

Decisional Rationale

Based on the consistency which is created between license terms for medical licenses and all other material licenses by the rulemaking, and the cost effectiveness of a license term of up to ten years, the NRC is proposing to amend 10 CFR part 35 to eliminate the five-year term limit for medical use licenses and allow the license term to be set by the established policy for up to ten years.

IX. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant impact on a substantial number of small entities. If any small entity subject to this regulation determines that, because of its size, it is likely to bear a disproportionate adverse economic impact, the entity should notify the Commission of this in a comment that indicates the following:

- (a) The licensee's size and how the proposed regulation would result in a significant economic burden upon the license compared to the economic burden on a larger licensee;
- (b) How the proposed regulation could be modified to take into account the licensee's differing needs and capabilities;
- (c) The benefits that would accrue, or the detriments that would be avoided, if the proposed rule were modified as suggested by the licensee;
- (d) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs, as opposed to providing special advantages to any one individual or group; and
- (e) How the proposed regulation, as modified, would still adequately protect public health and safety.

X. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule, and therefore a backfit analysis is not required because the amendment does not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and record requirements.

For the reasons set out in the preamble and under the authority of the

Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 35.

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

1. The authority citation for part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. The introductory text of § 35.18 is revised to read as follows:

§ 35.18 License issuance

The Commission shall issue a license for the medical use of byproduct material if:

* * * * *

Dated at Rockville, Maryland, this 10th day of July, 1997.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Acting Executive Director for Operations.

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 73

[PRM 50-59 and PRM 50-60]

RIN 3150-AF63

Frequency of Reviews and Audits for Emergency Preparedness Programs, Safeguards Contingency Plans, and Security Programs For Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to change the frequency of licensees' independent reviews and audits of their emergency preparedness programs, safeguards contingency plans, and security programs. This amendment is being proposed in response to petitions for rulemaking submitted by Virginia Power Company. Specifically, instead of conducting reviews every 12 months, as is currently required, the proposed amendment would require nuclear power reactor licensees to conduct program reviews and audits in response to program performance indicators, or after a significant change in personnel, procedures, equipment, or facilities, but in no case less frequently than every 24 months.

DATES: Submit comments October 14, 1997. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

For information on submitting comments electronically, see the discussion under Electronic Access in the Supplementary Information Section.

Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These documents may also be viewed and downloaded electronically via the Electronic Bulletin Board established by NRC for this rulemaking as discussed under Electronic Access in the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra D. Frattali, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6261, e-mail sdf@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1994, the Commission docketed a petition for rulemaking from Virginia Power, dated December 30, 1993, (PRM-50-59) to change the required audit frequency for safeguards contingency plans and security programs at nuclear power reactors. On January 19, 1994, the Commission docketed, as a separate petition for rulemaking (PRM-50-60), Virginia Power's request that the NRC change the required audit frequency for emergency preparedness programs at nuclear power reactor facilities. NRC published these two petitions for public comment in the **Federal Register**. PRM-50-59 was published on May 6, 1994 (59 FR 23641). PRM 50-60 was published on April 13, 1994 (59 FR 17449).

The Commission's regulations currently require power reactor licensees to conduct independent reviews and audits of each of these programs at least every 12 months. Virginia Power requested that the frequency be changed to nominally every 24 months. This rulemaking addresses the issues raised in these petitions.

The Commission notes that although the petitioner uses the term "audit," the emergency planning regulations use the term "program reviews." Further, the security program and safeguards contingency plan regulations also use "reviews." When describing what is required by a "review" of the physical security plan, the regulations use the term "audits" for some of the requirements. This rule change will continue to use the term "program reviews" for the emergency preparedness regulations and the safeguards contingency and security regulations. The use of the term "audit" in the requirements for the "reviews" of the safeguards contingency and security plans remains unchanged. The NRC understands that licensees have assumed that the term "audit" in Appendix C to Part 73 means a quality assurance (QA) audit that conforms to their normal audit program requirements and American National Standards Institute (ANSI) standards such as ANSI N45.2, "Quality Assurance Programs for Nuclear Facilities;" ANSI N45.2.12, "Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants;" ANSI N45.2.33, "Qualifications of Quality Assurance Program Audit Personnel for Nuclear Power Plants;" and ANSI N18.7, "Administrative Controls and Quality Assurance for the Operation Phase of Nuclear Power Plants." The NRC does not require that these audits be performed by the QA organization in accordance with the QA program commitments for the conduct of the audits. As stated in the current rule, the NRC expects that these audits must be conducted by individuals who are qualified (technically competent) in the subject(s) being audited and are independent of the program (to assure objectivity and no conflict of interest). At the licensee's option, the QA organization may perform, lead, or assist in these audits.

