



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

May 3, 2021

Jeremy Joiner
107 Wedgewood Drive
Florence, AL 35630

Dear Jeremy Joiner:

This letter responds to your correspondence submitted to the U.S. Nuclear Regulatory Commission (NRC) dated February 4, 2021.¹ In this correspondence, you requested that the NRC amend its regulations at Part 26, "Fitness for Duty Programs," of Title 10 of the *Code of Federal Regulations* (10 CFR) to allow the industry "to let workers support a seven-day, 12-hour shift to minimize the health effects that are caused by sleep deficient shift work."

The NRC reviewed your request and concluded that the information you provided does not meet the Commission's criteria for a petition for rulemaking under 10 CFR 2.802(c). Specifically, your request does not (1) present the specific circumstances in which the NRC's codified requirements are incorrect, incomplete, inadequate, or unnecessarily burdensome, as required by 10 CFR 2.802(c)(1)(iii); or (2) cite, enclose, or reference any other publicly available data or information to support your proposed solution, as required by 10 CFR 2.802(c)(1)(vii). Because your correspondence does not meet the criteria for a petition for rulemaking, and because (as discussed below) the considerations discussed in your request have already been addressed by prior rulemaking considerations, the NRC will not consider your request unless you provide additional information, as described below.

With respect to the first criterion, your request does not adequately support the assertion that the NRC's codified requirements are incorrect, incomplete, inadequate, or unnecessarily burdensome. The NRC has previously evaluated the general issue you raised in your request regarding a longer maximum number of work hours within a 7-day period, and the NRC's decision on the matter is already reflected in its regulations.

The NRC considered whether to allow longer periods of consecutive 12-hour shifts while developing the fatigue management requirements in 10 CFR Part 26. As discussed by the NRC in the statement of considerations for its 2008 final rule, Fitness for Duty Programs, amending 10 CFR Part 26 (73 FR 16965; March 31, 2008), the available research did not support doing so.² Specifically, human reliability analysis experts recommended that the NRC set "a maximum of 60 hours in any 7-day period." Based on this, along with other considerations discussed in the statement of considerations, the NRC established a 72-hour maximum limit in the final rule. This 72-hour limit was established based on the expectation that individuals

¹ Available in the NRC's Agencywide Documents Access and Management System (ADAMS), <https://adams.nrc.gov/wba>, under Accession No. ML21070A424.

² See <https://www.federalregister.gov/documents/2008/03/31/E8-4998/fitness-for-duty-programs>.

would work this maximum number of allowable hours only on an infrequent and temporary basis.

To the extent that your proposal is intended “to minimize the transitions to the shift workers sleep cycle,” your request does not explain why the current requirements are deficient in achieving this objective, nor does it explain why the current requirements fall short of balancing this objective with the limit placed on the maximum hours that may be worked in any 7-day period, as described in 10 CFR 26.205(d). Your request also did not address 10 CFR 26.205(c), which requires licensees to schedule work hours of individuals consistent with the objective of preventing impairment from fatigue due to the duration, frequency, or sequencing of successive shifts. Licensees must incorporate this objective when planning shift cycles, such as those described in your correspondence.

With respect to the second criterion, your request does not cite, enclose, or reference any publicly available data or information supporting your proposed solution. You included references to general information regarding concerns associated with shift work schedules and information about shift work disorder. However, you did not include specific citations to other publicly available data or studies supporting your proposed solution. Your request did not provide information supporting the assertion that minimizing the frequency of sleep-cycle transitions should be prioritized over limiting the maximum allowable work hours in a 7-day period to 72 hours to better prevent impairment from fatigue. In order to reconsider the proposal discussed in your request, the NRC would need to be presented with information specifically supporting such a position.

For the reasons discussed above, your February 4, 2021, correspondence does not satisfy the requirements of 10 CFR 2.802(c) and, therefore, cannot be docketed by the NRC as a petition for rulemaking, as provided for in 10 CFR 2.803(b). If you wish for the NRC to reconsider your request that the agency amend its regulations, additional information to supplement your correspondence would be needed.

If you have any questions, please contact Cindy Bladey, Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards, by phone at 301-415-3280 (toll-free at 1-800-368-5642), or by e-mail at Cindy.Bladey@nrc.gov.

Sincerely,

John R. Tappert, Director
Division of Rulemaking, Environmental,
and Financial Support,
Office of Nuclear Material Safety
and Safeguards