

October 26, 2005

MEMORANDUM TO: Stephanie Coffin, Section Chief
Policy and Rulemaking Program Section B
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

FROM: David Diec, Project Manager */RA/*
Policy and Rulemaking Program Section A
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Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF MEETING TO SOLICIT EARLY COMMENTS ON
PROPOSED FITNESS-FOR-DUTY RULE AND INDUSTRY'S PLAN TO
DEVELOP GUIDANCE FOR FATIGUE MANAGEMENT

On September 21 and 22, 2005, the staff held a Category 3 public meeting in Rockville, MD, to solicit feedback regarding the proposed 10 CFR Part 26 (Fitness-For-Duty) rule and discuss industry's plan to develop implementation guidelines for fatigue management. Industry, Nuclear Energy Institute (NEI), Union of Concerned Scientists (USC), International Brotherhood of Electrical Workers (IBEW), Project on Government Oversight (POGO), The National Sleep Foundation, and members of the public were represented at this meeting (see Attachment 1).

The stakeholders in general supported the proposed rule, particularly the drug and alcohol provisions. The fatigue management provisions were more controversial. Many comments, both for and against, were received on the fatigue management provisions. Detailed discussion of these points are included in the Part 26 Rulemaking "Fitness for Duty" Public Meeting transcript (ADAMS ML052780361). Written public comments were also accepted during the meeting. The staff presentation slides are included in Attachment 2 of this meeting summary.

The staff solicited responses to a list of questions on the proposed drug and alcohol and fatigue provisions that were included in the *Federal Register* notice of the proposed rule (ADAMS ML051880369). The staff also responded to a number of clarification inquiries from stakeholders regarding the proposed rule requirements. A number of suggested considerations for rule text revisions were also discussed by the stakeholders.

Industry participants were concerned that significant resource expenditures would be required to implement the rule and believed that the proposed group work hour controls and reporting requirements concerning fatigue management were unnecessary. POGO was concerned about the effectiveness of group work hour controls for limiting work hours on security forces. IBEW presented several concerns including a concern that the proposed requirement for a 24 hour break in any seven days may not provide sufficient scheduling flexibility for 8-hour shift schedules.

Industry representatives also engaged in a brainstorming session on the second day of the meeting to identify areas for which guidance documents would need to be developed to implement the rule. NEI and industry representatives indicated that implementation guidance and processes for drug and alcohol provisions have been implemented to the extent that they continue to meet the current regulatory requirements. However, the guidance will be updated to incorporate access authorization provisions modified by the rule and submitted for staff review. With regard to a fatigue management guidance document, NEI expressed interest in further dialogue with the staff to define processes, alternative approaches, and participate in guidance document development.

The staff tentatively plans to hold an additional public meeting near the end of the public comment period in December 2005 to solicit further feedback from stakeholders on the proposed requirements.

Attachments:

- (1) Attendance Sheets
- (2) NRC presentation slides

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Package Accession Number: ML052800009

Attachment 1 Accession Number: ML052790561

Attachment 2 Accession Number: ML052800007

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