

do think that what I learned from this episode was that I think this is Item 15 of the attachment to the SRM and when we make changes in the final rule which you may have thought - I think you were the proponent in your vote - were minor sometimes we run afoul and there was some chance that we would have to resubmit the rule to the public for comment if we kept that in there we'd have to deal with this issue of whether it's 190 million or 75 million and staff always underestimates and I think NEI overestimates so truth may be somewhere in between. But we're going to end up in the end in the guidance process we often times leave many things to guidance, Part 52 as an example, with something like the word predominately and I think that means that the outage plants will be not entirely walled off from the plants that are not in outage but that the plants that are operating will not have any adverse safety effects so I supported this and I think it's been so long, I also as I told Commissioner Jaczko on a couple of occasions is motivated by the fact that this started before I was here and I'm the longest serving Commissioner in NRC history and I'd sort of like to see it finished within a finite period of time without renoting. So thank you.

CHAIRMAN KLEIN: Thanks. Commissioner Lyons?

COMMISSIONER LYONS: Well, I too understand Commissioner Jaczko's concern. I also agree Mr. Chairman with your proposal and I appreciate and agree with the points that Commissioner McGaffigan just made. I guess of greatest importance in my mind in looking at this change, I would certainly agree with Ed's comment that there's a lesson here about quick changes in language that has already been thoroughly vetted. And, I am quite comfortable with the proposal you made Mr. Chairman because it returns to the language that was subject to public comment and it was that language which had been the beneficiary of public comment that we changed at the last minute and that led to the various uncertainties that we're now correcting. I join with Commissioner McGaffigan in hoping in guidance we end up with a clear understanding that while the word "solely" is not there a word like "predominately" is effectively there. But thank you very much.

CHAIRMAN KLEIN: Thank you. Well, I'd like to thank the Commission for taking prompt action. As indicated, I did think that adding the word "solely" was - initially added value to clarification. It turned out that sometimes I make mistakes and it turns out that as Commissioner McGaffigan indicated there were unintended consequences - it may not be as difficult as NEI and the industry indicated but clearly there were unintended consequences that the cost were going to be greater and this as a change - a last minute change - to add the word "solely" from what we had published and had agreed to so I think in light of wrapping up this issue that's gone on for many years that this is the right thing to do and we can certainly as information is obtained it's not something here we will add guidance as appropriate to finish it. So..

COMMISSIONER JACZKO: Could I just make two points on those things. First of all I don't think these were unintended consequences. I went back and looked in the draft proposed reg analysis. At that time it said - the draft proposed reg analysis says that the NRC expects that licensees will incur incremental costs to be able to meet the day off provisions of the final rule during unit outages. This is a discussion applying to particularly this provision 26.205(d)(4). So again, I don't think - this was not unknown that there were going to be additional costs here. The inclusion of the word "solely" did not change the original intent of this provision which is consistent with the addition of the word "solely". So, very much, if you read through the reg analysis that was prepared at that time with the language without the word "solely" it is very similar to the analysis that the staff did with the inclusion of the word "solely" so again, I don't think this was a new interpretation in really very many people's mind about what this provision meant and I think it's important to realize we had this information available at the time - it was there and the use of the word "solely" was to clarify the meaning of that provision to be sure that it was applied as intended. And intended in the original proposed final rule. The other comment I would make and then I don't want to prolong this is that the language we're reverting back to is not the language of the proposed rule. The language of the proposed rule if you will recall dealt with group work hours and was completely different from the language that we saw in the draft final rule. This was a compromise that was worked out over an extensive period of time through lots of stakeholder interactions but the proposed rule language dealt with the completely different paradigm which the Commission modified and changed because the concept of group work hours was considered to be unworkable and I supported that change and I believe that that was an appropriate change but this particular language that we're referring to I do not believe was necessarily in this same form ever provided for public comment. The concepts were certainly discussed and the intent was ultimately that the language should reflect that if you were in an outage situation you would have the advantage of an exceptions to the general work hour requirements that apply to operating units including the word "solely" in that provision simply clarifies that existing intent that I think was there from the beginning so I just wanted to clarify I think those two statements that were made and I think all of that information is there in the record for people to see.

CHAIRMAN KLEIN: Well, since I was the one who had initially proposed the word "solely" I will clarify the intent was not to have unintended consequences and it would have had potentially negative impact on the operating reactors as well as those during outage and so I think the Commission voted to do this and so we appreciate your comments but I think the records do stand as stated and the fact that I was the one that had initially proposed that for clarification I thank the Commission for supporting the reclarification today. Thank you.

COMMISSIONER MCGAFFIGAN: Mr. Chairman, I'm not trying to delay a final word but I do want comment on Commissioner Jaczko. There's so much that we're all on agreement on in this rule and it's such an improvement over what exists and moving away from group work hours as a result of public comments from all sides was one of the things we did between the proposed rule and the final rule so I think we were having a disagreement today but this is by every measure a much better Part 26 than the one that exists today and I hope the public whose probably not understanding this entire discussion understands that point. The staff labored on this for 13 years, it's been on the docket as something we're trying to do my entire time with the Commission and I hope that if there's somebody who breaks my record that he or she doesn't have a rulemaking that starts before they come and finishes towards the end of their term. They'd have to have three terms. And three term rulemaking efforts are not something that I'd encourage the NRC to engage in.

CHAIRMAN KLEIN: Thank you. Now we'll move on to Palo Verde.

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING:	Affirmation Session
	(PUBLIC MEETING)
PLACE OF MEETING:	Rockville, Maryland
DATE OF MEETING:	June 28, 2007

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company.

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