

July 15, 2004

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

FROM: Rebecca L. Karas, Senior Project Manager */RA/*
Policy and Rulemaking Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Subject: SUMMARY OF THE JULY 7-8, 2004, PUBLIC MEETING TO DISCUSS
DRAFT REVISIONS TO 10 CFR PART 26 (FITNESS-FOR-DUTY RULE)

On July 7 and 8, 2004, the NRC staff held a public meeting with representatives of the Nuclear Energy Institute (NEI), Union of Concerned Scientists (UCS), International Brotherhood of Electrical Workers (IBEW), utility stakeholders and the public at large. The purpose of this meeting was to further discuss the draft language changes to 10 CFR 26, the Fitness-for-Duty (FFD) Rule, including the addition of worker fatigue provisions, which had previously been a separate rulemaking effort. The draft regulatory analysis and Office of Management and Budget (OMB) clearance assumptions were also discussed.

The meeting was noticed on June 10, 2004. The notice is available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents, including the meeting notice, agenda and list of specific items that were discussed at the meeting, all of which may be found under accession number ML041620473. The draft Part 26 rule text, draft regulatory analysis assumptions and a comparison of the draft rule provisions with the Department of Health and Human Services' drug testing guidelines were placed on the NRC's rulemaking website prior to the meeting, and may be found at: http://ruleforum.llnl.gov/cgi-bin/library?source=*&library=Part26_risk_lib&file=*&st=risk.

A list of the meeting attendees is included in Attachment 1. A list of notable changes to the fatigue provisions were handed out at the meeting, and are included as Attachment 2. The meeting focused on the 31 technical items included in the meeting notice, with the detailed breakdown of item 31, presented in Attachment 2. Time was also allotted for stakeholders to discuss any additional items from the draft rule text and draft regulatory analysis and OMB clearance assumptions. Many issues and concerns were raised and discussed in detail. A listing of the more significant issues discussed is included as Attachment 3. Slides presented by NRC at the meeting are included as Attachments 4-6. Jim Davis of NEI handed out several documents at the meeting, and these are included as Attachments 7-9. Several stakeholders planned to followup in subsequent weeks with written comments, in addition to providing oral feedback at the meeting.

C. Haney

-2-

The above information and the documents described above were shared and discussed between NRC staff and the stakeholders and public present, and are not intended as verbatim records.

CONTACT: Rebecca Karas
(301) 415-3711

Attachments: As stated

cc w/att: See next page

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-2-

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Attachments: As stated

cc w/att: See next page

ADAMS Accession No.: Package-ML041980449 Memo-ML041980458
 Attachment 3-ML041980477 Attachment 4-ML041980485
 Attachment 5-ML041980516 Attachment 6-ML041980520
 Attachment 7-ML041980106 Attachment 8-ML041980107
 Attachment 9-ML041980110

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JXC11@NRC.GOV
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List of Attendees

<u>Name</u>	<u>Representing</u>
<u>Bill Beckner</u>	<u>U.S. NRC/NRR</u>
<u>Sharon Blue</u>	<u>Southern California Edison</u>
<u>F. Paul Bonnett</u>	<u>U.S. NRC/NRR</u>
<u>David Bonthron</u>	<u>Florida Power & Light</u>
<u>Loren Bush</u>	<u>Self</u>
<u>Kathy Burkett</u>	<u>KEB Consulting</u>
<u>June Cai</u>	<u>U.S. NRC/NRR</u>
<u>Ronald Casey</u>	<u>Entergy</u>
<u>Randy Cleveland</u>	<u>Nuclear Management Company</u>
<u>John Collier</u>	<u>ICF Consulting</u>
<u>Jim Davis</u>	<u>Nuclear Energy Institute</u>
<u>Craig Dean</u>	<u>ICF Consulting</u>
<u>Pete DeFilippi</u>	<u>Westinghouse</u>
<u>Dave Desaulniers</u>	<u>U.S. NRC/NRR</u>
<u>Nick DiPietro</u>	<u>First Energy</u>
<u>Kyle Dover</u>	<u>Nuclear Fuel Services</u>
<u>Sherry Eckert</u>	<u>Rochester Gas & Electric</u>
<u>G.A. Ellis</u>	<u>Exelon</u>
<u>John Fee</u>	<u>San Onofre</u>
<u>Peter Fowler</u>	<u>Duke Energy</u>
<u>Jim Gallman</u>	<u>TXU Energy</u>
<u>Ray Gallucci</u>	<u>U.S. NRC/NRR</u>
<u>Cathy Haney</u>	<u>U.S. NRC/NRR</u>
<u>Earl Harris</u>	<u>ICF Consulting</u>
<u>Tammy Huffer</u>	<u>Rochester Gas & Electric</u>
<u>Thomas Hyoe</u>	<u>Mid Atlantic DTS</u>
<u>Bill Isom</u>	<u>Progress Energy</u>
<u>James Kammer</u>	<u>Duke Energy/McGuire</u>
<u>Katie Kannler</u>	<u>U.S. NRC/OGC</u>
<u>Becky Karas</u>	<u>U.S. NRC/NRR</u>
<u>Molly Keefe</u>	<u>U.S. NRC/RES</u>
<u>Robert Kelm</u>	<u>Nuclear Energy Institute/PADS</u>
<u>Dave Lochbaum</u>	<u>Union of Concerned Scientists</u>
<u>Kamishan Martin</u>	<u>U.S. NRC/NRR</u>
<u>Lisa Matula</u>	<u>South Texas Project</u>
<u>Tim McCune</u>	<u>U.S. NRC/NSIR</u>
<u>Keith McDaniel</u>	<u>U.S. NRC/NMSS (via telecon)</u>
<u>Susan Mills</u>	<u>Quest Diagnostics</u>
<u>David J. Nelson</u>	<u>U.S. NRC/OE</u>
<u>Todd Newkirk</u>	<u>International Brotherhood of Electrical Workers</u>
<u>Will Paul</u>	<u>International Brotherhood of Electrical Workers</u>
<u>J. Persensky</u>	<u>U.S. NRC/RES</u>
<u>Barry Quigley</u>	<u>Self</u>
<u>Brian Richter</u>	<u>U.S. NRC/NRR</u>
<u>Marjorie Rothschild</u>	<u>U.S. NRC/OGC</u>
<u>David Shafer</u>	<u>Ameren UE</u>

