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DOCKET NUMBER
PETITION RULE PRM 50-80
(68 FR 35585)

DOCKETED
USNRC

September 4, 2003 (4:33PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402-2801

September 4, 2003

Secretary
U.S. Nuclear Regulatory Commission
ATTN: Rulemakings and Adjudications Staff
Washington, D.C. 20555-0001

Gentlemen:

NUCLEAR REGULATORY COMMISSION (NRC) - COMMENTS ON PETITION FOR
RULEMAKING PRM-50-80, MOTHERS FOR PEACE AND UNION OF CONCERNED
SCIENTISTS (68 FEDERAL REGISTER 35585, DATED JUNE 16, 2003)

TVA appreciates the opportunity to comment on the subject petition
for rulemaking.

TVA has reviewed the April 28, 2003 petition (pursuant to
10 CFR 2.802) submitted to NRC by Mr. David Lochbaum on behalf of
the San Luis Obispo Mothers for Peace and the Union of Concerned
Scientists requesting a change to 10 CFR 50.59, "Changes, Tests,
and Experiments;" 10 CFR 50.54, "Conditions of Licenses;" and
10 CFR 50, "Domestic Licensing of Production and Utilization
Facilities."

Specifically, the petition proposes the following amendments:

- Revise 10 CFR 50.54(p) and 10 CFR 50.59 to require
plant owners to formally evaluate whether proposed
changes, tests, and experiments cause protection
against radiological sabotage to be decreased and, if
so, that such actions only be conducted with prior
NRC approval.
- Revise 10 CFR Part 50 to require that plant owners
formally evaluate their facilities against specified
aerial hazards and make changes as necessary to
provide reasonable assurance that the ability of the
facility to reach and maintain safe shutdown would
not be compromised by an aerial assault, whether
accidental or intentional.

TVA does not believe that the rule changes proposed in the petition
are necessary.


U.S. Nuclear Regulatory Commission
Page 2
September 4, 2003

TVA sees no need to change either 10 CFR 50.54(p) or 10 CFR 50.59 to specifically address radiological sabotage as requested by the petitioners. At the outset, the proposed change to 10 CFR 50.59 is inconsistent with the purpose of this regulation. The purpose of 10 CFR 50.59 is to determine whether a change, test, or experiment is part of the plant's licensing basis (e.g., Safety Analysis Report) and, if so, to determine whether the change, test, or experiment could have an effect that requires NRC approval prior to implementation. Insofar as matters involving potential radiological sabotage are concerned, any change that affects the plant's ability to protect against such an occasion would already reasonably be evaluated against the plant's Physical Security Plan, and licensees are already required to determine whether prior NRC approval is required before implementing the change.

With respect to the request to modify part 50 to include more specific guidance on aircraft hazards, there is already significant regulatory attention being paid to this area. Specifically, an Order was issued on April 29, 2003 describing a new Design Basis Threat (DBT) and licensees are in the process of evaluating and preparing for implementing the resulting changes. The DBT Order requires licensees to submit revised Physical Security Plans to address the new DBT by April 29, 2004. Additionally, we understand that Sandia Laboratories, in conjunction with NRC, has been performing vulnerability studies regarding aircraft hazards to specific nuclear power plant structures (reactor containment structures, auxiliary buildings, spent fuel pools, etc.). In the event these studies identify any specific vulnerability, it is reasonable to expect that NRC will promulgate necessary regulations requiring licensees to address them.

If you have any questions, please contact me at (423) 751-2508.

Sincerely,


Mark C. Burzynski
Manager
Nuclear Licensing

cc: U.S. Nuclear Regulatory Commission
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