

Project On Government Oversight

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DOCKETED
USNRC

December 21, 2005 (3:35pm)

December 20, 2005

DOCKET NUMBER
PROPOSED RULE *PL 26*
(10FR 50442)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

45

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: Comments on Guard Fatigue in Draft 10 CFR Part 26

Via Facsimile: (301) 415-1101

Dear Secretary,

The Project On Government Oversight (POGO) has serious concerns with the current draft fatigue rule (Federal Register / Vol. 70, No. 165 / Friday, August 26, 2005) issued by the Nuclear Regulatory Commission (NRC). Two areas we are particularly concerned about are: the NRC's use of "group hours" as a measure of the fatigue of security officers; and the protocols surrounding security officers "self declaring" that they are too fatigued to work.

POGO believes that the NRC should more closely oversee the self-declaration process. We have found examples of "self-declaring" officers being fired, sent to psychiatrists and also given undesirable schedules – all forms of retaliation. Obviously, because of such tactics, many officers are intimidated into not self-declaring and are forced to work under duress. The NRC should take enforcement action and levee fines whenever evidence of retaliation against officers surfaces.

Our investigation of nuclear plant security – using interviews with officers and documents obtained through the Freedom Of Information Act – is ongoing. We have used Beaver Valley (Pennsylvania) as a case study for fatigue. According to our information, a high percentage of officers worked between 60 and 72 hours per week, and some even worked more than 72.

1st Energy, the utility company that owns Beaver Valley, had admitted it was in violation of group hours, but then rescinded that admission. The NRC then concluded that 1st Energy was only in violation of individual hours. However, POGO recently received a current internal 1st Energy document that indicates the company was in violation of group hours the vast majority of the time between November 2004 and early March 2005. (Attachment A) POGO also learned that this document was on the plant's security officer bulletin board with a note admonishing personnel to keep track of their hours because they had been in violation of group hours for several months. It is important to note that these

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Template = SECY-067

SECY-02

violations of the Fatigue Order were directly brought to the attention of the NRC Region I, yet NRC investigators still missed these violations. (Attachment B)

One problem with the group hours approach to monitoring fatigue is that the NRC will not publicly address how many armed responders are in each "group." It is important to understand that individual security officers get fatigued, not groups. And their ability to respond to an incident is diminished when they are tired. POGO is concerned that the utility companies are able to fudge how many armed security officers they have on shift by sneaking the unarmed officers, trainers, and in some cases clerical and managerial staff into the group with the armed responders. So, in their reporting, the utility can state that the group did not work more than 48 hours, on average, when a number of individual armed officers may have worked more than 72 hours. See the comments made by Anthony Rizzo Jr., Salem and Hope Creek Nuclear Power Plants (Attachment C).

As one officer said in an interview with POGO, "If I'm working 72 hours and am fatigued, someone working 30 hours can't sleep for me."

Needless to say, POGO believes the group hour measurement is irresponsible and should be deleted from the rule. In past discussions with POGO, NRC officials have claimed that security officer unions have joined the industry to push for extra-hours for their members. There is an overriding national interest in having an alert and ready security force, that can respond to a rapid and violent terrorist attack. Utility companies often insist on over-working guards so that protective force personnel can make adequate money, through overtime. Instead, utilities should simply raise guards hourly wages.

We have attached two letters on the fatigue subject, written by two power plant security officers with years of experience.

In closing, POGO makes these recommendations:

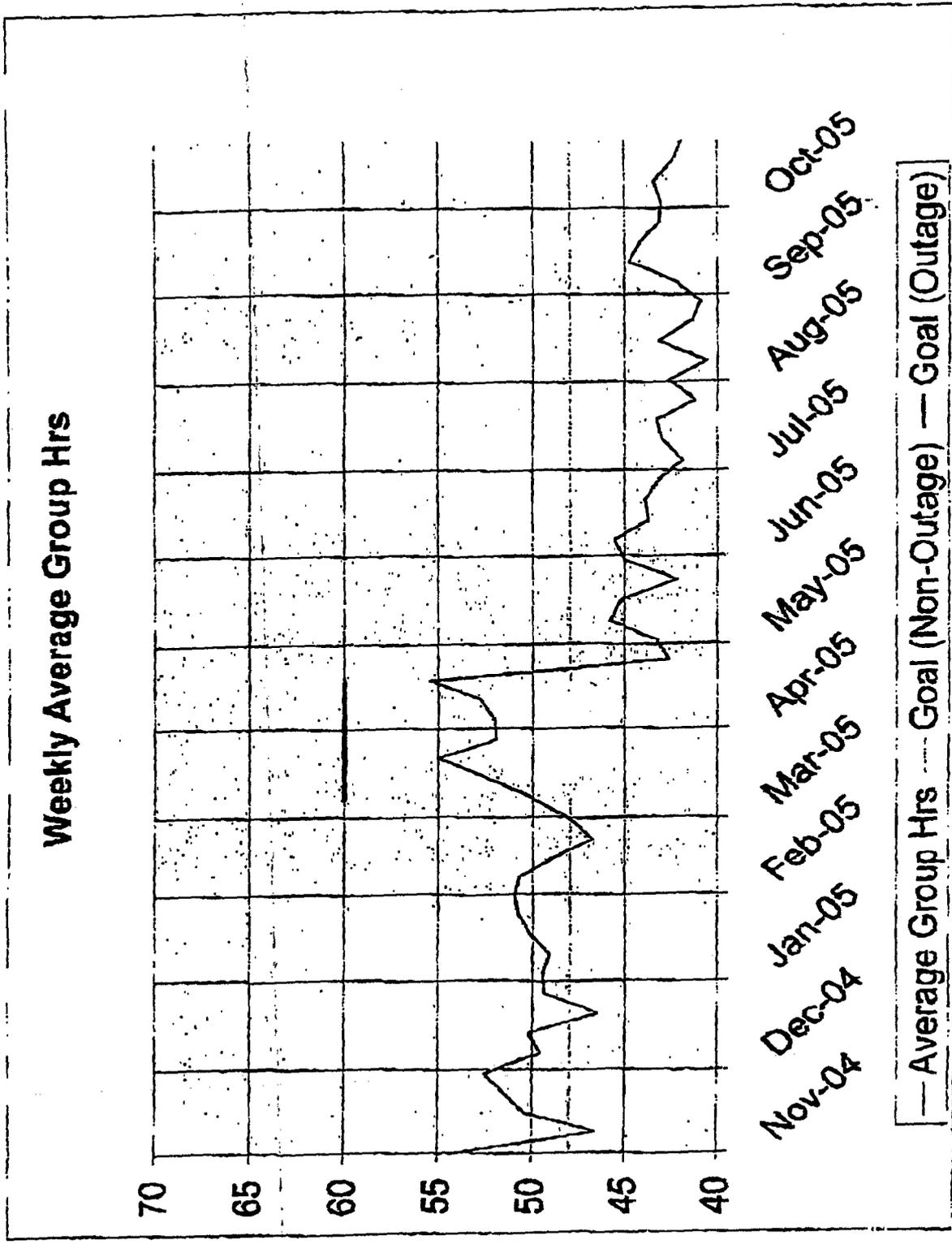
- 1) Eliminate group hours;
- 2) Limit armed security officers to 48 hours of work per week;
- 3) Only under the following conditions should hours be allowed to increase to 60 per week:
 - A) Refueling
 - B) Heightened security alerts