Carlos Sisco
Randy Shotwell
Dave Skeen
Jerry Stout
Susan Techau
Brian Thomas
David Trimble
Otto Wegman
Garmon West, Jr.
Brian Zaleski

Winson & Strom
BWX Technologies
U.S. NRC/NRR
Nuclear Fuel Services
Exelon
U.S. NRC/NRR
U.S. NRC/NRR
Dominion
U.S. NRC/NSIR
ICF Consulting

**Notable Changes to the Worker Fatigue Provisions Since
the Last Public Meeting of August 21, 2003**

1. Revised format to consolidate provisions concerning worker fatigue in Subpart I - Managing Fatigue.
2. Included contractors/vendors “who have licensee-approved FFD programs upon which licensees rely to meet the requirements of this part” in the applicability statement [§26.195].
3. Added a requirement for the written FFD policy required under §26.27 to include licensee policy for the management of fatigue [26.297(a)].
4. Added “on-site” to the specification of duties subject to the work hour controls. [26.199(a)(1) and (2)].
5. Replaced the word “performs” with the phrase “suffers or is permitted to perform” in the specification of work hours to be included in calculations of work hours. The staff proposes to replace the phrase “at the request of” with the word “for.” The staff also proposes to amend the draft language to exclude shift turnover from the calculation of work hours [§26.199(b)(1)].
6. Revised the requirement to “establish, implement, and maintain a procedure for routine work hour scheduling” to require licensees to “schedule” consistent with the objective of preventing fatigue [§26.199(c)(1)].
7. Added an option to allow control of individual work hours in accordance with a limit of 700 hours quarterly and 2600 hours annually as alternative to the group work hour controls [§26.199(c)(2)].
8. Revised the group average work hour requirements to: (1) prohibit exceeding the limit in one averaging period for reasons that can be practicably foreseen and controlled, (2) prohibit exceeding the limit in two consecutive averaging periods, (3) delete the corrective action requirements, and (4) delete the reporting requirement [§26.199(c)(2)(ii)(A)].
9. Provided licensees flexibility to determine on a group-by-group basis whether to control work hours in accordance with the individual quarterly and annual limits or the group average limits. Permitted licensees to change methods no more frequently than every 2 years. Prohibited changing methods to circumvent the work hour requirements [§26.199(c)(3)].
10. Added a provision to allow temporary exclusion of individuals from the extended work hour limits who have duties that are normally subject to the work hour limits. The provision requires that the individual’s work hours meet the extended work hour requirements at the time the individual resumes duties subject to the work hour controls. [§26.199(d)(3)].

11. Added a provision that, to the extent practicable, licensees shall rely upon the granting of waivers only to address circumstances that could not have been reasonably foreseen and controlled [§26.199(d)(4)(ii)].
12. Added an applicability statement to specify that the extended work hour controls for security personnel only apply to licensees who use group average work hour limits. [§26.199(e)].
13. Added provision to address changes in plant threat conditions consistent with the Orders for security personnel fatigue [§26.199(e)(4)].
14. Added provision allowing work hours of covered security personnel to average not more than 60 hours per week during the conduct of annual force-on-force exercises. [§26.199(e)(5)].
15. Specified minimum requirements for review of individual work hours [§26.199(g)].

ATTACHMENT 3

Part 26 Rulemaking July 7-8 Significant Meeting Items
Summary of the July 7-8, 2004, Public
Meeting to Discuss Draft Revisions to 10
CFR Part 26 (Fitness-For-Duty Rule)

ADAMS Accession No.: ML041980477

ATTACHMENT 4

Part 26 Rulemaking Public Meeting

ADAMS Accession No.: ML041980485

ATTACHMENT 5

**Regulatory Analysis for the Drug
and Alcohol Testing Portions
of the FFD Rule**

ADAMS Accession No.: ML041980516

ATTACHMENT 6

Regulatory Analysis for Fatigue Portion of the FFD Rule

ADAMS Accession No.: ML041980520

ATTACHMENT 7

Review of 10 CFR Part 26

ADAMS Accession No.: ML041980106

ATTACHMENT 8

Psychological Assessments

ADAMS Accession No.: ML041980107

ATTACHMENT 9

What is Policy Violation?

ADAMS Accession No.: ML041980110