

Fitness for Duty Rulemaking Activities

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Rulemaking Activities of Interest to IBEW

- 10 CFR Part 26 – Fitness for Duty
 - Subpart I “Managing Fatigue”
 - 2008 HHS Guidelines
 - Technical Issues & Editorial Changes
- Petition for Rulemaking (PRM) 73-16
 - Access Authorization Requirements for Nuclear Power Plants

Background

10 CFR Part 26 “Fitness for Duty”

- Objectives of the rule:
 - Provide reasonable assurance that individuals are trustworthy and reliable
 - Provide reasonable assurance that individuals are fit to safely and competently perform their duties
 - Not under undue influence of legal or illegal substances
 - Not mentally or physically impaired from any cause
- Three major considerations
 - Drugs
 - Alcohol
 - Fatigue

10 CFR Part 26 “Fitness for Duty”

- March 31, 2008 – NRC issues a major revision of its fitness for duty regulations
 - Aligned drug & alcohol testing requirements with 2004 revision of “Mandatory Guidelines for Federal Workplace Drug Testing,” issued by US Department of Health & Human Services (HHS)
 - Outlined first fatigue management requirements for nuclear power plant workers (Subpart I)
 - Recordkeeping & reporting
 - Work hour controls
 - Self declarations
 - Fatigue assessments

10 CFR Part 26 “Fitness for Duty”

- November 2008 – HHS revises its Mandatory Guidelines
 - NRC determines not to immediately revise its drug & alcohol requirements to allow its licensees to implement the NRC’s new regulations and to incorporate lessons learned
- 2009-2011 – Petitions for Rulemaking
 - Minimum Days Off
 - Administrative burden of fatigue requirements
 - Substance Abuse Experts

10 CFR Part 26 “Fitness for Duty”

- July 2012 – NRC revises fatigue management requirements
 - Maximum average work hour alternative
- April 2013 – Petition for Rulemaking
 - Effects of synthetic drugs on nuclear power plant workers

Rule Making Activities

Part 26 Subpart I – “Managing Fatigue”

- Areas to be addressed:
 - Subject workers conducting certain quality inspections to same work hour control requirements as maintenance workers
 - Allow an exception to work hour controls for those individuals sequestered on site due to severe natural phenomena
 - Ensure licensees include time individuals spend travelling for a licensee in the calculation of work hours
 - Clarify shift turnover activities that can be excluded from the calculation of work hours
 - Revise the definition of “unit outage”

Part 26 Subpart I – “Managing Fatigue” (cont.)

- Schedule & Milestones
 - Public interactions and materials
 - <http://www.regulations.gov/#!docketDetail;D=NRC-2009-0090>
 - NRC staff will present a proposed rule to the Commission in mid to late 2014
 - Publication in *Federal Register* expected in early-2015
 - Public comment period
 - 75-day minimum
 - All public comments will be considered
 - Public meeting on final rule implementation
 - Final rule publication expected approximately mid 2016

2008 HHS Guidelines

- Areas to be addressed:
 - Add *Ecstasy* drugs to testing panel
 - Lower initial and confirmatory cutoff levels
 - Amphetamine
 - Methamphetamine
 - Cocaine
 - Add initial testing for 6-Acetylmorphine
 - Require that the MRO consider time and temperature when reviewing specimens with a pH value in the range of 9.0 to 9.5
 - Require special analysis of specimens associated with a suspected subversion attempt
 - Use Level of Quantitation instead of Level of Detection as decision point for special analysis testing

2008 HHS Guidelines (cont.)

- Schedule & Milestones
 - Public interactions and materials
 - <http://www.regulations.gov/#!docketDetail;D=NRC-2009-0225>
 - Rule currently under NRC management review
 - Publication in *Federal Register* expected in early 2014
 - Public comment period
 - 75-day minimum
 - All public comments will be considered
 - Public meeting on final rule implementation
 - Final rule publication expected approximately late 2014 or early 2015

Technical Issues & Editorial Changes

- NRC is in the very early stages of technical development
- Concepts being considered
 - Alternative specimen testing
 - Substance Abuse Expert qualifications & credentials
 - Synthetic drugs
 - Prescription drugs
 - And many more...
- NRC anticipates an update of the HHS Mandatory Guidelines in 2014

Technical Issues & Editorial Changes (cont.)

- **Schedule & Milestones**
 - Public interactions and materials
 - <http://www.regulations.gov/#!docketDetail;D=NRC-2012-0079>
 - Regulatory basis development expected to be completed in early 2015
 - Proposed rule expected to be published approximately mid 2016
 - Public comment period
 - 75-day minimum
 - All public comments will be considered
 - Final rule expected to be published approximately late 2017

Petition for Rulemaking

PRM-73-16 “Access Authorization Requirements for Nuclear Power Plants”

- **Petitioner:** Nuclear Energy Institute
- **Date Docketed:** February 4, 2013
- **Date Noticed in *Federal Register*:** April 22, 2013 (78 FR 23684)
- **Specific Requests:**
 - 1) The NRC amend its personnel access authorization regulations to ensure that access authorization denials or revocations cannot be overturned by a third party.
 - 2) An expedited review of the petition based on pending arbitration cases that may be affected by NRC action or inaction on this petition.
 - NRC staff addressed this request by shortening public comment period from its normal length of 75 days to 45 days (closed on June 6, 2013).

PRM-73-16 “Access Authorization Requirements for Nuclear Power Plants”

- Public Comments
 - Over 200 individual commenters & co-signers
 - Members of Congress
 - Organized labor representatives
 - 42 separate IBEW entities (locals, system councils, national, etc.)
 - Nuclear workers
 - Nuclear power plant licensees
 - Majority of commenters opposed to the petition



PRM-73-16 “Access Authorization Requirements for Nuclear Power Plants”

- Current Status – NRC staff is preparing a recommendation for the Commission
- Anticipate a decision in mid 2014

Questions?

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