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DOCKET NUMBER
PETITION RULE PRM 50-59
(59 FR 23641)

JAN 19 1994



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
NL/RPC 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,

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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ATTACHMENT 2

PETITION FOR RULEMAKING PROPOSED CHANGE TO 10 CFR 50.54(p)(3), 73.55(g)(4) & APPENDIX C TO PART 73 SECURITY AUDIT FREQUENCY

Introduction

The Code of Federal Regulations citations concerning Safeguards Contingency Plans, and Security Programs, specifically 10 CFR 50.54(p)(3) and 10 CFR 73.55(g)(4), contain requirements for 12 month (annual), independent reviews and audits of each program or plan to be conducted by personnel who have no direct responsibility for the subject areas. The subject regulations are given below:

"50.54(p)(3) The licensee shall provide for the development, revision, implementation, and maintenance of its safeguards contingency plan. To this end, the licensee shall provide for a review at least every 12 months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards systems along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, must be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of two years."

"73.55(g)(4) The security program must be reviewed at least every 12 months by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The security program review must include an audit of security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of the physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities. The results and recommendations of the security program review, management's findings on whether the security program is currently effective, and any actions taken as a result of recommendations from prior program reviews must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. These reports must be maintained in an auditable form, available for inspection, for a period of 3 years."

"APPENDIX C TO PART 73 ... AUDIT AND REVIEW ... At intervals not to exceed 12 months, the licensee shall provide for a review of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments

established for response by local law enforcement authorities. The licensee shall document the results and the recommendations of the safeguards contingency plan review, management findings on whether the safeguards contingency plan is currently effective, and any actions taken as a result of recommendations from prior reviews in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. The report must be maintained in an auditable form, available for inspection for a period of 3 years."

Petition

Pursuant to 10 CFR 2.802, Virginia Power requests that the Nuclear Regulatory Commission amend 10 CFR 50.54(p)(3) to change the requirement that each licensee shall provide for a review at least every 12 months (annually) of the safeguards contingency plan to nominally every 24 months (biennially). Specifically, it is requested that 10 CFR 50.54(p)(3) be amended to read:

"The licensee shall provide for the development, revision, implementation, and maintenance of its safeguards contingency plan. To this end, the licensee shall provide for a review nominally every 24 months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards systems along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, must be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of three years."

Furthermore, Virginia Power requests that the Nuclear Regulatory Commission amend 10 CFR 73.55(g)(4) to change the requirement that each licensee shall provide for a review of its security program at least every 12 months to nominally every two years. Specifically, it is requested that 10 CFR 73.55(g)(4) be amended to read:

"The security program must be reviewed nominally every 24 months by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The security program review must include an audit of security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of the physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities. The results and recommendations of the security program review, management's findings on whether the security program is currently effective, and any actions taken as a result of recommendations from prior program reviews must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility

for the day-to-day plant operation. These reports must be maintained in an auditable form, available for inspection, for a period of three years."

Virginia Power also requests that the Nuclear Regulatory Commission amend 10 CFR 73 APPENDIX C to change the requirement that each licensee shall provide for a review of its safeguards contingency plan at intervals not to exceed 12 months to nominally every 24 months. Specifically, it is requested that 10 CFR 73 APPENDIX C AUDIT AND REVIEW be amended to read:

"Nominally every 24 months, the licensee shall provide for a review of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments established for response by local law enforcement authorities. The licensee shall document the results and the recommendations of the safeguards contingency plan review, management findings on whether the safeguards contingency plan is currently effective, and any actions taken as a result of recommendations from prior reviews in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. The report must be maintained in an auditable form, available for inspection for a period of three years."

The proposed amendments would require each licensee to conduct independent reviews and audits of the above-referenced plans and programs at least biennially. As such, the resources presently used for audits in each area could be reallocated if justified by performance to address more safety significant concerns which might be identified. Thus, the proposed audit frequency of the subject area provides a greater degree of flexibility in applying resources, which permits a licensee to implement a more performance-based audit program.

Grounds for Change

These changes are requested based on the present requirements being identified as items which are resource intensive but of marginal importance to safety. The grounds for these changes are as follows:

1. The underlying purpose of the requirement is to overview and ensure effective implementation of security programs. Given the available objective criteria that industry performance is commendable in this area, aggressive overview activities do not seem to be warranted. Resources, which previously would have been strictly dedicated to the conduct of mandatory audits, could now be more effectively used to address performance issues having safety significance. Biennial audits are sufficient to provide an acceptable, formal confirmation of security program implementation. The underlying purpose of the existing requirement will continue to be met by the proposed rule.
2. The current industry SALP average for the security category is 1.27 as of

October 15, 1993. Clearly, this represents a commendable overall performance in this area and supports the move to biennial audits which can be supplemented as performance warrants. Based on the overall industry SALP ratings concerning safeguards contingency plan and security program effectiveness, Virginia Power concludes that changing the audit frequency to two years will have no adverse impact on implementation of the plan and program.

3. 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. Thus, personnel resources would be allowed to address and resolve issues having greater safety significance.
4. 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. The proposed rule is consistent with this previously defined regulatory position and the present safety significance as evidenced by industry performance.
5. The existing requirements to conduct annual audits are not of themselves necessary to achieve the underlying purpose of 10 CFR 50.54(p) and 10 CFR 73. Biennial audits are sufficient to provide an acceptable formal confirmation of program effectiveness.
6. 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.

Statement in Support of Petition

The regulations which require licensee implementation of safeguards contingency plans and security programs are essential to ensure operation of the facilities in an environment free from external threats. Independent audits of these programs are required to overview their effectiveness. Furthermore, the frequency or extent of overview of these plans and programs by mandatory audits is not providing a commensurate performance in security programs. Safeguards contingency plans and security programs have been in place in the industry for an extended period. Despite recent reconsideration of the design basis threat, nuclear security is otherwise being adequately addressed and implemented by the plans and programs as they are presently configured. Thus, a biennial audit frequency would more than adequately provide the requisite feedback and assurance regarding the effectiveness of each licensee's safeguards contingency plan and security program.

It should be noted that technological advancements and applications have resulted in, and will continue to generate, improvements to security equipment and facilities. Industry-wide programmatic enhancements continue to be made available to improve the effective utilization of security staff as well as equipment. The results of improvements to equipment and facilities and programmatic enhancements within

nuclear safeguards and security programs over the past decade have elevated plan effectiveness throughout the industry. This is evidenced, in part, through a mechanism employed by the NRC to assess security indicators through the use of its Systematic Assessment of Licensee Performance (SALP) program. It is noted that during the period between 1981 and 1993 the industry averaged SALP rating for security has improved from 2.20 to 1.27. The overall average for security SALP ratings for this thirteen year period has been 1.60.

This petition merely allows successful, existing functions to continue without formal review at a frequency of nominally every two years rather than once per 12 months. Furthermore, the proposed rule does not preclude conducting more frequent audits if performance trends indicate that additional overview is needed.

The proposed rule continues to require adequate provisions for program evaluation which result in enhancement and corrective action. Any changes to individual licensee plans or programs are required to be submitted to the NRC. Those changes which decrease the effectiveness of a plan or program must be approved by the NRC prior to implementation.

In conclusion, the annual audit frequency is not necessary to ensure an adequate safeguards contingency plan and security program, nor is it commensurate with present industry performance in this area. Further, it is not required to support NRC evaluation of program adequacy.