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VIRGINIA POWER

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

DOCKET NUMBER
PROPOSED RULE **PR 72** (1)
(64FR59677)

10 CFR 72.13 Applicability of Part 72

Virginia Power appreciates the opportunity to comment on the NRC's proposed rule, 10 CFR Part 72 Clarification and Addition of Flexibility, that was published in the Federal Register (Vol. 64, No. 212) on November 3, 1999, pages 59677 through 59684. While Virginia Power concurs with the proposed changes that will remove inconsistencies and streamline the licensing process for an applicant for a Certificate of Compliance, we have identified an apparent inconsistency in the section of the proposed rule that specifies which sections of Part 72 apply to holders of site specific licenses.

The proposed rule states in §72.13(b) that §72.180 applies to activities associated with a specific license. This would appear to require clarification as it is not consistent with a previously docketed NRC interpretation. §72.180 requires licensees to have a physical protection plan that meets the requirements of §73.51. However, the NRC staff has determined that the provisions of §73.51 are not applicable to site specific licenses, as in the case of the North Anna or Surry ISFSIs. This formal interpretation was documented in a letter to Virginia Power dated November 12, 1998. Therefore, we conclude that §72.180 can not be referenced as applicable to site specific licenses.

If the subject rule is adopted as proposed, it would appear to conflict with the NRC's previous determination for site specific licenses and would, in effect, endorse the applicability of §73.51 to site specific licenses.

If you need further information, please contact me at 804-273-2699.

Respectfully,

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