

February 27, 2013

MEMORANDUM TO: Shana R. Helton, Chief  
Rulemaking Branch  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

FROM: Scott C. Sloan, Project Manager **/RA/**  
Rulemaking Branch  
Division of Policy and Rulemaking  
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF CATEGORY 2 PUBLIC MEETING TO DISCUSS  
THE PART 26 SUBPART I (FATIGUE MANAGEMENT)  
PROPOSED RULEMAKING

On January 28, 2013, the Nuclear Regulatory Commission (NRC) held a Category 2 public meeting in Rockville, Maryland, to discuss preliminary proposed rule language regarding licensee staff sequestration during severe weather events, draft guidance material submitted by the Nuclear Energy Institute, and the guidance development process. The preliminary proposed rule language was published by the NRC on January 17, 2013. The draft guidance material was submitted to the NRC on December 16, 2012. Both documents were posted to docket folder NRC-2009-0090 on [www.regulations.gov](http://www.regulations.gov).

The meeting was noticed on January 16, 2013. The notice is available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html#web-based-adams>, where the public can access the text and image files of the NRC's public documents in the NRC's Agencywide Documents Access and Management System (ADAMS). The meeting notice can be found under ADAMS Accession No. ML13014A526.

The meeting was attended by 19 individuals, primarily representing NRC staff, members of the nuclear power reactor community, contractors, and union representatives. An additional 9 individuals participated in the meeting through audio teleconferencing and Webinar. Enclosure 1 presents a summary of the meeting. A complete list of participants is provided in Enclosure 2. Enclosure 3 contains the meeting agenda.

Enclosures:

1. Meeting Summary
2. Meeting Attendance List
3. Agenda

CONTACT: Scott C. Sloan, NRR/DPR  
301-415-1619  
[Scott.Sloan@NRC.gov](mailto:Scott.Sloan@NRC.gov)

Kamishan Martin, NRR/DRA  
301-415-3469  
[Kamishan.Martin@NRC.gov](mailto:Kamishan.Martin@NRC.gov)

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ADAMS Accession No: ML13052A776

\*Via E-mail

OFFICE	NRR/DPR/PRMB	NRR/DPR/PRMB*	NRR/DPR/PRMB: BC
NAME	SSloan	CEngland	SHelton
DATE	2/20/2013	2/22/2013	2/27/2013

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## **Summary of January 28, 2013, Public Meeting to Discuss the Part 26 Subpart I (Fatigue Management) Proposed Rule**

On January 28, 2013, the Nuclear Regulatory Commission (NRC) held a public meeting in Rockville, Maryland, to discuss preliminary proposed rule language regarding licensee staff sequestration during severe weather events, draft guidance material submitted by the Nuclear Energy Institute (NEI), and the guidance development process. The preliminary proposed rule language was published by the NRC on January 17, 2013. The draft guidance material was submitted to the NRC on December 16, 2012. Both documents were posted to docket folder NRC-2009-0090 on [www.regulations.gov](http://www.regulations.gov).

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### **I. Opening Remarks and NRC Presentation**

The public meeting began with brief opening remarks followed by a presentation by the NRC staff detailing the preliminary proposed rule language regarding licensee staff sequestration during severe weather events. The NRC also discussed the staff's rationale when developing the rule language. The NRC staff's presentation is publicly available under ADAMS Accession No. ML13050A048. The NRC staff asked the public meeting participants if the preliminary proposed rule language provided 1) a means to develop reasonable assurance that sequestered individuals' work hours will be managed to minimize fatigue, 2) sufficient regulatory flexibility to allow licensees to effectively manage their staffs in preparation for and during severe weather conditions, and 3) clear, enforceable exception criteria. The response led to significant discussion.

Representatives from the nuclear power reactor industry commented that the amount of detail being sought by the preliminary proposed rule language is not in concert with the detail required for other exceptions in Title 10 of the *Code of Federal Regulations* (10 CFR) Section 26.207, specifically the plant emergency exception. The NRC responded that, although the regulations do not require a plan for exempting individuals from work hour controls during plant emergencies, the NRC has reviewed and approved each licensee's emergency plan and understands the staffing required during various phases of plant emergencies. Additionally, the staff believes that once a plant is in an emergency condition, whatever resources necessary should be applied to mitigate the consequences of the emergency condition. However, if a licensee is submitting a sequestration plan to seek a pre-emptive exception for a severe weather condition, the NRC believes that due diligence must be made to prevent any condition, including fatigue, that may degrade individual performance.

Nuclear industry stakeholders also commented that the wording of the preliminary proposed rule language only provided an exception for sequestration during severe weather events, and there was discussion regarding whether the language could be modified to include any event that may require sequestration (e.g., pandemic flu outbreak). The NRC responded that PRM-26-5, submitted by NEI, only requested an exception for work hour controls during severe weather conditions.

ENCLOSURE 1

However, the NRC agreed to internally discuss the viability of allowing an exception for sequestration during other events affecting mass populations, including public health emergencies.

Nuclear industry stakeholders were concerned over the amount of detail sought in sequestration plans, should licensees choose to submit one for NRC review. Stakeholders asked the NRC if the rule language could be pared to a more performance-based approach, describing broad parameters instead of specific, prescriptive rule language. The NRC responded that the preliminary proposed rule language communicates the agency's outlook on the issue, and stakeholders are welcome to submit draft guidance to the NRC for review and potential endorsement if they believe that guidance documents would provide a better medium for what should be included in a sequestration plan.

