FATIGUE (ITEM 31 OF ATTACHMENT 2) - FOCUS ON CHANGES SINCE THE LAST FATIGUE STAKEHOLDER MEETING
- Discussion of Subpart I, Managing Fatigue. (NRC)
- Comments and questions. (Stakeholders)

12:00 P.M.-1:00 P.M. BREAK FOR LUNCH

1:00 P.M.-2:30 P.M. PRESENTATION AND DISCUSSION OF REGULATORY ANALYSIS ASSUMPTIONS & OMB CLEARANCE ASSUMPTIONS FOR FATIGUE PROVISIONS
- Presentation of data assumptions in the draft Regulatory Analysis, and changes since last stakeholder meeting. (NRC)
- Comments and questions. (Stakeholders)

2:30 P.M.-2:45 P.M. BREAK

2:45 P.M.-3:45 P.M. CONTINUATION...PRESENTATION AND DISCUSSION OF REGULATORY ANALYSIS ASSUMPTIONS & OMB CLEARANCE ASSUMPTIONS FOR FATIGUE PROVISIONS
- Presentation of data assumptions in the draft Regulatory Analysis, and changes since last stakeholder meeting. (NRC)
- Comments and questions. (Stakeholders)

3:45 P.M.- 4:00 P.M. BREAK

4:00 P.M.-5:00 P.M. COMMENTS AND QUESTIONS (STAKEHOLDERS) ON ANY OTHER DRAFT RULE LANGUAGE IN SUBPART I, MANAGING FATIGUE
- Comments and questions. (Stakeholders)

5:00 P.M.-5:30 P.M. CLOSING REMARKS
- Summation of major topics. (NRC)
- Next steps. (NRC)
- Comments and questions. (Stakeholders)

Notable Changes Since the Last Public Meeting for the Overall Revision to Part 26 on April 13, 2004

Note items 1-30 are expected to be discussed on July 7. The addition of worker fatigue provisions (item 31) will be discussed in detail on July 8.

1. Changed Scope [26.3] for consistency with ongoing Part 52 rulemaking would add full FFD program requirements for combined license holders after the §52.103 finding by the Commission. Partial FFD program requirements would be added for Manufacturing Licenses holders under Part 52, combined license holders before the §52.103 finding by the Commission, combined license applicants who have received authorization to construct under §50.10(e)(3) and construction permit applicants who have received authorization to construct under §50.10(e)(3). Requirements for a partial FFD program for the MOX facility while under construction have been deleted from the draft rule text. The scope was also adjusted to indicate that only nuclear power plants are subject to new Subpart I on work hour limits.

2. Re-introduced the requirement for individuals to report FFD concerns [26.27(b)(11), 26.27(c)(4), 26.29(a)(10) and 26.33].

3. Removed the requirement for a proctor for the comprehensive examination [26.29(b)].

4. Clarified drug and alcohol testing requirements [26.31(c)].

5. Clarified Employee Assistance Program requirements [26.35].

6. Removed the examples of entities that licensees must audit yearly [26.41(c)(1)].

7. Re-organized Subpart C to limit cross-referencing and clarify organization.

8. Added detailed requirements for “best effort” basis for suitable inquiry [26.63(c)].

9. Changed and clarified requirements that must be met in order to “waive” pre-access testing [26.65].

10. Changed requirements for placing individual applicants for authorization in the normal random testing pool [26.65 and 26.67].

11. Clarified requirements for elimination of records for administrative withdrawal of authorization following receipt of negative test results [26.65(g) and 26.75(h)].

12. Changed the followup testing frequency requirements [26.69(b)(7)].

13. Clarified management actions regarding impairment [26.77(b-c)].

14. Changed visual privacy requirements for the alcohol test results, and individual privacy requirements for specimen collection [26.87(b)].

15. Clarified donor identification requirements and refusal to test [26.89(b)(2) and 26.89(c)].

16. Specified unacceptable methods of determining the confirmatory alcohol test result [26.101(c)].

17. Changed requirements and actions for urine specimens suspected of being diluted, substituted or adulterated [26.111(c-e)].

18. Deleted requirements for emergency power equipment for collection sites and licensee testing facilities [26.117(j) and 26.129(f)].

19. Added requirement for documentation of proficiency of technicians operating testing instruments [26.125(b)].

20. Added an option for licensee testing facilities to perform validity screening tests with non-instrumented devices that meet the new requirements in 26.137(b), but management actions may not be taken on the basis of non-instrumented devices, and failures of the devices must be reported to NRC [26.127, 26.131, 26.137 and 26.219(c)(3)].

21. Added an option for licensee testing facilities to use alternate methods of tracking aliquot custody and control [26.129(c-d)].

22. Changed specimen testing requirements for consistency with April 13, 2004, revised HHS guidelines: creatinine concentration for diluted, invalid and substituted specimens changed from 5 mg/dL to 2 mg/dL and added additional indications of an invalid specimen [26.161(d-f) and 26.185(h)] and changed confirmatory amphetamine cutoff level [26.163(b)(1)].

23. Added details of management actions and sanctions following a re-testing of a single specimen, or testing of Bottle B of a split specimen [26.165(f)].

24. Clarified and changed blind performance testing requirements [26.167(f)].

25. Modified reporting requirements for invalid results [26.169(d)].

26. Removed requirement for MRO to be resident at the MRO staff location [26.183(c)(5)].

27. Specified MRO requirements for donor contact regarding non-negative test results [26.185(d)(3)].

28. Clarified MRO non-negative determination for opiates [26.185(j)].

29. Added Substance Abuse Expert prohibitions [26.187(g)].

30. Removed previously proposed requirements for logging of FFD authorization events [26.213].

31. Added Subpart I, Managing Fatigue, to be applicable to nuclear power plant licensees and C/Vs with licensee-approved FFD programs upon which nuclear power plant licensees rely to meet Part 26 requirements (note this subpart will be discussed in detail during the designated “Fatigue” sections of the agenda on July 8).