[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[Docket No. PRM-26-3]

[NRC-2009-0482]

Professional Reactor Operator Society; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking dated October 16, 2009, filed by the Professional Reactor Operator Society (petitioner). The petition was docketed by the NRC and has been assigned Docket No. PRM-26-3. The petitioner is requesting that the NRC amend the regulations that govern fitness for duty programs. Specifically, the petitioner requests that the definition of "unit outage" be changed to "site outage" and be amended to clarify the way licensees schedule manpower on the front and back end of outages. The petitioner believes the suggested amendment would require licensees to abandon past practice that could impact licensees' ability to safely execute future outages and would help to ensure that nuclear utilities continue to perform outages in a safe and efficient manner.

DATE: Submit comments by (75 days following publication in the *Federal Register*). Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: You may submit comments on this petition by any one of the following methods. Please include PRM-26-3 in the subject line of your comments. Comments on petitions submitted in writing or in electronic form will be made available for public inspection. Personal information, such as your name, address, telephone number, e-mail address, etc., will not be

removed from your submission.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal eRulemaking Portal: Go to http://www.regulations.gov and search for documents filed under Docket ID [NRC-2009-0482]. Address questions about NRC dockets to Carol Gallagher, 301-492-3668; e-mail Carol.Gallagher@nrc.gov.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff. E-mail comments to: rulemaking.comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays, telephone number 301-415-1677.

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the Federal eRulemaking Portal http://www.regulations.gov.

Publicly available documents created or received at the NRC, are available electronically at the NRC's Electronic Reading Room at http://www.nrc.gov/reading-rm/adams.html. From this page, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to pdr.resource@nrc.gov

For a copy of the petition, write to Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The petition is also available electronically in ADAMS at ML092960440.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-492-3663 or Toll-Free: 1-800-368-5642 or E-mail: Michael.Lesar@NRC.Gov.

SUPPLEMENTARY INFORMATION:

Background

The NRC has received a petition for rulemaking dated October 16, 2009, submitted by Robert N. Meyer on behalf of the Professional Reactor Operator Society (PROS) (petitioner). PROS is an organization of reactor operators employed at nuclear power plant sites throughout the U.S. The petitioner requests that the NRC amend 10 CFR Part 26, "Fitness for Duty Programs." Specifically, the petitioner requests that the definition of *Unit outage* in § 26.5, "Definitions" be changed to *Site outage*. The petitioner also requests that the text of the definition be amended to clarify the way licensees schedule manpower on the front and back end of outages. The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition was docketed by the NRC as PRM-26-3 on October 21, 2009. The NRC is soliciting public comment on the petition for rulemaking.

Discussion of the Petition

The petitioner states that the final rule the NRC published on March 31, 2008 (73 FR

16965), pertaining to fitness for duty programs of nuclear facility licensees required all licensees to establish “clear and enforceable requirements for the management of worker fatigue.” The petitioner notes that the term “unit outage” was added to clarify that a specific reactor has to be disconnected from the electrical grid to be declared in an outage. The petitioner states that the NRC added this term in response to a stakeholder comment raised during a public meeting to clarify that for the purpose of implanting work hour controls, a reactor unit would only be considered in an outage if disconnected from the power grid, not when reactor power was reduced for repair but not shut down. The NRC determined that its definition provides a clearly identifiable plant state for applying the work hour controls specified in §§ 26.205 (d)(4) and (5).

The petitioner disagrees with the rationale for this definition and recommends two changes:

(1) The definition should be changed from “unit outage” to “site outage” and

(2) Clarify the definition of “site outage” to “up to one week prior to disconnecting the reactor unit from the grid and up to 75 percent turbine power following reconnection to the grid.” The current definition of “unit outage” in § 26.5 “means, for the purposes of this part, that the reactor unit is disconnected from the electrical grid.”

The petitioner states that its proposal applies to dual-unit sites with a shared control room where the reactor operators are licensed on both units to allow the control room to use a 12-hour supercrew, resulting in less work hours for personnel on the operating unit. The petitioner believes this is particularly important in view of the recently implemented work hours rule. The petitioner notes that although the outage work for many crews falls between the breaker open and close phases, this is not true for operations crews. Just before shutdown, activities such as the switch from the non-outage shift to the outage shift schedules, training for the control room crew who will actually perform the shutdown, and final work schedule walkdowns occur.

The petitioner states that many facilities combine the operations crews into four groups (two for days and two for nights) one week before shutdown to accommodate the additional workload. The petitioner believes the pre-outage advantages to the proposed amendment include the crew's acclimation to the outage shift before shutdown and familiarization with each other, a transition period from normal shift rotation to the outage shift rotation, adequate staffing for outage crew preparation, and better preparation time to safely perform the large amount of infrequently performed tasks associated with plant shutdown. The petitioner also cites outage preparation that will be performed by outage crews, not regular shift personnel whose main responsibility should be monitoring the operating reactor, and more preparation time to keep the stress level as low as possible in the Control Room to reduce the chance of errors and improve overall safety as additional pre-outage advantages to its proposed amendment.

The petitioner also states that post-outage advantages to its proposed definition include allowing major equipment to be tested and placed in service before release of support personnel, ensuring there are sufficient personnel on duty to handle any emergencies following an outage, and allowing for a controlled transition from an outage shift schedule to the normal schedule to eliminate worker fatigue because the same crews who were performing outage functions are now the ones operating the reactor. The petitioner sees the only disadvantage to its proposal is that the total outage time may be longer, meaning that personnel operating the plant just before shutdown or startup may have worked beyond the hourly limitations normally permitted for an operating reactor but believes the advantages cited far outweigh any potential disadvantage. The petitioner states that it is not proposing any change in the work hour allowance specified in § 26.205(d)(4) but believes its proposed amendment would allow licensees more flexibility for applying the outage working hour limitations when preparing for and recovering from an outage.

Lastly, the petitioner states that its proposed amendment would not require an

environmental impact statement, does not contain any new or amended information requirements subject to the Paperwork Reduction Act of 1980, and does not involve backfit issues.

The petitioner has concluded that adopting its proposed amendment will help ensure that nuclear power facilities continue to perform outages safely and efficiently.

Dated at Rockville, Maryland, this 23rd day of November 2009.

For the Nuclear Regulatory Commission.

/RA/

Annette L. Vietti-Cook,
Secretary of the Commission.