Sincerely,



Danielle Brian
Executive Director

Attachment A



Attachment B

From Anthony Rizzo, Jr., Salem and Hope Creek Nuclear Power Plants

Here are some changes I think should be made to the fatigue rule.

Supervisors, Armed Officers, Unarmed Officers should be monitored separately, the reason being is that the companies keep plenty of supervisors and unarmed (if that plant has unarmed officers) for their manning so when they are added into the mix with the armed officers it brings the total hours down.

The company should also break down the different shifts because one shift could be getting out of control overtime but the other shifts will bring the total hours down to make it appear that there is not much overtime.

The deviation forms must be filled out before the employee gets anywhere near the 72 hour mark not afterwards. The object is to catch employees before they get fatigued not after the fact. There is no reason an employee should go over 72 hours when you have a whole shift of employees to distribute the overtime equally.

The NRC must make sure that employees are not harassed when they say they are fatigued.

When there is more than one employee going over the fatigue rule that will tell you there are not enough employees or the company is just not tracking it right.

The only exception should be emergencies, systems failure, state of emergency things like that which is already allowed for in the rule.

Attachment C

From Steve Whitely, Chief Steward, Beaver Valley Power Station

In 2003 when the NRC issued the order restricting overtime for armed responders at nuclear power plants, Beaver Valley Power Station (Shippingport, Pa.), owned and operated by 1st Energy Corp., was not prepared for various reasons to fully comprehend and implement the order as instructed.

Let us review the environment to understand the Beaver Valley case. 1st Energy contracts its security requirements to Securitas Security Services, USA, at Beaver Valley while maintaining its own security force at its two other nuclear sites. When the order was implemented, no one, from the contractor to the licensees' management had a full understanding. Therefore the front line management and officers were ignorant of the full intent and requirements of restricted overtime. There were no training requirements relating to the order for seasoned officers or new hires.

The contractor was experiencing an abnormal amount of employee turnover in the officers' ranks. The extraordinary amount of turnover amounted to one or more officers a day resigning, which reflected a major problem with the fatigue order requirement.

The licensee's security managers position was filled by an engineer without a security background. This also contributed to implementation problems.

Contractor and licensee's people skills managing the security force were non-existent which led to the resignation of 60-plus officers in nine months.

Front line responders (officers) were calling the regional office of the NRC complaining of excessive overtime (violations) and treatment of officers. Letters were written to the company's president outlining the many problems.

Officers finally made contact with the Project On Government Oversight, who launched an investigation which resulted in the Washington, D.C., office of the NRC starting its own probe of Beaver Valley.

At the conclusion of these investigations and meetings in Washington, Beaver Valley Power station went into a complete transformation, as follows:

- 1) Licensee assigned a security manager from its Perry Plant with an extensive security background;
- 2) Management set goals for improvement and posted items for all to track progress and completion;

(Continued)

3) Contractor changed hiring practices whereby recruiting candidates with a mature work history and background who could be retained;

4) Management asked for input from union committee representing response officers;

5) Training department initiated training on the fatigue order as part of new hire training;

6) Licensee set a 60 hour administrative limit on total hours worked per week (7 days);

7) Officers started being treated with dignity and respect. Input and suggestions were encouraged and welcomed. Officers started taking part in shift briefings and staff meetings;

8) Senior leadership teams (site) acknowledged past mistakes and supported new approach as related to the entire security department.

In summary, when we all set a work environment that starts with mutual respect and dignity, involving your officers in security decisions you solve the retention issue which makes compliance with the fatigue order was not only the proper thing to do as it relates to responding to a hostile attack, it also allows officers a family and social life, with some normalcy which fosters good employee relations. This is Beaver Valley today, not perfect, but 100 percent better than yesterday.