

September 29, 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 SEPTEMBER 14, 2004, PUBLIC MEETING TO
DISCUSS DRAFT REVISIONS TO WORKER FATIGUE PORTIONS OF
10 CFR PART 26 (FITNESS-FOR-DUTY RULE)

On September 14, 2004, the NRC staff held a public meeting with representatives of the Nuclear Energy Institute (NEI), International Brotherhood of Electrical Workers (IBEW), the Professional Reactor Operators Society (PROS), utility stakeholders 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 September 2, 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) was 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. Time was also allotted for stakeholders to present issues associated with those limits. 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. Barry Quigley, the petitioner, emailed a statement prior to the meeting, which was read by NRC staff and handed out. The statement 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

C. Haney

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(301) 415-3711

Attachments: As stated

cc w/att: See next page

ADAMS Accession No.: Package-ML042710535 Memo-ML042710542
Attachment 3-ML042710547 Attachment 4-ML042710554
Attachment 5-ML042710558 Attachment 6-ML042570308

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CPG@NRC.GOV
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MUR@NRC.GOV
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KMB2@NRC.GOV
SAT@NRC.GOV
AJD@NRC.GOV
FPB@NRC.GOV
WMT@NRC.GOV
CEA2@NRC.GOV
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Nick DiPietro
Steve Turrin
Barry Quigley
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List of Attendees

Name	Representing
Joe Bauer	Exelon
Bill Borchardt	U.S. NRC/NRR
Lydia Chang	U.S. NRC/NMSS
Jim Davis	Nuclear Energy Institute
Craig Dean	ICF Consulting
Dave Desaulniers	U.S. NRC/NRR
Tony DiPalo	U.S. NRC/NSIR
Peter Fowler	Duke Energy
Frank Gillespie	U.S. NRC/NRR
Debbie Guha	U.S. NRC/NRR
Cathy Haney	U.S. NRC/NRR
Earl Harris	ICF Consulting
Lane Hay	Bechtel Power (via telecon)
James Kammer	Duke Energy/McGuire
Becky Karas	U.S. NRC/NRR
Pete Kokolakis	Entergy - North
Kamishan Martin	U.S. NRC/NRR
Tim McCune	U.S. NRC/NSIR
Dana Millar	Entergy - South
Todd Newkirk	International Brotherhood of Electrical Workers
Kate Barber Nolan	U.S. NRC/OGC
Timothy Northcutt	South Carolina Electric and Gas
Brian Richter	U.S. NRC/NRR
Deann Raleigh	Scientech
Alex Sapountzis	U.S. NRC/NSIR
Patrick Shaffer	Southern California Edison
Alzonias Shepard	U.S. NRC/ADM
Dave Skeen	U.S. NRC/NRR
Getachew Tesfaye	Constellation
Steve Turrin	Professional Reactor Operators Society (via telecon)
Daniel Wilder	TXU Energy

Part 26 Rulemaking September 14, 2004, Public Meeting
Significant Public Feedback

The following comments were provided during the opening remarks section of the meeting, when NRC asked stakeholders to briefly bring up their most significant comments.

Nuclear Energy Institute/Industry

- Appreciates the need to move on with the rulemaking
- Likes the process we have gone through in pre-informing the rulemaking, believes there will be fewer implementation issues
- Some aspects of the rule are good:
 - Training
 - Placing contractors and employees under the same work hour controls
 - The groups subject to work hour controls - except for a more minor disagreement over the fire brigade
 - Exclusion of shift turnover
 - The 75% criteria for inclusion in the group average calculation
 - Work hours scheduling
 - The individual limits of 16/24, 26/48, 72/week and a 10 hour break - but as an end point, not a starting point
 - Waiver process
 - Management of collective work hours (except that the 48 hour limit is arbitrary)
 - Outage exclusion - essential to exclude outages at a reasonable limit
 - Reviews - generally OK but somewhat unclear as worded
 - Procedures - except that some should maybe be implementation guidance
- Supports the rule as it was up to August 2003
- In this current version, areas of concern are:
 - The 48 hour break every 14 days - it is new, industry is not convinced it adds value, and it adds an administrative burden
 - The change from an outage exclusion of 120 days to 56 days - NEI questions any rational technical basis for the change
 - Reporting of waivers - not necessary and may not be representative of a fatigue program's performance
 - Requirement for the face-to-face evaluation needed to approve a waiver to be done within 2 hours prior to exceeding the limit - should be in guidance, and could be a problem for call-outs
 - The threshold of 54 hours/week in determining whether a fatigue review is necessary - want to ensure it's a small number of people that would hit the threshold, 54 may not be the right number, have noticed for security guards the bell curve of hours worked is compact
 - The 14 day lookback that used to be 7 days is a minor issue
 - The need for a day off every 7 days - one more administrative burden

International Brotherhood of Electrical Workers

- Averaging is better than individual quarterly and annual limits
- Tracking the transient workers to the average will be a technical challenge for licensees
- Should be a higher level of training for those who do fatigue assessments - the quality of the training is an issue
- Want to see some data on a 48 hour average vs. a 60 hour average

Professional Reactor Operators Society

- Good rule, logistics need to be ironed out
- Wondering what is the gain for 24 hours off every 7 days

Patrick Shaffer, Southern California Edison

- The 48 hour average is not high enough. A 60 hour average would be better.
- The outage exclusion is too short. With preparations and demobilization, 8 weeks is not long enough.
- Having fire brigade covered presents a problem if you have a fire brigade around the clock. If licensees get rid of around the clock fire brigades, they may have less ability to react to a fire.
- Harder to manage workforce with the 24 hour and 48 hour break requirements

Joe Bauer, Exelon

- Need to be cautious about what the language says
- Should clarify the work hour reviews language

ATTACHMENT 3

NRC Slides: Part 26 Rulemaking Public Meeting

ADAMS Accession No.: ML

ATTACHMENT 4

NRC Slides: Proposed Work-Rest Outage Provisions

ADAMS Accession No.: ML

ATTACHMENT 5

NRC Slides: Comparison of 48-hr Outage-Break Requirement Options A and B

ADAMS Accession No.: ML

ATTACHMENT 6

Email from Barry Quigley, the Petitioner

ADAMS Accession No.: ML