Nuclear industry stakeholders commented that the language in § 26.207(e)(1) did not provide a means to make and implement immediate changes to the licensee's sequestration plan should a licensee discover a shortcoming in its plan following activation. The NRC agreed to develop language that would permit such changes for the proposed rule.

Nuclear industry stakeholders also commented that the rule language should allow the shift manager to have the ultimate authority for deciding to activate or de-activate the sequestration plan. Stakeholders explained that shift managers have the authority of the plant manager when the plant manager is not on-site, and shift managers are given the authority to make recommendations for evacuation and other protective actions during an emergency. Additionally, shift managers would not typically make decisions affecting site staffing without communicating with other senior licensee management.

The NRC stated that NEI should submit a revision of its draft guidance document to account for the preliminary proposed rule language regarding licensee staff sequestration during severe weather conditions to the NRC by March 14, 2013. Additionally, the NRC proposed a public meeting date of March 28, 2013, to discuss NEI's draft guidance document submission. These dates are in accordance with the draft guidance development process timeline discussed and agreed upon in a June 5, 2012, public teleconference.

## **II. Nuclear Energy Institute Presentation**

NEI discussed its draft guidance document submission regarding the preliminary proposed rule language making individuals conducting quality inspections subject to the work hour provisions of Subpart I. The NEI draft guidance document is publicly available under ADAMS Accession No. ML13017A055.

The NRC commented that there were a number of terms used in the draft guidance submission that were either undefined by or in conflict with existing regulations or guidance. Specifically, the NRC highlighted use of the phrase "covered SSC" on page 1 of the document. NEI responded that this draft included industry jargon that should be removed in subsequent draft guidance revisions.

The NRC also noted that the draft guidance document changed the definition of "maintenance" from what had been discussed and agreed upon during the development of the 2008 final rule.

Specifically, the draft guidance document definition only included preventive and corrective maintenance, while the definition of “maintenance” in 10 CFR 26.5 is listed as “modification, surveillance, post-maintenance testing, and corrective and preventive maintenance.” NEI responded that there was no intent to change the definition of the term “maintenance,” and the guidance document would be clarified in future revisions.

### **III. Draft Guidance Development**

The NRC discussed the guidance development process, specifically how the timeline between issuance of preliminary proposed rule language and receipt of draft guidance material differed from the schedule discussed and agreed upon at a June 5, 2012, teleconference. The stated goal was 75 days, but 142 days elapsed between the release of the preliminary proposed rule language subjecting individuals conducting quality inspections to the work hour controls of Subpart I and the public meeting to discuss NEI’s draft guidance document submission. The draft guidance document revision that was received only incorporated those preliminary proposed rule language changes, while NEI had previously indicated that it would provide a complete revision to its draft guidance document. The NRC stated that, in order to meet the Commission due date for the proposed rule and its associated guidance documents, the NRC needed to receive a complete revision of its draft guidance document by close of business, February 11, 2013. The NRC also stated that if this deadline was not met, it may be necessary for the NRC to develop the guidance documents in-house for the remainder of the rulemaking effort.

### **IV. Next Steps**

The NRC stated that the staff would continue to work on technical issues, including those presented in the petitions for rulemaking being considered in this rule, and the NRC reminded nuclear industry stakeholders that the NRC was still waiting for them to provide some technical information regarding the technical requests made in those petitions, as committed to in previous public meetings.

**January 28, 2013, Public Meeting to Discuss the Part 26 Subpart I (Fatigue Management)  
Proposed Rulemaking**

Attendance List

<b>NAME</b>	<b>AFFILIATION</b>
James Wheeler	Dominion
Tom Miller	First Energy
Lee Marabella	PSEG
Greg Halnon	First Energy
John Butler	Nuclear Energy Institute
Peter Defilippi	Westinghouse
Dave Mullen	IBEW
Kamishan Martin	NRC
Tara Inverso	NRC
Stephanie Morrow	NRC
Earl Libby	NRC
Will Smith	NRC
Doug Huyck	NRC
DaBin Ki	NRC
Howard Benowitz	NRC
Shana Helton	NRC
Undine Shoop	NRC
Joe Gitter	NRC
Scott Sloan	NRC
Theresa Barczy*	NRC
Jana Bergman*	Curtiss Wright
Kristi Branch*	Pacific Northwest National Laboratory
Frank Mascitelli*	Exelon
Robert Hammons*	Energy-Northwest
Okechuku Okonkwo*	Southern California Edison
Thomas Perry*	South Carolina Electric & Gas
Ken Taplett*	South Texas Project
Tom Houghton*	Certrec

\*Participated via Webinar/Conference Call

AGENDA FOR THE JANUARY 28, 2013, PUBLIC MEETING  
TO DISCUSS THE PART 26 SUBPART I (FATIGUE MANAGEMENT) PROPOSED RULE  
1:00 P.M. – 4:00 P.M.

**PURPOSE:** To discuss preliminary proposed rule language developed by the Nuclear Regulatory Commission and released on January 28, 2013, regarding licensee staff sequestration during severe weather events, and draft guidance material submitted by the Nuclear Energy Institute on December 16, 2012. This preliminary proposed rule language and draft guidance material are available for review at [www.regulations.gov](http://www.regulations.gov) under Docket Folder NRC-2009-0090.

Time	Topic	Led By
1:00 p.m. – 1:05 p.m.	Opening Remarks	NRC
1:05 p.m. – 2:15 p.m.	Discussion of Preliminary Rule Language	NRC
2:15 p.m. – 3:45 p.m.	Discussion of NEI Draft Guidance Material	NEI
3:45 p.m. – 3:55 p.m.	Public Participation	
3:55 p.m. – 4:00 p.m.	Closing Remarks	NRC