

August 4, 2005

ALL STATE LIAISON OFFICERS

10 CFR PART 26, "FITNESS FOR DUTY PROGRAMS" PROPOSED RULEMAKING

The U.S. Nuclear Regulatory Commission (NRC) has forwarded the enclosed proposed changes to the Commission's rules in 10 CFR Part 26, "Fitness for Duty Programs," to the Office of the Federal Register for publication.

The proposed rule amends the NRC's requirements for Fitness for Duty (FFD) programs for nuclear power reactors and certain strategic special nuclear materials licensees and transporters. The changes incorporate advances in drug and alcohol testing technology, practices and applicable elements of other relevant Federal rules and guidelines, including those of the Department of Health and Human Services (HHS) and the Department of Transportation (DOT). The changes would also establish clear and enforceable requirements concerning the management of worker fatigue at nuclear power reactors. Additionally, the changes are being made to improve clarity of the requirements to ensure consistent implementation and to establish coherence with related NRC regulations for access authorization to the protected areas of licensee sites. The changes would also partially grant petitions for rulemaking from Virginia Electric and Power Company (now Dominion Virginia Power) and Mr. Barry Quigley, who resides in Illinois.

The changes would improve 10 CFR Part 26 by eliminating or modifying unnecessary requirements determined through many years of implementation to be unimportant to effectiveness of the program. The proposed changes would also improve the effectiveness and efficiency of FFD programs in many areas, such as allowing the flexibility to use saliva to test for the presence of alcohol, revising several cutoff levels for illegal drugs to more effectively identify positive specimens, and numerous other similar changes. The proposed changes would also establish work hour limits and other fatigue management controls for nuclear power plant licensed operators and senior licensed operators, as well as maintenance, health physics, chemistry, fire brigade and security force personnel.

Finally, the proposed rule provides for public participation. NRC staff have engaged industry and public stakeholders in several public meetings, and considered the input received, including an increased sensitivity to the physical security implications of FFD requirements in the wake of the terrorist attacks of September 11, 2001. The proposed rule will be noticed in the *Federal Register* and made available for further public comment.

Section XII of the enclosed *Federal Register* Notice is an environmental assessment (EA) that has been prepared in support of the proposed rule. The conclusion of the EA is the Commission's finding that no significant environmental impact would result from the proposed rule. The enclosure is provided for your review and comment. If you have any comments on the rule and its environmental impact, please send them by **December 2, 2005**.

Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

You can use the following methods to transmit your comments: (1) you can mail your written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, Attention: Rulemakings and Adjudication Staff; (2) you can fax your comments to (301) 415-1101; (3) you can e-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming receipt, contact us directly at (301) 415-1966; and (4) you may also provide comments via the NRC's interactive rulemaking Website at <http://ruleforum.llnl.gov>. For information about the interactive rulemaking Website, contact Ms. Carol Gallagher, (301) 415-9905 (e-mail: CAG@nrc.gov).

For additional information on this action, contact Rebecca Karas, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, telephone (301) 415-3711, e-mail RLK@NRC.GOV.

Sincerely,

/RA/

Paul H. Lohaus, Director
Office of State and Tribal Programs

Enclosure: *Federal Register* Notice

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***See previous concurrence.**

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