



Part 26 Rulemaking Public Meeting

November 7 & 9, 2005

Morris, IL

Charlotte, NC



Introductions

- Office of Nuclear Reactor Regulation
 - Lead Project Manager: David Diec, (301) 415-2834, dtd@nrc.gov
 - Worker Fatigue, Technical Lead: Dave Desaulniers, (301) 415-1043, drd@nrc.gov
- Office of Nuclear Security & Incident Response
 - Drug and Alcohol, Technical Lead: Tim McCune, (301) 415-6474, tsm5@nrc.gov



Welcome

- Thank you for attending
- Opportunity for stakeholders
 - Hear purposes of proposed rule as published in *Federal Register Notice (70 FR 50442)*
 - Obtain necessary clarifications



Meeting Agenda

- Purposes of proposed rule and rulemaking process
- Overview of Drug and Alcohol provisions
- Overview of Fatigue Management provisions
- Clarification questions and answers



Rule Comments

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- Comment on rule by Dec. 27, 2005
 - Mail
 - E-mail
 - Rulemaking website
 - Hand deliver
 - Fax
 - Addresses and fax number provided in handout
 - Note - Comment period for information collections aspects closed Sept. 26, 2005



Objectives of Proposed Changes to Part 26

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- Update rule to enhance consistency with similar federal requirements: HHS (Drug Testing) & DOT (Alcohol Testing)
 - Strengthen FFD program management of worker fatigue
 - Make FFD programs more effective & efficient
 - Achieve consistency between FFD & Access Authorization, including 2003 Order
 - Reduce burden where appropriate
 - Improve clarity of rule
 - Protect privacy & due process rights of individuals



Proposed Rulemaking to Amend
10 CFR Part 26,
Fitness for Duty Programs
**Drug and Alcohol
Provisions**



Stronger FFD Programs

- Validity Testing of Urine Specimens – verifies the specimen is unadulterated human urine
- Changes to drug & alcohol cutoff/testing levels
- All workers would be trained on FFD at the supervisor level



More Stringent Sanctions

- Permanent denial for first attempt to subvert the testing process or refusal to test
- 5 year denial if individual resigns to avoid removal for FFD violation
- Unfavorable termination of authorization for 14 days for 1st confirmed positive
- 5 year denial for 2nd confirmed positive
- Permanent denial for any FFD violation following a 5 year denial



Increased Worker Protection & Rights

- Raise the Opiate cutoff level from 300 ng/ml to 2000 ng/ml
- Strengthen requirements for independence of the MRO and staff function from licensee management
- Require licensees to obtain Independent Forensic Toxicologist certification



Relaxations for Licensees

- Blood testing for alcohol eliminated
- Only 1 alcohol breath test required
- Allow saliva devices instead of breath for 1st test
- Biannual FFD program performance reporting changed to yearly
- Some auditing requirements relaxed



Differences From HHS Guidelines

- Generally consistent with HHS guidelines
 - HHS final guidelines issued 2004
 - Proposed rule includes some aspects of HHS proposed guidelines to provide additional licensee flexibility to use non-instrumented testing
 - Some differences from HHS guidelines because:
 - HHS has a different mission – assistance to Federal agencies with health issues for Federal employees
 - Part 26 - ensure fitness-for-duty of private sector nuclear employees for safety/security reasons
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Proposed Rulemaking to Amend
10 CFR Part 26,
Fitness for Duty Programs
**Worker Fatigue
Provisions**



Background

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- 1982 – “Worker Fatigue” policy issued
 - 1999 – Petition for Rulemaking requests NRC to establish enforceable work hour requirements
 - 2001 – Policy and Implementation Review identifies concerns related to:
 - Control of work hours
 - Interpretation of requirements
 - NRC ability to efficiently and effectively enforce requirements
 - 2002 – Rulemaking Plan approved
 - 2002 thru 2004 – NRC develops proposed requirements, holds public stakeholder meetings
 - 2005 – Proposed Rule issued for public comment



Proposed Fatigue Management Provisions

- Fatigue Management Training
- Self-Declaration of Fatigue
- Individual Work Hour Controls
- Group Work Hour Controls
- Fatigue Assessments
- Quarterly reviews of work hours and performance
- Annual reporting



Training and Self-Declaration

- All workers & supervisors trained on fatigue
 - Prevention
 - Detection
 - Mitigation
- All workers may self-declare fatigue
 - Management must either give them 10 hours of rest, or
 - Perform a fatigue assessment to determine if worker can return to duty
 - Licensees must submit annual report of fatigue assessments and management actions resulting from fatigue assessments



Work Hour Controls

- Not all workers subject to work hour controls
- Scope limited to specified functions in the following groups:
 - Maintenance
 - Operations
 - Chemistry
 - Health Physics
 - Fire Brigade
 - Security Force



Individual Work Hour Controls

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- Work Hour Limits
 - 16 hours/day
 - 26 hours/2 days
 - 72 hours/week
 - Break Requirements
 - 10 hours between shifts
 - 24 hour break every week
 - 48 hour break every 2 weeks
 - 48 hour break waived during first 2 weeks of any outage
 - Shift Turnover Time Excluded



