

Dominion Generation
5000 Dominion Boulevard, Glen Allen, VA 23060



January 16, 2003

Mr. S. J. Collins, Director
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555-0001

Serial No. 03-061 (Dominion)
B18828(DNC)
NL&OS/MAE R1
Docket Nos. 50-280/-281
50-338/-339
50-245/-336/-423
72-02/-16
License Nos. DPR-32/-37
NPF-4/-7
DPR-21/-65
NPF-49
SNM-2501/2507

Gentlemen:

VIRGINIA ELECTRIC AND POWER COMPANY
DOMINION NUCLEAR CONNECTICUT
SURRY POWER STATION UNITS 1 AND 2 AND ISFSI
NORTH ANNA POWER STATION UNITS 1 AND 2 AND ISFSI
MILLSTONE POWER STATION UNITS 1, 2 AND 3
REQUEST FOR EXEMPTION TO 10 CFR 73.57

Pursuant to 10 CFR 73.5, Virginia Electric and Power Company (Dominion) and Dominion Nuclear Connecticut, Inc., (DNC) are requesting an exemption from portions of 10 CFR 73.57. Specifically, we are requesting an exemption from §73.57(d)(1) and §73.57(d)(3) to permit the use of the NRC's Criminal History Program (CHP) Electronic Information Exchange System (EIE) to submit fingerprints for the access authorization process and to allow the use of NRC Form 629 "Authorization for Payment by Credit Card" for the required payment. The exemption request is provided in Attachment 1. Attachment 2 is an August 12, 2002 letter from Ms. Vonna Ordaz of the NRC to Mr. James W. Davis of the Nuclear Energy Institute that discusses the CHP EIE system. Since the Access Authorization Program at North Anna and Surry Power Stations include the Independent Spent Fuel Storage Installations (ISFSIs), the exemption is also being requested for the ISFSIs.

Dominion and DNC are requesting that the review of this exemption be expedited due to the NRC's January 7, 2003 letter, "ISSUANCE OF ORDER FOR COMPENSATORY MEASURES RELATED TO ACCESS AUTHORIZATION" which requires that temporary unescorted access to the facilities be eliminated in the near future. The use of the CHP EIE will be of great assistance in allowing Dominion and DNC to expeditiously complete criminal history checks for individuals seeking unescorted access. Due to upcoming Spring 2003 refueling outages, we are requesting your review and approval of this exemption request by February 28, 2003.

NMS 501

The submission of information by electronic means is consistent with and furthers the purposes of the Government Paperwork Elimination Act. The NRC's direct final rule concerning "Electronic Maintenance and Submission of Information published in the Federal Register on September 6, 2002 (67 Fed. Reg. 57084) would have amended the NRC's regulations to specifically authorize both electronic submission of fingerprints and payment of fees by credit card. The NRC, however, withdrew the direct final rule, making this exemption request necessary. See 67 Fed. Reg. 72091 (December 4, 2002).

If you have any questions or require additional information, please contact us.

Very truly yours,



W. R. Matthews
Senior Vice President – Nuclear Operations
Virginia Electric and Power Company
Dominion Nuclear Connecticut, Inc.

Attachments

Commitments made by this letter: None

cc: United States Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, D. C. 20555

Mr. M. J. Virgilio, Director
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U. S. Nuclear Regulatory Commission
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ATTACHMENT 1

Exemption Request Fingerprint Submittals for Access Authorization

Exemption Request

In accordance with the provisions of 10 CFR 73.5, "Specific exemptions," Virginia Electric and Power Company (Dominion) and Dominion Nuclear Connecticut, Inc., (DNC) request exemptions from certain requirements of 10 CFR 73.57, "Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to Safeguards Information by power reactor licensees." Specifically, we request an exemption from §73.57(d)(1) and §73.57(d)(3) to permit the use of the NRC's Criminal History Program (CHP) Electronic Information Exchange System (EIE) to submit fingerprints for the access authorization process and to allow the use of NRC Form 629 "Authorization for Payment by Credit Card" for the required payment.