Along with the petitions for rulemaking related to security and emergency preparedness, Virginia Power submitted a third petition (PRM-26-1) to relax the existing audit (i.e. program review) frequency required for fitness-for-duty (FFD). Issues related to the FFD petition are being addressed in a separate NRC rulemaking.

Discussion

Requirements pertaining to the review frequency of safeguards contingency plans by power reactor licensees are contained in § 50.54(p)(3) and in

Appendix C to Part 73.¹ Section 50.54(p)(3) requires that licensees provide for a review of the safeguards contingency plan at least every 12 months by individuals who are independent of both security program management and personnel who have direct responsibility for implementation of the security program. This 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 current records retention period for the results of this review and audit in this section is 2 years. It is being changed to 3 years to correspond to the retention period for the same records in Appendix C.

In Appendix C to Part 73, the section entitled "AUDIT AND REVIEW" requires a review of the safeguards contingency plan at intervals not to exceed 12 months. 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 results of this review and audit must be maintained for a period of 3 years.

Requirements for security program reviews are contained in § 73.55(g)(4). This section requires that the security program be reviewed at least every 12 months by individuals independent of both security program management and personnel who have direct responsibility for the implementation of the security program. The review must include an audit of the security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of that system's testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities. The results of this review and audit must be maintained for a period of 3 years.

Requirements pertaining to the frequency of program reviews of the emergency preparedness program by nuclear power reactor licensees are contained in § 50.54(t). This section requires that licensees provide for a review of their emergency preparedness program at least every 12 months by persons who have no direct responsibility for implementation of the emergency preparedness program. The

review must include an evaluation for adequacy of interfaces with State and local governments, as well as the adequacy of licensee drills, exercises, capabilities, and procedures. The results of the review, along with recommendations for improvement, must be documented, reported to the licensee's corporate and plant management, and must be retained for a period of 5 years.

The Virginia Power petitions requested that the regulations be amended to change the frequency of the required audit (i.e. program review) from at least every 12 months to nominally every 24 months with additional audits if performance warranted. NRC has carefully reviewed the arguments presented by the petitioner and the public comments that were submitted on the petitions. The NRC is proposing to resolve the petitions with regard to 10 CFR Part 50 licensees by initiating this rulemaking. The proposed rule incorporates the petitions in part, and modifies some petition requests in response to the public comments as indicated in the following discussion.

Twenty-eight public comments resulted from the publication of the petitions in the **Federal Register**. Of these, 9 comments concerned the safeguards contingency plan and the security program, and 19 concerned the emergency preparedness program.

All the comments on the security program were from the nuclear industry and supported the petition. Of the 19 public comments on emergency preparedness, 17 were from the nuclear power industry and supported the petition. Two were from States, who expressed some concern with lengthening the period between reviews. The States' concern has been addressed in this proposed revision by clarifying that more frequent, focused program reviews and audits may be required based on an assessment of security or emergency preparedness by the licensee against performance indicators, or after a significant change in personnel, procedures, equipment, or facilities.

The NRC staff is proposing changing the regulations, which will reduce the burden on the licensees without affecting public health and safety, for the following reasons.

First, after these rules were first implemented, industry performance improved to the point that annual program reviews and audits are not necessary to ensure that the emergency preparedness programs, safeguards contingency plans, or security programs are adequate. Inspection findings and enforcement actions, licensee

¹ Note that this appendix is currently cited by both § 73.46, which applies to nuclear fuel licensees, and § 73.55, which applies to nuclear power reactor licensees. This rulemaking applies only to nuclear power reactors.

performance during exercises and operational safeguards response evaluation, and the systematic assessment of licensee performance (SALP) evaluations indicate sufficient improvement to justify the recommended reduction in audit burden. Furthermore, if a licensee's program is in fact not performing properly, the proposed changes could result in audits more frequently than every 24 months.

