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PROPOSED RULE 10 CFR 50
(68FR 43673)

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

GL03-033

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Rulemakings and Adjudications Staff

**COMMENTS ON PROPOSED RULEMAKING FOR 10 CFR 50,
EMERGENCY PLANNING AND PREPAREDNESS
FOR PRODUCTION AND UTILIZATION FACILITIES**

Virginia Electric and Power Company (Dominion) and Dominion Nuclear Connecticut, Inc. (DNC) appreciate the opportunity to comment on the proposed rule regarding Emergency Planning and Preparedness for Production and Utilization Facilities presented in the Federal Register, Volume 68, Number 142, Pages 43673-43681 on July 24, 2003.

Dominion would like to offer the following comments:

The first part of the proposed rule would amend the current regulations as they relate to NRC approval of licensee changes to Emergency Action Levels (EALs). According to the supplementary information issued with the proposed rule, the NRC contends that there appears to be an inconsistency in the emergency planning regulations regarding the NRC approval of nuclear power plant licensee changes to EALs. Specifically, that Section 50.54(q), which says licensees may make changes to their emergency plans without Commission approval, is inconsistent with Appendix E, which states that "EAL's shall be * * * approved by NRC." In full, the reference to the third sentence of Appendix E Part IV.B reads: "[t]hese emergency action levels shall be discussed and agreed on by the applicant and State and local governmental authorities and approved by NRC." In order to eliminate the purported inconsistency, the proposed change would add "or licensee" following the reference to applicant in this sentence. Additionally, the proposed change would limit provisions for NRC approval of EAL revisions to changes in EAL schemes or those which decrease the effectiveness of the emergency plan.

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Appendix E references applicants and licensees as separate and distinct entities. The proposed revision to the third sentence in Part IV.B would require NRC approval of both applicant and licensee EALs while the proposed new fifth sentence would limit NRC approval to changes in EAL schemes or those which decrease the effectiveness of the emergency plan only. In lieu of adding "or licensee" in the third sentence, it is proposed the following be added following the fourth sentence: "A revision to an EAL must be discussed and agreed on by the licensee and State and local governmental authorities prior to implementation."

The fifth sentence in the proposed Appendix E Part IV.B references NUMARC/NESP-007 as an alternative EAL scheme. Since the proposed rule was issued for public comment, NRC has endorsed NEI-99-01 as another acceptable EAL scheme. It is proposed that NEI-99-01 be referenced in addition to or in lieu of NUMARC/NESP-007.

The sixth and seventh sentences in the proposed Appendix E Part IV.B appear redundant to Section 50.54(q), with regard to emergency plan revisions, and Appendix E Part V, with regard to implementing procedure revisions. Furthermore, these additions might necessitate a complementary change to Section 50.4(b)(5) which explicitly references submittals pursuant to Section 50.54(q) and Appendix E Part V. It is proposed that these two sentences be excluded from the final rule.

The second part of the proposed rule resolves the ambiguity of 10 CFR 50 Appendix E Paragraph IV.F.2 as it concerns exercise requirements for co-located licensees. At the present time this rule change has limited impact, but the rule change complements future nuclear power plant licensing concepts currently being considered by the industry.

If you have any questions, please contact:

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Sincerely,



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