Discussion

Currently, §73.57(d)(1) specifically requires that a fingerprint card (Form FD-258) be used to process fingerprint checks. This section does not specifically authorize use of the NRC's CHP EIE to submit the fingerprints. By letter dated August 12, 2002 (Attachment 2), Ms. Vonna L. Ordaz of the NRC informed Mr. James W. Davis of the Nuclear Energy Institute that the CHP EIE's user testing was successful. The NRC's August 12 letter stated that the EIE "received formal certification and accreditation, and was operational on July 31, 2002." The NRC letter also stated that the "utilization of the CHP EIE will accelerate the return of the FBI responses of fingerprint checks to the licensee" and that "the staff considers the use of the CHP EIE a significant improvement opportunity in the access authorization process, which will facilitate the impending elimination of temporary unescorted access at nuclear facilities." However, the August 12 letter does not state that use of the NRC CHP EIE system is an acceptable means of achieving compliance with 10 CFR 73.57(d). Further, we have been unable to find any other NRC correspondence which states that use of the CHP EIE system meets the requirements of section 73.57(d).

Paragraph 73.57(d)(3) currently states that payment of fees for processing of fingerprint checks shall be by corporate check, certified check, cashier's check, or money order. The NRC's August 12, 2002 letter states that remittance for fingerprint submittals may be made either by check or NRC Form 629, "Authorization for Payment by Credit Card." Again, we have been unable to locate any correspondence from the NRC which states that submission of NRC Form 629 to authorize payment of fees by credit card is an acceptable means of achieving compliance with 10 CFR 73.57(d)(3).

Granting of this exemption will allow us to use methods for fingerprint submittals and payments of fees identified by the NRC and maintain compliance with §73.57(d)(1) and §73.57(d)(3). The use of these methods does not affect the protection of the facility

with regards to the design basis threat described in 10 CFR 73.55, nor is it inconsistent with the NRC's January 7, 2003 letter, "ISSUANCE OF ORDER FOR COMPENSATORY MEASURES RELATED TO ACCESS AUTHORIZATION" (Access Authorization Order). The Access Authorization Order requires temporary unescorted access to the facilities be eliminated in the near future. The approval of this exemption would allow Dominion and DNC to comply with the Access Authorization Order in regard to the elimination of the temporary unescorted access without significantly limiting the ability to process individuals for unescorted access in a timely manner.

Regulatory Requirements

10 CFR 73.57(d)(1) states in part, "For the purpose of complying with this section, licensees shall submit one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCCOOZ, NRC Division of Security, Rockville, MD)."

10 CFR 73.57(d)(3) states in part, "Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, or money order made payable to "U.S. NRC."

A request for exemption from these specific requirements must also satisfy the requirements of 10 CFR 73.5. Our exemption request satisfies these requirements as discussed below.

Requirements of Section 73.5

The specific requirements for granting an exemption from regulations in 10 CFR 73 are set forth in 10 CFR 73.5. Under 10 CFR 73.5, the NRC is authorized to grant an exemption from the requirements of the regulations in this part as it determines are: (i) authorized by law, (ii) will not endanger life or property or the common defense and security, and (iii) is otherwise in the public interest. The following addresses each of these requirements and demonstrates that the NRC should grant the exemption request.

A. The Exemption Request is Authorized By Law

The NRC's authority to grant an exemption from its regulations in 10 CFR 73 is established by law as discussed in 10 CFR 73.5. Therefore, granting an exemption is explicitly authorized by the NRC's regulations.

The submission of information by electronic means is consistent with and furthers the purposes of the Government Paperwork Elimination Act. The NRC's direct final rule concerning "Electronic Maintenance and Submission of Information published in the Federal Register on September 6, 2002 (67 Fed. Reg. 57084) would have amended the NRC's regulations to specifically

authorize both electronic submission of fingerprints and payment of fees by credit card. See revisions to 10 CFR 73.4 and 73.57, 67 Fed. Reg. at 57107-57108. The NRC, however, withdrew the direct final rule, making this exemption request necessary. See 67 Fed. Reg. 72091 (December 4, 2002).

