



Nuclear Fuel Services, Inc. ERWIN, TENNESSEE 37650

A Subsidiary of Getty Oil Company

(615) 743-9147

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DOCKET NUMBER
PROPOSED RULE PR-19 (41)
(45 FR 19564)



Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Attention: Docketing and Service Branch

Gentlemen:

Nuclear Fuel Services, Inc., Erwin plant, has reviewed the proposed changes to 10 CFR Part 19 regulation on informal conference during inspection as proposed in the Federal Register on March 26, 1980, (19564).

We present for your consideration the attached request. We would be pleased to discuss this requested change in further detail with the appropriate NRC Staff.

Very truly yours,

W. C. Manser, Jr.
W. C. Manser, Jr.
General Manager

WCM:kj

Attachment

Acknowledged by card. 5/16/80. m.d.v.

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COMMENTS OF NUCLEAR FUEL SERVICES, INC.
REGARDING 10 CFR PART 19

- (1) As a preliminary comment, the following statement in the supplementary information could be very misleading:

The Commission also believes that this practice should not be limited to holders of operating licenses under Part 50 but should include all Part 50 licensees including construction permits and limited work authorizations.

Paragraph 19.2 "Scope"

This paragraph, paraphrased, specifies the applicability of Part 19 to licensees under Parts 30-35, 40, or 70, including persons licensed to operate under Part 50 of this Chapter.

- (2) NFS requests that the proposed change to Paragraph 19.14 be restricted to the following:

At the request of the NRC inspector, an informal conference with a representative of licensee (including holders of construction permits and limited work authorizations) management shall be held at any time during an inspection to discuss tentative inspection findings, complaints of individuals involved in the licensed activities concerning radiological working conditions, safety, safeguards and environmental impacts and resolution of matters pertaining to inspection findings.

The reasons for this request are as follows:

- (a) Since Paragraphs 30.52, 40.62, 50.70 and 70.55 do not require an exit interview of the licensee, the above modification of Paragraph 19.14(h) would make this a requirement of the licensee.
- (b) It is NFS' contention that the remainder of the proposed change in Regulation is counter-productive to the intent of an exit interview. The intent as stated in the discussion section of the January 16, 1980, presentation to the Commissioners titled "Proposed Amendment to 10 CFR Part 19 to Establish NRC Staff Authority to Call Meeting With Licensees"-SECY-80-25, is as follows:

The I&E Manual of Procedures specifies that "At the conclusion of each inspection, an exit interview shall be conducted with the most senior licensee representative at the location of the inspection...." The purpose of an exit interview following an inspection is for the NRC inspector and the licensee to discuss tentative findings of the inspection: issues are sometimes resolved via this information discussion. There is no reference in the regulations or in any Regulatory Guide to the exit interview, and it is indicated as a requirement only in the IE Manual. The exit interview is considered necessary for an orderly and complete inspection by the IE Staff and is followed by formal letters to the licensees advising them of the final and official findings of the inspection to which they must respond.

If the purpose of an exit interview is to discuss tentative findings and to resolve issues via an informal discussion, a third party attendance requirement could be counter-productive. It could result in a dialogue between the NRC inspector and the third party and thus become mini-hearings rather than an exit interview between the regulator and the regulated which is still part of the inspection process.

Additionally, the presence of non-licensee could interfere with the NRC inspector's option to present his tentative findings for licensee action. The proposed regulation's utilization of the undefined term "individuals with legitimate interests in matters pertaining to the inspection" could, allow as explained below, a number of individuals to attend the inspection exit interview who may lack a technical competence to comprehend very specific detail discussion and a discussion of NRC "tentative" findings and licensee initial responses could be easily misunderstood. The inspector might hesitate to discuss such informal tentative findings and thereby lose the benefit of early knowledge of licensee's information which the licensee would later include in its answer to the inspection report. On some occasions after discussing tentative findings, the inspectors learn from the higher management personnel at the exit new facts which may confirm, amend or eliminate a potential item of noncompliance. Of most importance, the licensee can, if necessary, begin to take immediate corrective action based on this tentative finding. It must be emphasized that the exit interview is still part of the inspection itself and should not be treated any differently.

- c. Employees (workers) have numerous methods of communicating with the employer (licensee) through the normal business policies and methods plus numerous methods of communicating with the NRC, should normal business methods fail, through

the existing Part 19. Leaving the methods of communication involving employer/employee personnel to these current regulatory and normal management/labor procedures is preferable to confusing the inspection process with this relationship. Other individuals with legitimate interests have a number of methods of communicating to and from the NRC, such as the NRC Public Document rooms, FIOA requests, letters to the NRC, etc. Finally, the NRC's inspection report and the licensee's reply become part of the public record, unless withheld pursuant to Commission's regulations and thus can be reviewed by the entire public.

- d. The purpose of Part 19-"Notices, Instructions and Reports to Workers; Inspections"- as stated in Paragraph 19.1 is as follows:

The regulations in this part establish requirements for notices, instructions, and reports by licensees to individuals participating in licensed activities, and options available to such individuals in connection with Commission inspections of licensees to ascertain compliance with the provisions of the Atomic Energy Act of 1954, as amended, Title II of the Energy Reorganization Act of 1974, and regulations, orders, and licenses thereunder regarding radiological working conditions.

NFS contends that the broadening of the above stated purpose from "individuals participating in licensed activities, and options available to such individuals in connection with Commissioner inspections of licensees" to "individuals with legitimate interests in matters pertaining to the inspection," at the discretion of the NRC inspector can be, as noted above, counter-productive to the discussion of tentative findings and resolution of issues via the informal discussion.