Second, the current requirements for annual reviews and audits result in a lack of licensee flexibility, which can compromise the completion of effective audits. Licensees are currently limited in their ability to allocate audit resources according to safety needs and priorities, because available resources and personnel must be committed according to a set review and audit schedule, rather than used to monitor or assess other areas of concern. In addition, licensees are not always able to conduct reviews and audits at the same time as other activities. Concurrent scheduling with activities such as separately scheduled drills, inspections, or operational activities would permit a better review and evaluation of plant systems. This can lead to reviews and audits of little or marginal benefit, or the need to perform extra reviews and audits to reconfirm that a program is still adequate after there has been a change. It can also lead to auditing before corrective actions are completed, when waiting a short time could allow the review and audit to be done when the effectiveness of a corrective action can be evaluated.

Third, the current requirements concerning review and audit frequency are inconsistent with recent regulatory trends, which have moved toward performance-based requirements that focus attention on action to correct demonstrated weaknesses rather than schedule-driven needs. By establishing performance-based criteria for triggering reviews and audits, the NRC staff's resolution to PRM-50-59 and PRM-50-60 would be consistent with recent recommendations of the NRC Regulatory Review Group, the National Performance Review, and the proposed amendments that were published in the **Federal Register** on May 9, 1996 (61 FR 21105), to resolve the FFD audit frequency petition for rulemaking, PRM-26-1. This approach is intended to promote flexibility and efficiency in nuclear facility operations while maintaining the highest standards of public health and safety. Both NRC policy directives and Congressional action emphasize the need for the

Commission to move toward performance-based regulations.

As a result, the NRC staff proposes to revise the regulations to require that licensees conduct focused program reviews and audits as needed, based on an assessment by the licensee against performance indicators or in response to a significant change in personnel, procedures, equipment, or facilities, and that all program elements are reviewed and audited at least every 24 months. These changes are consistent with the requested changes in the two petitions for rulemaking (PRM 50-59 and PRM 50-60) and will promote performance-based rather than compliance-based review and audit activities.

The proposed changes will further clarify that programs must be reviewed and audited following a significant change in personnel, procedures, or equipment as soon as reasonably practicable, but no later than 12 months after the changes. The purpose of these focused audits would be to ensure that changes have not adversely affected the operation of the particular program element or function in question. Accordingly, this proposed rule would better ensure that programmatic problems will be detected and corrected on a timely basis and that program reviews and audits are based on specific performance indicators rather than on rigidly specified time limits.

It is anticipated that a regulatory guide may be necessary. The NRC specifically requests public comments on suggested performance indicators appropriate for the emergency preparedness and security programs that would amplify the regulation.

Electronic Access

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld or connecting to the NRC interactive rulemaking web site, "Rulemaking Forum." The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the rulemaking are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303-9672. Communication software indicators should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100

terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321-3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321-3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules Menu.

You may also access the NRC's interactive rulemaking web site through the NRC home page (<http://www.nrc.gov>). This site provides the same access as the FedWorld bulletin board, including the facility to upload comments as files (any format), if your web browser supports that function.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555-0001,

telephone (301) 415-5780; e-mail AXD3@nrc.gov. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415-5905; e-mail CAG@nrc.gov.

Environmental Impact: Categorical Exclusion

The Commission has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22 (c)(3)(i). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Because the rule will reduce existing information collection requirements, the public burden for this collection of information is expected to be decreased by approximately 275 hours per licensee per year. This reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. The NRC is seeking public comments on the potential impact of the collection of information contained in the proposed rule and on the following issues:

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the estimate of the burden accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the collection of information be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed collection of information, including suggestions for further reducing the burden, to the Information and Records Management Branch (T-6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0002), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the collections of information or on the above issues

should be submitted by September 2, 1997. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

