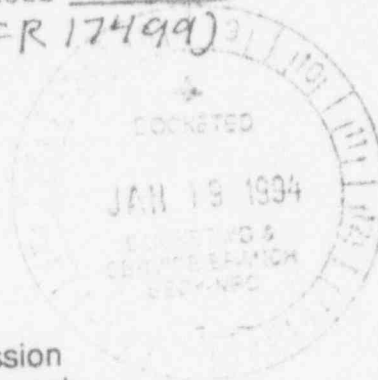


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DOCKET NUMBER  
PETITION RULE PRM 50-60  
(59FR 17499)



VIRGINIA POWER

December 30, 1993

Secretary  
United States Nuclear Regulatory Commission  
Attention: Chief, Docketing and Service Branch  
Washington, D. C. 20555

Serial No. 93-707  
NLRPC R1

Gentlemen:

**PETITION FOR RULEMAKING**  
**10 CFR 26.10 CFR 50.54 & 10 CFR 73.55**  
**FITNESS FOR DUTY, SECURITY & EMERGENCY PREPAREDNESS**

Pursuant to 10 CFR 2.802, Virginia Power requests rulemaking to change 10 CFR 26.80, 10 CFR 50.54(p)(3), 10 CFR 50.54(t), and 10 CFR 73.55(g)(4). The proposed rulemaking would relax the existing mandatory audit frequency specified for Fitness for Duty, Security, and Emergency Preparedness programs and plans from annual to biennial, but does not preclude additional audits if performance warrants. Conversely, based on continued good performance, this proposed rulemaking would permit licensees to more effectively direct and utilize their audit resources in areas of safety significance. In this regard, the proposed rulemaking is consistent with and represents a continuation of other related industry activities, including Virginia Power's, to modify audit requirements in the QA Topical Report and Technical Specifications to be more performance-based. This proposed rulemaking is also consistent with the NRC Regulatory Review Group findings and represents a significant Cost-Beneficial Licensing Action (CBLA) for the industry.

Attachments 1, 2, and 3 present the specific petitions for rulemaking and supporting discussion of the proposed changes. If you have any questions, please contact us.

Very truly yours,

A handwritten signature in cursive script, appearing to read "W. L. Stewart".

for W. L. Stewart

Attachments

1. Petition for Rulemaking - Fitness for Duty
2. Petition for Rulemaking - Security
3. Petition for Rulemaking - Emergency Preparedness

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NOTE: The three petitions submitted under this cover letter have been docketed separately. The docket numbers and titles of the three petitions are as follows:

- PRM-26-1 Fitness-for-Duty Audit Frequency
- PRM-50-59 Security Audit Frequency
- PRM-50-60 Emergency Preparedness Audit Frequency



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OFFICE OF THE SECRETARY  
USNRC

cc: Dr. T. E. Murley  
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U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

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## ATTACHMENT 3

### PETITION FOR RULEMAKING PROPOSED CHANGE TO 10 CFR 50.54(t) EMERGENCY PREPAREDNESS AUDIT FREQUENCY

#### Introduction

The Code of Federal Regulations citation concerning Emergency Preparedness Programs, specifically 10 CFR 50.54(t), contains a requirement for 12 month (annual), independent audits of the program to be conducted by personnel who have no direct responsibility for the subject areas. The subject regulation is given below:

"50.54(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 at least every 12 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."

Emergency planning regulations, promulgated as a result of the March, 1979 accident at Three Mile Island, govern virtually all aspects of a licensee's emergency preparedness program and have done much to lay the basis for a structured formal response capability. The maintenance and verification of emergency response capabilities are accomplished through programs which ensure the adequacy and effectiveness of plans, procedures, facilities, equipment, response personnel and performance demonstrations. This petition focuses on the requirement to conduct annual audits of these program features to verify the adequacy of the emergency response capability. The underlying purpose of this requirement is to overview and ensure effective implementation of emergency preparedness programs.

#### Petition

Pursuant to 10 CFR 2.802, Virginia Power requests that the Nuclear Regulatory Commission amend 10 CFR 50.54(t) to change the requirement that each licensee shall provide for a review of its emergency preparedness program at least every 12 months (annually) to nominally every two years (biennially). Specifically, it is requested that 10 CFR 50.54(t) be amended to read:

"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."

The proposed rulemaking would require each licensee to conduct, at a minimum, a biennial, rather than annual, independent audit of its emergency preparedness program. 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. Audit functions concerning emergency preparedness would in turn become more performance-based rather than schedule-driven according to the present annual requirement.

### Grounds for Change

This change is requested based on the present requirement being identified as an item which is resource intensive but of marginal importance to safety. The grounds for this change are as follows:

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 50. Biennial audits are sufficient to provide an acceptable formal confirmation of program effectiveness.

### Statement in Support of Petition

Emergency Preparedness programs throughout the industry are designed to achieve and maintain an adequate level of emergency response capability. Required audits are conducted to ascertain the effective implementation of the basic elements existing within emergency preparedness plans and organizations. The audit process is designed to ensure and confirm the ability to respond properly to an emergency condition. The intent of the proposed rule continues to be to verify that an acceptable level of emergency preparedness is attained and maintained consistent with each approved program.

Audits are not the only means whereby an emergency preparedness program is assessed for effectiveness or a reasonable assurance finding can be made. The onsite and offsite graded exercises also serve as direct assessment of program effectiveness. On March 4, 1993, the NRC issued proposed rulemaking (58 FR 12339) for comment concerning modification of the requirement to exercise emergency plans from annual to biennial. This proposed rulemaking on audit frequency does not adversely impact the previously proposed rule. Rather, the proposal to change mandatory audit frequency complements the previously proposed rulemaking to change the annual exercise to



biennial. Simply, the audit and exercise can alternate yearly as the formal means to verify program effectiveness. In any case, neither action precludes additional audits if performance trends indicate additional overview is warranted.

It is useful to note that audits of the program do not of themselves ensure an acceptable and effective program. However, audits do provide indication to management where additional attention and resources might be needed based on performance trends. Likewise, excellent performance could also indicate where less attention and resources are required. Based on industry performance, annual audits of emergency preparedness programs are no longer commensurate with any safety benefit derived by the audit function. Biennial audits are adequate to ensure acceptable overview. Furthermore, nothing in the proposed rule precludes more frequent audits if performance trends indicate the need for closer scrutiny of the program.

The results of improvements to equipment and facilities, and programmatic enhancements within the nuclear emergency preparedness discipline over the past decade have elevated the level of response capability throughout the industry. This is evidenced, in part, through a mechanism employed by the NRC to assess emergency preparedness indicators through the use of its Systematic Assessment of Licensee Performance (SALP) program. It is noted that during the period between 1980 and 1992 the industry averaged SALP rating for emergency preparedness has improved from 2.29 to 1.26. The overall average for emergency preparedness SALP ratings for this twelve year period has been 1.61.

In conclusion, the existing rule is not necessary to ensure an adequate emergency preparedness program. The existing rule provides an overview to direct management attention and resources to observed performance deficiencies. The proposed rule continues to require an adequate minimum provision for program overview based on existing industry performance. Further, annual audits are no longer commensurate with the benefit gained based on the commendable performance by the industry in this area.