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Nuclear

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RS-05-181

December 21, 2005

Secretary
U.S. Nuclear Regulatory Commission
Attention: Rulemakings and Adjudications Staff
Washington, DC 20555-0001

Subject: Comments on Proposed Rule, "Fitness for Duty Programs," 10 CFR Part 26 (70FR50442, dated August 26, 2005; RIN 3150-AF12)

- References:
- 1) Letter from Michael T. Coyle (Nuclear Energy Institute) to the U.S. Nuclear Regulatory Commission, "Comments on Draft Fitness for Duty Rule, 10 CFR Part 26 (RIN 3150-AF12)," dated December 20, 2005
 - 2) Letter from James W. Davis (Nuclear Energy Institute) to the U.S. Nuclear Regulatory Commission, "Comments on the Proposed Rule, *Fitness for Duty Programs*, (70 Fed. Reg. 50442; August 26, 2005, RIN 3150-AF12)," dated December 20, 2005

Exelon Generation Company, LLC (EGC) and AmerGen Energy Company, LLC (AmerGen) appreciate the opportunity to provide comments on the proposed rule changes for 10 CFR Part 26, "Fitness For Duty Programs," noticed in the Federal Register (FR) on August 26, 2005 (70 FR 50442). EGC/AmerGen endorses the comments made by the Nuclear Energy Institute (NEI) on behalf of the industry in Reference 1, which addresses the work hours portion of the proposed rule; and in Reference 2, which addresses the drug and alcohol aspects of the proposed rule.

EGC/AmerGen supports the changes to Part 26 that will enhance nuclear and personnel safety by ensuring workers are fit for duty; however, as noted in Reference 1, we are concerned with the unnecessary layering of the new regulatory requirements that address worker fatigue. As proposed, these layered requirements may create unintended negative safety consequences and will present an unwarranted burden on the nuclear industry.

In particular, EGC/AmerGen supports the NEI alternative for break requirements that will provide an equally robust but more flexible approach that will better accommodate eight and 12 hour shift rotations, as well as work schedules during outage periods. It is noteworthy that the rule, as proposed, would essentially preclude utilizing an eight hour shift rotation schedule. In addition, EGC/AmerGen concurs with NEI's position that the proposed collective work hour limits are unnecessary to mitigate the effects of cumulative fatigue and should be removed from the proposed rule except as currently applied to security officers.

DOCKET NUMBER
PROPOSED RULE 26
(70FR 50442)

DOCKETED
USNRC

December 21, 2005 (4:00pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

47

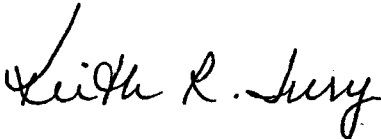
December 21, 2005
U.S. Nuclear Regulatory Commission
Page 2

EGC/AmerGen supports the majority of the provisions in the drug and alcohol portion of the proposed rule. Please note; however, that throughout this portion of the rule, the term "authorization" is used in a number of different context. Historically, the term "authorization" has been used in reference to "access authorization." It would be beneficial to clearly define the different uses of the term "authorization" or utilize unique terms as appropriate.

EGC/AmerGen endorses the remaining comments made by NEI in Reference 1 and Reference 2 and encourages the Nuclear Regulatory Commission to consider changes to the proposed rule in light of the industry's concerns.

Please contact Joseph A. Bauer at (630) 657-2801 regarding any questions you may have regarding this letter.

Respectfully,

A handwritten signature in black ink that reads "Keith R. Jury". The signature is written in a cursive style with a large initial 'K' and a long, sweeping underline.

Keith R. Jury
Director, Licensing and Regulatory Affairs
Exelon Generation Company, LLC
AmerGen Energy Company, LLC

From: <claudia.mobley@exeloncorp.com>
To: <SECY@nrc.gov>
Date: Wed, Dec 21, 2005 2:50 PM
Subject: 10 CFR Part 26

Attached, please find the Exelon/AmerGen comments on the proposed rule changes for 10 CFR Part 26, "Fitness For Duty Programs," noticed in the Federal Register (FR) on August 26, 2005 (70 FR 50442) (RIN 3150-AF12). Exelon/AmerGen appreciates the opportunity to comment on the subject proposed rule.

Thank you,

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