A discussion of each of the changes proposed in this rule is provided above in the supplementary information section. The proposed changes represent a potential cost savings for licensees because it is anticipated that fewer reviews and audits will be necessary. Most licensees include the safeguards contingency plan as part of the physical security program and one audit and review covers both. Information provided by licensees on the cost for conducting reviews and audits of the licensee emergency preparedness and physical security programs varies, but is estimated to cost approximately \$15,000 per annual review and audit, for a total for both audits of \$30,000 annually. Each element of the program would be audited at least once every 2 years. This would represent a potential maximum savings of 50 percent to licensees in the emergency preparedness and physical security program audit costs, or an estimated \$30,000 per licensee every 2 years. The total cost savings to the industry would be approximately \$1.1M per year. Even if some elements of the programs were audited more frequently, the cost to the licensee will likely be less than auditing the entire program every year. Limited focused audits that address significant problems or changes will cost about \$5,000 per year if they are needed. There is no additional cost anticipated for collecting and analyzing program performance indicators since most licensees already do so in some fashion.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect only licensees authorized to operate nuclear power reactors. These licensees do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act, or the Small Business Size Standards set out in

regulations issued by the Small Business Administration Act, 13 CFR Part 121.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed amendment because this amendment would not impose new requirements on existing 10 CFR part 50 licensees. The proposed changes would reduce the frequency with which licensees conduct independent reviews and audits of their emergency preparedness programs, safeguards contingency plans, and security programs. This action does not seek to impose any new or increased requirements in this area. It will be a decrease of burden on the licensee. No backfitting is intended or approved in connection with this proposed rule change. Therefore, a backfit analysis has not been prepared for this amendment.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 73

Criminal penalties, Hazardous materials transportation, Export, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 50 and 73.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. Section 50.54 is amended by revising paragraphs (p)(3) and (t) to read as follows:

§ 50.54 Conditions of license.

* * * * *

(p) * * *

(3) The licensee shall provide for the development, revision, implementation, and maintenance of its safeguards contingency plan by a review, as necessary, based on an assessment by the licensee against performance indicators, or as soon as reasonably practicable after a significant change occurs in personnel, procedures, equipment, or facilities, but no longer than 12 months after the change. The licensee shall ensure that all program elements are reviewed at least every 24 months 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 3 years.

* * * * *

(t) The licensee shall provide for the development, revision, implementation, and maintenance of its emergency preparedness program by a review, as necessary, based on an assessment by the licensee against performance indicators, or as soon as reasonably practicable after a significant change occurs in personnel, procedures, equipment, or facilities, but no longer than 12 months after the change. The licensee shall ensure that all program elements are reviewed at least every 24 months by persons who have no direct responsibility for the 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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PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

3. The authority citation for part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297(f)).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

4. Section 73.55 is amended by revising paragraph (g)(4) to read as follows:

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

* * * * *

(g) * * *

(4) The licensee shall review the security program, as necessary, based on an assessment by the licensee against performance indicators, or as soon as reasonably practicable after a significant change occurs in personnel, procedures, equipment, or facilities, but no longer than 12 months after the change. The licensee shall ensure that all program elements are reviewed at least every 24 months by individuals who have no direct responsibility for the 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.

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5. Appendix C to Part 73, Licensee Safeguards Contingency Plans, is

amended by revising the section titled "Audit and Review" to read as follows:
Appendix C to Part 73—Licensee Safeguards Contingency Plans.

* * * * *

Audit and Review

For nuclear facilities subject to the requirements of § 73.46, the licensee shall provide for a review of the safeguards contingency plan at intervals not to exceed 12 months. For nuclear power reactor licensees subject to the requirements of § 73.55, the licensee shall provide for a review of the safeguards contingency plan, as necessary, based on an assessment by the licensee against performance indicators, or as soon as reasonably practicable after a significant change occurs in personnel, procedures, equipment, or facilities, but no longer than 12 months after the change and shall ensure that all program elements are reviewed at least every 24 months. A licensee subject to either requirement shall ensure that the review of the safeguards contingency plan is 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.

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Dated at Rockville, Maryland, this 8th day of July 1997.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Acting Executive Director for Operations.

[FR Doc. 97–20191 Filed 7–30–97; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 114

[Notice 1997—12]

Definition of "Member" of a Membership Association

AGENCY: Federal Election Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is seeking comments on how to revise its rules governing who is a "member" of a