B. The Exemption Request Will Not Endanger Life or Property or the Common Defense and Security

An exemption to more expeditiously submit fingerprints to the NRC for review and allow for payment by credit card does not present any risk to the public health and safety. The exemption will not reduce the measures currently in place to protect against radiological sabotage. Fingerprint checks will still be performed, however the results of these checks will be provided to the licensee more quickly, thereby allowing more expeditious processing of individuals seeking unescorted access. The other aspects of the access authorization process will not be affected. In addition, the common defense and security of the United States is not affected by allowing submission of fingerprint information by electronic means and payment of fees by credit card. Therefore, allowing the use of the NRC's CHP EIE to submit the fingerprints and allowing payment to be made by credit cards is not related to public health and safety issues or the assurance of the common defense and security.

C. The Exemption is in the Public Interest

Compliance with the current requirements (submission of paper fingerprint cards) results in a longer FBI response time for fingerprint checks. Granting of this exemption allows Dominion and DNC to use an NRC approved method for fingerprint submission and payment that expedites the process and therefore, would prevent the diversion of security resources from other more significant activities without providing any additional safety or security benefit.

This proposed exemption does not reduce the overall effectiveness of the Access Authorization Program. Consequently, the exemption request is in the public interest.

Conclusion

The requested exemption to permit the use of the NRC's Criminal History Program (CHP) Electronic Information Exchange System (EIE) to submit fingerprints for the access authorization process and to allow the use of NRC Form 629 "Authorization for Payment by Credit Card" for the required payment is consistent with NRC approved processes as documented in Ms. Ordaz's letter (Attachment 2). The approval of this exemption would allow Dominion and DNC to expeditiously complete criminal history checks for individuals seeking unescorted access.

If granted, the proposed exemption enhances our current Access Authorization Program by allowing a more expeditious method of fingerprint checks by the FBI. The requested exemption does not affect the protection of the facility with regards to the design basis threat described in 10 CFR 73.55, nor is it inconsistent with the NRC's January 7, 2003 Access Authorization Order.

Therefore, since the requested exemption is authorized by law, will not endanger life or property or the common defense and security, is in the public interest, and is requested for good cause, Dominion and DNC requests that, in accordance with the requirements of 10 CFR 73.5, this exemption request be granted.

Attachment 2

August 12, 2002 NRC Letter



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

August 12, 2002

Mr. James W. Davis, Director
Operations Department
Nuclear Energy Institute
Suite 400
1776 I Street
Washington D.C., 20006-3708

Dear Mr. Davis:

The purpose of this letter is to inform you that the User Acceptance testing of the NRC's Criminal History Program (CHP) Electronic Information Exchange System (EIE) was successful. The EIE received formal certification and accreditation, and was operational on July 31, 2002.

Utilization of the CHP EIE will accelerate the return of the FBI responses of fingerprint checks to the licensees. Currently, only two (Pennsylvania Power & Light (PP&L) and Progress Energy) of the sixty eight utilities, use the CHP EIE. The staff considers use of the CHP EIE a significant improvement opportunity in the access authorization process, which will facilitate the impending elimination of temporary unescorted access at nuclear facilities.

Remittance for fingerprint submittals may be made either by check or NRC Form 629, "Authorization for Payment by Credit Card." The NRC Form 629 may be faxed to 301-415-5118 in conjunction with the CHP EIE transmission or included along with the fingerprint cards or CDs. NRC will continue to accept checks as payment. A list of the names and social security numbers associated with each payment must be included. In the future, Form 629 will be available for completion on line and for submission through the CHP EIE.

The Instructional Guide and answers to many Frequently Asked Questions regarding CHP EIE can be found on the NRC web site in the NRC's Electronic Information Exchange pages at www.nrc.gov/site-help/eie.html.

Any comments or additional questions regarding use of the CHP EIE may be addressed by contacting Doreen Turner at (301) 415-6511.

Sincerely,

A handwritten signature in cursive script that reads "Vonna L. Ordaz".

Vonna L. Ordaz, Chief
Reactor Safeguards Policy Section
Division of Nuclear Security
Office of Nuclear Security and Incident Response