Waivers from Individual Work Hour Limits & Break Requirements

- Waivers only allowed:
 - To mitigate or prevent a condition adverse to safety
 - To maintain the security of the facility
- Face-to-face supervisory assessment required to approve waiver
- Review of work hours and time of day work would be performed also considered in assessment



Individual Work Hour Controls

- NRC has proposed the Individual Work Hour Controls as limits for managing fatigue during short periods of long work hours
- Individuals that work the maximum hours allowed by the individual controls for long periods of time are likely to become fatigued
- NRC has proposed Group Work Hour Controls to prevent routine scheduling of the maximum hours allowed by the individual work hour controls



Group Work Hour Controls

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- Objective - Reduce the potential for worker fatigue from long periods of long work hours
 - Basic Requirement - each group subject to work hour controls would be limited to averaging not more than 48 hours/week during non-outage conditions
 - Work hours averaged over people and time
 - Averaging period would be limited to not more than 13 weeks



Group Work Hour Controls

How it works – mathematically prevents scheduling all personnel at the limits of the individual work hour controls

- Example – in order to average 48 hours there must be:
 - At least four 42-hour shifts for every 72-hour shift, and/or
 - at least two 42-hour shifts for every 60-hour shift



48 Hour Average Example

Distribution of “overtime” and “regular” work weeks

	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Wk 10	Wk 11	Wk 12	Wk 13	A V G
Joe	72	42	42	42	42	60	42	42	72	42	42	42	42	48



Group Work Hour Controls

- Provides flexibility to distribute work hours over weeks and months to meet changes in workload/schedule demands
- Provides flexibility to distribute work hours among workers depending upon their ability and desire to work overtime
- Ensures “opportunity” for recovery from fatigue by requiring majority of work weeks are less than 48 hours



Group Average – Example 1

Overtime Distributed Variably Across Weeks

	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Wk 10	Wk 11	Wk 12	Wk 13
Joe	72	42	42	42	42	72	60	42	42	42	42	42	42
Bill	72	42	42	42	42	72	60	42	42	42	42	42	42
Betty	72	42	42	42	42	72	60	42	42	42	42	42	42
Bob	72	42	42	42	42	72	60	42	42	42	42	42	42
Sue	72	42	42	42	42	72	60	42	42	42	42	42	42



Group Average – Example 2

Overtime Distributed Variably Across Workers

	Wk 1	Wk 2	Wk 3	Wk 4	Wk 5	Wk 6	Wk 7	Wk 8	Wk 9	Wk 10	Wk 11	Wk 12	Wk 13
Joe	72	60	72	60	72	60	72	60	72	60	72	60	72
Bill	42	42	42	42	42	42	42	42	42	42	42	42	42
Betty	42	42	42	42	42	42	42	42	42	42	42	42	42
Bob	42	60	42	60	42	60	42	60	42	60	42	60	42
Sue	42	42	42	42	42	42	42	42	42	42	42	42	42



Group Work Hour Controls

Averages for each group (except Security):

- Non-outage conditions
 - 48 hours/week
- First 8 weeks of any plant outage
 - No group limits
- After first 8 weeks of any plant outage
 - 48 hours/week
- Averaging period can not exceed 13 weeks



Group Work Hour Controls

Security Group average:

- Non-outage conditions
 - 48 hours/week
 - First 8 weeks of any plant outage or planned security system outage
 - 60 hours/week
 - First 8 weeks of any unplanned security system outage or increased threat condition
 - No group limit
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Group Work Hour Controls

- If an outage extends past 8 weeks, or licensee is unable to meet 48 hour average any other time:
 - Licensee may use a 54 hours/week limit in lieu of 48 hours/week limit if –
 - Circumstances could not have been reasonably controlled, and
 - Additional hours above 48 hours/week average must only be worked to address those circumstances
 - Or, licensee may request NRC approval
 - Compensating fatigue management measures would be required
 - Licensees may not exceed 48 hour average in 2 consecutive 13-week averaging periods
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Fatigue Assessments

- Fatigue assessment required for 3 conditions:
 - For-Cause
 - e.g. if inattentive worker is observed
 - Self-Declaration
 - Post-Event
- Assessments must be conducted face-to-face
- Rule would restrict who may perform assessment for each condition



Licensee Reviews

Each averaging period, the rule would require:

- Licensee review of individual work hours and performance for:
 - Workers who average over 54 hours/week while the group is subject to a 48 hour/week limit
 - Security workers who average over 66 hours/week while the group is subject to a 60 hour/week limit
 - Individuals granted more than 1 waiver
 - Individuals assessed for fatigue
- Licensee assessment of staffing adequacy for all jobs subject to work hour controls



Annual Reporting

Annual reporting would include:

- Number of waivers actually worked
 - for each work hour limit and break provision
 - for each job duty group
- Collective work hours of any group that exceeded an average of 48 hours per person per week
- The number of fatigue assessments conducted during the year, the cause for each assessment, and the resulting management actions



Questions & Answers



Rule Comments may be submitted by

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- Mail – U.S. Nuclear Regulatory Commission. Washington, DC 20555-0001, Attention Rulemakings and Adjudications Staff
 - E-mail – SECY@nrc.gov
 - Website – <http://ruleforum.llnl.gov>
 - Hand Delivery – 11555 Rockville Pike, Rockville, MD between 7:15 am and 4:15 pm on Federal workdays
 - Fax – Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101