

DOCKET NUMBER

PETITION RULE PRM 50-60

(59 FR 17499)

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Nuclear Regulatory Commission

10 CFR Part 50

[Docket No. PRM-50-60]

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Virginia Power; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of petition for rulemaking dated December 30, 1993, which was filed with the Commission by Virginia Power. The petition was assigned Docket No. PRM-50-60 on January 19, 1994. The petitioner requests that the Commission amend its emergency preparedness requirements to change the frequency with which each licensee conducts independent reviews of its emergency preparedness program from annually to biennially.

6/27/94
DATES: Submit comments (75 days after publication in the Federal Register). Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: Submit comments to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Docketing and Service Branch,

pub. 4/13/94
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Washington, DC 20555. For a copy of the petition, write to the Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7758 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION:

Background

The Commission's regulations currently require that each licensee conduct an independent audit of its emergency preparedness program by personnel who have no direct responsibility for the subject areas at least every 12 months.

Petitioner's Request

Virginia Power requests that the NRC amend its regulations to require that each licensee conduct, at a minimum, a biennial, rather than annual, independent audit of its emergency preparedness program. The petitioner states that, if warranted by performance, the resources previously dedicated to the conduct of mandatory audits in this area could now be more effectively used to address performance issues of safety significance. The

petitioner indicates that audit functions concerning emergency preparedness would in turn become more performance-based rather than schedule-driven according to the present annual requirement.

The petitioner notes that this request is consistent with the recommendation of the NRC Regulatory Review Group Summary and Overview Report (August 31, 1993).

Grounds for Request

The petitioner states that the changes requested are identified as present requirements which are resource intensive but of marginal importance to safety. The petitioner offers the following reasons for the request.

1. The underlying purpose of the existing rule is to ensure the continued emergency preparedness program effectiveness in taking the required actions necessary to provide for the health and safety of the public in the event of plant emergencies. This can be readily attained by a more performance-based approach to emergency preparedness overview. The frequency of audits need not be set on an annual basis if performance warrants a different frequency. The proposed rule provides for a nominal frequency of 24 months based on existing performance.
2. Industry performance to date indicates excellent implementation and effective emergency preparedness programs. Industry-wide SALP ratings for emergency preparedness have improved from an average of 2.29 in 1980 to 1.26 in 1992. A two-year audit schedule would permit the licensee an increased degree of flexibility to concentrate available audit resources in areas of observed weakness based on performance rather than conducting a mandatory annual audit of marginal safety significance.
3. The existing requirement to conduct an annual audit is not of itself necessary to achieve the underlying purpose of 10 CFR 50.54(t). Performance-based overview with a two-year maximum interval is sufficient and the proposed rule does not preclude an increased audit frequency if performance warrants. Based on the

existing performance within the industry, biennial audits represent an acceptable minimum frequency.

4. The proposed rulemaking is philosophically consistent with the recommendations concerning audits of programs such as Fitness for Duty included in the NRC Regulatory Review Group Summary and Overview (Final) issued in August 1993.
5. Regulatory Guide 1.33, Quality Assurance Program Requirements (Operation), prescribes a two-year audit frequency for most operational phase activities commensurate with the activity's operational safety significance. As emergency preparedness programs serve to ensure the proper operation of each facility, so the audits of these programs serve to monitor program effectiveness. The proposed rule is consistent with this previously defined regulatory position and the present safety significance as evidenced by industry performance.
6. Granting the proposed rule to reduce the frequency of audits based on continued good performance is warranted based on the present good performance of industry plans and programs, the documented trend of identifying fewer significant issues associated with emergency preparedness audits, and by virtue of meeting the intent of the regulations in the balance of their requirements.
7. Consideration of relaxing this requirement is warranted in light of the completion and implementation of enhanced emergency equipment and systems, the continuing rise in the level of industry proficiency and performance, and the increased industry sensitivity to emergency preparedness.
8. The existing requirements to conduct annual audits are not of themselves necessary to achieve the underlying purpose of Appendix E to 10 CFR Part 50. Biennial audits are sufficient to provide an acceptable formal confirmation of program effectiveness.

Supporting Information

The petitioner states that emergency preparedness programs throughout the industry are designed to achieve and maintain an adequate level of emergency response capability and that required

audits are conducted to ascertain the effective implementation of the basic elements existing within emergency preparedness plans and organizations. The petitioner states that the audit process is designed to ensure and confirm the ability to respond properly to an emergency condition. According to the petitioner, the intent of the petition for rulemaking would be to verify that an acceptable level of emergency preparedness is attained and maintained consistent with each approved program.

The petitioner states that in addition to the audits, onsite and offsite graded exercises also serve as a direct assessment of program effectiveness. The petitioner notes that this petition for rulemaking complements the petition for rulemaking published on March 4, 1993 (58 FR 12339), concerning modification of the requirement to change the exercise emergency plans from annual to biennial. The petitioner indicates that the audit and exercise can alternate yearly as the formal means to verify program effectiveness and that neither action precludes additional audits if performance trends indicate additional overview is warranted.

The petitioner states that because audits indicate to management where additional attention and resources might be needed based on performance trends, excellent performance could also indicate where less attention and resources are required. Therefore, the petitioner believes that based on industry's performance, annual audits of emergency preparedness programs are no longer commensurate with any safety benefit derived by the audit function.

Proposed Amendments to 10 CFR Part 50

The petitioner proposed that in §50.54, paragraph (t) be revised to read as follows:

§ 50.54 Conditions of licenses

* * * * *

(t) A nuclear power reactor licensee shall provide for the development, revision, implementation, and maintenance of its emergency preparedness program. To this end, the licensee shall provide for a review of its emergency preparedness program nominally every 24 months by persons who have no direct responsibility for implementation of the emergency preparedness program. The review shall include an evaluation for adequacy of interfaces with State and local governments and of licensee drills, exercises, capabilities, and procedures. The results of the review, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and retained for a period of five years. The part of the review involving the evaluation for adequacy of interface with State and local governments shall be available to the appropriate State and local governments.

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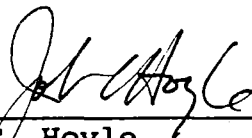
Conclusion

The petitioner states that the existing rule is not necessary to ensure an adequate emergency preparedness program. It provides an overview to direct management attention and

resources to observed performance deficiencies. The petitioner indicates that the proposed rule would continue to require an adequate minimum provision for program overview based on existing industry performance. Therefore, the petitioner believes that annual audits are no longer commensurate with the benefit gained based on the commendable performance by the industry in this area.

Dated at Rockville, Maryland, this 7th day of April, 1994.

For the Nuclear Regulatory Commission.



John C. Hoyle,
Assistant Secretary of the Commission.