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NUCLEAR REGULATORY COMMISSION OFFICE OF SECRETARY  
DOCKETING AND SERVICE

10 CFR Parts 50 and 73

[Docket No. PRM-50-59]

Virginia Power; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission 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-50-59 on January 19, 1994. The petitioner requests that the Commission amend its regulations to change the frequency with which each licensee conducts independent reviews and audits of its safeguards contingency plan and security program from annually to biennially.

7/20/94  
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, 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.

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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: 301-415-7163 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION:

Background

The Commission's regulations currently require that independent reviews and audits of each licensee's safeguards contingency plan and security program be conducted every 12 months by personnel who have no direct responsibility for the subject areas.

The NRC is considering rulemaking in several program areas that would modify audit requirements so that the frequency, scope, and depth of auditing activities would be based on review of program performance indicators but would not exceed a 36-month interval to accomplish an audit of all program elements. Final NRC action on this petition would be consistent with actions taken on modifications to other program audit requirements.

Petitioner's Request

Virginia Power requests that the NRC amend its regulations in 10 CFR Parts 50 and 73 to change the requirements that each licensee provide for a review at least every 12 months (annually) of its safeguards contingency plan and security programs to nominally every 24 months (biennially). The petitioner also requests that Appendix C to 10 CFR Part 73 be amended to

change the requirement that each licensee provide for a review and audit of its safeguards contingency plan at intervals not to exceed 12 months to a frequency of 24 months.

The petitioner states that the proposed amendments would require each licensee to conduct independent reviews and audits of its safeguards contingency plan and security program at least biennially. The petitioner states that the resources presently used for audits in each area could be reallocated if justified by performance to address more safety-significant concerns that might be identified. The petitioner also states that the proposed audit frequency provides a greater degree of flexibility in applying resources, thereby permitting a licensee to implement a more performance-based audit program.

#### Grounds for Request

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

1. The underlying purpose of the requirements 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 Systematic Assessment of Licensee Performance (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 would be consistent with this previously defined regulatory position and the present safety significance as evidenced by industry performance.
5. The requirements to conduct annual audits are not of themselves necessary to achieve the underlying purpose of 10 CFR 50.54(p) and 10 CFR Part 73. Biennial audits are sufficient to provide an acceptable formal confirmation of program effectiveness.

#### Supporting Information

The petitioner states that the regulations that require licensees to implement safeguards contingency plans and security programs are essential to ensure operation of the facilities in an environment free from external threats. The petitioner notes that independent audits of these programs are required to overview their effectiveness. Furthermore, the petitioner believes that the frequency or extent of overview of these plans and programs by mandatory audits is not providing a commensurate performance in security programs. According to the petitioner, safeguards contingency plans and security programs have been in place in the industry for an extended period and that 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. The petitioner believes that 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.

The petitioner further states that technological advancements and applications have resulted in and will continue to generate improvements to security equipment and facilities. The petitioner asserts that industry-wide programmatic enhancements continue to be made available to improve the effective utilization of security staff as well as equipment and that the results of the 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. The petitioner notes that the improvement is evidenced, in part, through the SALP program which is used to assess security indicators.

Proposed Amendments to 10 CFR Part 50

The petitioner proposed that in §50.54, paragraph (p)(3) be revised to read as follows:

§ 50.54 Conditions of licenses.

★           ★           ★           ★           ★  
(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 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.

\* \* \* \* \*

Proposed Amendments to 10 CFR Part 73

The petitioner proposes that in §73.55, paragraph (g)(4) be revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

\* \* \* \* \*

(g) \* \* \*

(4) 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.

\* \* \* \* \*

The petitioner proposes that the text of Appendix C to Part 73 following the Audit and Review heading be revised to read as follows:

Appendix C-Licensee Safeguards Contingency Plans

\* \* \* \* \*

Audit and Review

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.

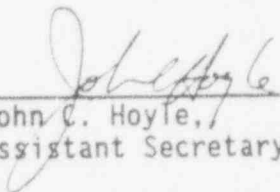
Conclusion

The petitioner states that this petition for rulemaking merely allows successful, existing functions to continue without formal review at a frequency of nominally every two years rather than once per 12 months. The

petitioner states that 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, the petitioner states that it is not required to support NRC evaluation of program adequacy.

Dated at Rockville, Maryland, this 2<sup>nd</sup> day of May 1994.

For the Nuclear Regulatory Commission.

  
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John C. Hoyle,  
Assistant Secretary of the Commission.