

September 13, 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 AUGUST 19, 2004, PUBLIC MEETING TO
DISCUSS DRAFT REVISIONS TO WORKER FATIGUE PORTIONS OF
10 CFR PART 26 (FITNESS-FOR-DUTY RULE)

On August 19, 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), the Professional Reactor Operators Society (PROS), utility stakeholders, Barry Quigley (the petitioner) and the public at large. The purpose of this meeting was to further discuss the draft language changes to the worker fatigue provisions of 10 CFR 26, the Fitness-for-Duty (FFD) Rule.

The meeting was noticed on August 5, 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 ML042460206. The draft Part 26 rule text on worker fatigue (Subpart I) 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. The meeting focused on the long-term work hour controls, with quarterly and yearly individual work hour limits. Time was also allotted for stakeholders to present issues associated with those limits. Many issues and concerns were raised and discussed in detail. A listing of the more significant feedback received is included as Attachment 2. Slides presented by NRC at the meeting are included as Attachments 3-5. Jim Davis of NEI handed out a position paper at the meeting, which is included as Attachment 6.

C. Haney

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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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Attachments: As stated

cc w/att: See next page

ADAMS Accession No.: Package-ML042570296 Memo-ML042570297
Attachment 3-ML042570301 Attachment 4-ML042570303
Attachment 5-ML Attachment 6-ML042570308

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DATE	9/10/04		9/10/04		9/13/04		9/13/04	

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Kate Nolan
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FMC@NRC.GOV
DRD@NRC.GOV
MJC@NRC.GOV
DCT@NRC.GOV
JXC11@NRC.GOV
CPG@NRC.GOV
CXH@NRC.GOV
DLS@NRC.GOV
BJR@NRC.GOV
BET@NRC.GOV
AWS1@NRC.GOV
MTL@NRC.GOV
MJK2@NRC.GOV
JJP2@NRC.GOV
MUR@NRC.GOV
KAK1@NRC.GOV
KMB2@NRC.GOV
SAT@NRC.GOV
AJD@NRC.GOV
FPB@NRC.GOV
KKM@NRC.GOV
WMT@NRC.GOV
CEA2@NRC.GOV
LWC1@NRC.GOV
SWM@NRC.GOV
TME@NRC.GOV
JLD@NRC.GOV
AXP1@NRC.GOV
DDB@NRC.GOV
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List of Attendees

Name	Representing
June Cai	U.S. NRC/NRR
John Collier	ICF Consulting
Jim Davis	Nuclear Energy Institute
Craig Dean	ICF Consulting
Dave Desaulniers	U.S. NRC/NRR
John Fee	San Onofre
Cathy Haney	U.S. NRC/NRR
Earl Harris	ICF Consulting
Lane Hay	Bechtel Power
James Kammer	Duke Energy/McGuire
Katie Kannler	U.S. NRC/OGC
Becky Karas	U.S. NRC/NRR
Molly Keefe	U.S. NRC/RES
Dave Lochbaum	Union of Concerned Scientists
Rich Lockett	Strategic Teaming and Resource Sharing
Kamishan Martin	U.S. NRC/NRR
Dana Millar	Entergy
Bruce Mrowca	ISL (via telecon)
Todd Newkirk	International Brotherhood of Electrical Workers
Kate Barber Nolan	U.S. NRC/OGC
J. Persensky	U.S. NRC/RES
Barry Quigley	Self
Brian Richter	U.S. NRC/NRR
Deann Raleigh	Sciencetech (via telecon)
Dave Skeen	U.S. NRC/NRR
Getachew Tesfaye	Constellation
Steve Turrin	Professional Reactor Operators Society (via telecon)
Doug Walker	Exelon
Jenny Weil	McGraw-Hill
Garmon West, Jr.	U.S. NRC/NSIR
Daniel Wilder	TXU Energy

Part 26 Rulemaking August 19, 2004, Public Meeting
Significant Public Feedback

Nuclear Energy Institute/Industry

- Preferred group work hour limits in July rule text version
- Rule text not stable - large change from previous long-term work hour controls
- The 2600 hour yearly limit does not allow enough overtime for planned and unplanned outages
- The 800 hours/quarter limit is too low - if there is a 90 day outage, it would limit workers to 61.5 hours/week
- Contractors should not be subject to long-term work hour controls, it is too difficult to do
- Contractors will go elsewhere for work that provides more hours
- Rule intrudes into management-labor relations by limiting individual hours
- Some individuals will seek second jobs
- Some individuals may refuse to perform safety-related work so they can work more overtime
- Will need to use more contractors during outages, but should use site workers familiar with the plant
- Adverse impact on safety culture - workers will be assigned based on who has hours available, not the best person for the job
- Group work hours allows for better checks of adequate manning by plant management

Union of Concerned Scientists

- Process for making the change in the long-term limits was not fair to NEI
- Focus shift to the individual is good, and the correct thing to do
- Concerned about the transient workforce; supervisors are not likely to have a personal relationship with those workers and notice fatigue
- The quarterly and yearly individual limits are better than the group limits
- If the group hours option is reintroduced, there should be a yearly limit on the number of outage days based on the number of units at the site
- There should be waivers from the quarterly and yearly individual limits since there are waivers for the short-term limits and the long-term limits are less linked to fatigue
- The waiver criteria is basically meaningless
- Should move quickly to publish a proposed rule

International Brotherhood of Electrical Workers

- Agrees with NEI's goal of adequate staffing
- Trying to deal with transient workers is very difficult, but contractors and utility workers should be treated the same
- It is not uncommon for utility employees to work 2-3 outages per year; the industry trend is towards the traveling utility worker
- The long-term limits need to be higher, more like 900 hours/quarter and 3500 hours/year for labor to be agreeable to the limits, otherwise some workers will lose money

- Some workers want overtime, so the 800/2600 individual limits will result in negotiated changes to bargaining unit agreements not in favor of the unions
- Industry deserves the opportunity to come up with a solution for long-term work hour limits

Professional Reactor Operators Society

- Have not polled members on their thoughts on the draft text
- Can see individual limits being manageable
- Group limits are a better indication of staffing, but nothing prevents a utility from monitoring group averages also
- Wants contractors to be covered, for the sake of other non-operations personnel
- Group work hours are manageable, no one individual is usually overworked

Barry Quigley (petitioner)

- Feels like the rule is starting over with group work hour limits gone
- The 48 hour/week group average was good and should not be changed
- Does not agree with UCS that there should be waivers from a 2600 hour yearly limit
- Does not believe a 120 day limit on outage length is excessive, because not everyone is working the whole 120 days at a high level
- Thinks a 936 hour/quarter limit would be acceptable
- Wants group work hour limits back, and the assessment for individuals averaging over 48 hours/week
- Wants transient workers covered; licensees can track licensee transient workers; licensees cannot get the records on contractor hours, but they should be covered because self-check and peer-check are not as well used by those individuals
- Group work hour limits would have increased safety

ATTACHMENT 3

NRC Slides: Part 26 Rulemaking Public Meeting

ADAMS Accession No.: ML

ATTACHMENT 4

NRC Slides: Long-Term Work Hour Controls

ADAMS Accession No.: ML

ATTACHMENT 5

NRC Slides: Fatigue Data Charts

ADAMS Accession No.: ML

ATTACHMENT 6

**NEI Handout: Fatigue Rulemaking, Issue Paper 23
Long term work hour limits, August 19, 2004**

ADAMS Accession No.: ML