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2007 OCT -2 PM 3:11

September 12, 2007

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72FR37058
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Rulemaking, Directives, and Editing Branch
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Response to Request for Comments Concerning Draft Regulatory Guide DG-5019, "Reporting of Safeguards Events" (Federal Register Notice 72FR37058, dated July 6, 2007)

Exelon Generation Company, LLC (Exelon) and AmerGen Energy Company, LLC (AmerGen) are submitting this letter in response to a request from the Nuclear Regulatory Commission (NRC) for comments concerning Draft Regulatory Guide DG-1152, "Reporting of Safeguards Events," published in the Federal Register (i.e., 72FR37058, dated July 6, 2007).

DG-5019 contains proposed Revision 2 of Regulatory Guide 5.62, "Reporting of Safeguards Events," which describes acceptable methods for use by licensees for determining when and how a Safeguards event should be reported or recorded.

Exelon and AmerGen appreciate the opportunity to comment on DG-5019, and offer the following comments for consideration by the NRC.

General Comments

1. There are many examples provided of events that should be reported. Many of these examples describe multiple conditions (e.g., condition #1 and condition #2). Others specify condition #1 or condition #2, #3. Exelon/AmerGen recommend that **AND** and **OR** be included and capitalized, bolded, and underlined when describing these conditions. Furthermore, Exelon/AmerGen are requesting clarification relative to the applicability of the reporting guidance specified in Bulletin 2005-02, "Emergency Preparedness and Response Actions for Security-Based Events," and Generic Letter 91-03, "Reporting of Safeguards Events," as it relates to DG-5019. Specifically, is the intent of DG-5019 to supercede previous guidance for reporting and recording of Safeguards events, or to provide additional information?

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2. The language in several sections of DG-5019 does not appear consistent with NRC's draft final rule language discussed during a public meeting on July 27, 2007. Some examples include:
 - DG-5019, Section 2.1, states in part "...not later than 15 minutes after the discovery of an imminent threat or actual threat against the facility..." verse the language in 10CFR73.71(a) which states, "...not later than 15 minutes after the discovery of an imminent or actual hostile act against the facility...."
 - DG-5019, Section 2.3, example (4) states in part, "...actual or attempted entry of an unauthorized person into..." verse the language in 10CFR73, Appendix G, II (b)(1) which states "...An actual entry of an unauthorized person into..." and Appendix G, II (b)(2) "...An attempted entry of an unauthorized person with malevolent intent into...."

Therefore, Exelon/AmerGen recommend that the NRC ensure consistency between the guidance specified in DG-5019 and the draft final rule.

Specific Comments

1. Section 2.1 *"Security Events to be Reported Within 15 Minutes"*

In the first paragraph Exelon/AmerGen suggest that the first sentence be reworded to read: "...after the discovery of an imminent or actual threat by a hostile force against the facility..." to more clearly align the language with guidance stipulated in Bulletin 2005-02.

2. Section 2.2 *"Examples of Security Events to be Reported Within 15 Minutes"*

Exelon/AmerGen recommend clarification as to whether the purpose of this 15-minute notification requirement is to determine if additional licensees need to be notified to take action immediately. If that is the case, we suggest that Examples 6, 7, and 8 be relocated to another section.

Based on the comment above, all of the remaining examples provided in this section will result in declaration of an "ALERT" in accordance with the new security Emergency Action Levels (EALs). Section 4.2, "Dual Reporting," indicates that multiple reports on the same event/condition are not required. As a result, the 15-minute reporting of events will be completed as required by implementation of the Emergency Plan. Therefore, Exelon/AmerGen recommend that this section be deleted.

3. Section 2.4 *"Examples of Security Events to be Reported Within 1 Hour"*

- In the last bullet under subsection (1), Exelon/AmerGen do not consider this particular situation applicable to this category.
- In the second bullet under subsection (2), Exelon/AmerGen suggest some additional clarification. Some sites have very large Owner Controlled Areas (OCAs). It would be difficult to determine whether fires or explosions in remote areas of the OCA or even adjacent to the OCA

are suspicious or of what origin. Therefore, Exelon/AmerGen recommend that this event be focused on reporting of fires and/or explosions in the OCA that could have impact on the safe operation of the facility.

Additionally, we recommend that throughout the document "material access area" and "controlled area" be parenthetically annotated (CAT 1) to help clarify and avoid confusion for power reactor licensees.

- In the second bullet under subsection (3), Exelon/AmerGen suggest that the word "may" before the phrase "adversely impact" be clarified or removed to avoid possible confusion.
- In the fifth bullet under subsection (4), Exelon/AmerGen suggest that the words "area or" before the word "media" be clarified or removed to avoid possible confusion.
- In the first bullet under subsection (5), power reactor licensee security clearances do not permit possession or storage of classified documents.
- In the sixth bullet under subsection (5), Exelon/AmerGen suggest that the phrase "material access portal" be clarified, since we believe that this applies to category 1 only.
- In the first bullet under subsection (6), Exelon/AmerGen recommend that the statement be modified to read: "discovery of unaccounted, lost, or stolen keys (but not key-cards or badges) that allow undetected, unauthorized access to controlled areas."

4. Section 2.6 "Examples of Security Events to be Reported Within 4 Hours"

- In the eighth bullet under subsection (1), Exelon/AmerGen recommend that the term "business secrets" be clearly defined
- In the last bullet under subsection (1), Exelon/AmerGen request clarification regarding whether all stated threats are to be reported, without any threat assessment.

5. Section 3.2 "Examples of Security Events to be Recorded in the Security Log"

- In the fourth bullet under subsection (2), Exelon/AmerGen recommend that the phrase "...and is recovered within 1 hour" be clarified or removed since it seems unclear as to the basis for this statement. If there is no evidence of theft or compromise, further explanation regarding the rationale for using 1 hour would be helpful.
- In the second to the last bullet under subsection (2), Exelon/AmerGen request clarification regarding whether the circumstances discussed refer to people who administer the IMP, people in the IMP, or both.
- In the last bullet under subsection (2), Exelon/AmerGen suggest that the word "or" following the phrase "protected area" may be incorrect and should be revised to "and." As written this would apply to all areas.

6. Section 4.2 *"Dual Reporting"*

Exelon/AmerGen recommend that additional language be added to further clarify when a dual report is being made and under what requirements.

If you have any questions or require additional information, please do not hesitate to contact Mr. Richard Gropp at 610-765-5557.

Respectfully,



David P. Helker
Manager - Licensing