

MEETING SUMMARY
PART 40 JURISDICTIONAL WORKING GROUP
JANUARY 16, 2001

Attendees

Gary Comfort, NRC/NMSS
Catherine Mattsen, NRC/NMSS
Maria Schwartz, NRC/OGC
Dennis Sollenberger, NRC/STP
Torre Taylor, NRC/NMSS
Chia Chen, PhD, OSHA
Brian Hearty, DOD/USACE
Andrea McLaughlin, DOI/BLM
Loren Setlow, EPA
Ken Weaver, representing OAS and CRCPD

Members of the Public Attending

Clifton W. Farrell, Nuclear Energy Institute

This was a public meeting of the Part 40 Jurisdictional Working Group (hereafter, referred to as the group or working group). The following is a summary of the topics that were discussed.

Charter

The group reviewed the charter for changes made per the discussion from the last meeting in October 2000 (discussed below). The group leader was changed to Torre Taylor and a second representative from the Occupational Safety and Health Administration was added to the group. The Purpose section of the charter was modified for consistency with the direction given in Staff Requirements Memorandum dated March 9, 2000. The term low-level and activity in the charter was changed to low concentrations.

Summary of October 5, 2000 Telephone Conference Recommendations

The recommendations from the October 5, 2000 Telephone Conference were presented, as follows:

1. The group recommended modifying the background section of the charter to make it clear that Section 40.13(a) is the exemption from the regulations and to change the group leader to reflect staff changes at NRC.
2. Regarding the status report, the group indicated that the group is not ready to make recommendations on, or elimination of, options discussed in SECY-99-259, nor should the group start ranking the options.
3. There are several documents that the group should review, including:
 - a) an EPA technical report on uranium mining TENORM (in preparation);

- b) a CRCPD document on TENORM, which should be completed by the end of 2000; and
 - c) a 1999 National Research Council report on its evaluation of guidelines for exposures to TENORM, and EPA's response to Congress.
4. Additionally, the group indicated that we should look at whatever industry information we can obtain.

Discussion of Citation of Authority

The group discussed the citations of authority submitted by representatives from the different agencies. These will be included in the status report to the Commission. Dr. Chen will modify his statement for OSHA to more clearly reflect the fact that facilities holding NRC or Agreement State licenses are "exempt" from OSHA regulations. Mr. Hearty, DOD/USACE, will also include a brief statement explaining USACE authority for radioactive materials beyond FUSRAP. Mr. Weaver will modify the statement for the States based on comments he received from States, as well as consider including a statement regarding States' exercising authority in areas where the Federal government has not. At the group's recommendation, NRC staff will also prepare a summary of NRC's jurisdictional authority. The group will also contact DOE for a statement of its authority, as well as contact the Mining Safety and Health Administration for any regulatory authority they might have.

Discussion of the Status Paper

The NRC staff is providing a status paper to the Commission discussing the activities of the Part 40 Jurisdictional Working Group in March 2001. The paper will discuss the background, why the group was formed and provide the citations of authority from the various participating agencies. The paper will include a brief discussion of general issues involved and the plans for proceeding on the project.

Discussion of Issues/Regulatory Concerns

There was a general discussion of the issues/regulatory concerns and what approach the group needs to take. There were questions as to what examples the group has that shows there is a problem with the exposures at the 0.05% concentration level of uranium or thorium. Draft NUREG-1717 provides some information on potential problems. The group asked for information on the NUREG and the assumptions and bases that were used in the study, as well as any comments related to the section on 10 CFR 40.13(a) materials that the NRC has received. There is other information available that the group should review, such as a report on TENORM Regulations completed by Philip Egidi.

There are several steps in completing the work on this issue. Generally, the problem has to be clearly defined, which will require a review of available information. Before recommendations can be made, the group has to develop criteria for making decisions and recommendations regarding the issues. It was decided that the group needs a) to develop a matrix of the kinds of source material under 0.05% concentration that would fit into the group's task, b) to identify the concentration ranges and the potential doses, c) to determine where there is any concern regarding public, environmental or occupational exposures, and d) to evaluate current

regulatory controls. Only then can the group determine if there is in fact a concern and what, if any, recommendations to make.

Additionally, there are several ongoing related activities in which NRC is involved. The group indicated that it needs to keep informed of such activities for any impacts on the group's work.

The following is a partial list of background material that the group should review, and is by no means complete:

1. Information on TENORM on EPA and CRCPD home pages
2. Information on a TENORM web page, www.tenorm.com
3. EPA report to Congress, June 2000, "Evaluation of EPA's Guidelines for Technologically Enhanced Naturally Occurring Radioactive Materials."
4. NCRP Report No. 118, Radiation Protection in the Mineral Extraction Industry
5. NUREG-1717, Systematic Radiological Assessment of Exemptions for Source and Byproduct Materials
6. Working copy of "TENORM Regulations - Policy, Potential, and Progress," Philip V. Egidi, presented at 45th annual Meeting of the Health Physics Society

Schedule

The next working group meeting is tentatively scheduled for April or May 2001.