

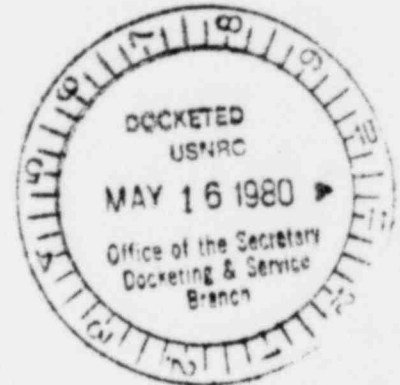
May 5, 1980

DOCKET NUMBER PR-19 (33)
PROPOSED RULE (45 FR 19564)

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

ATTENTION: Docketing and Service Branch

Dear Sir:



Commonwealth Edison Company ("Commonwealth") submits these comments in respect of the NRC's proposed rule amending 10 CFR Part 19, 45 Fed. Reg. 19564 (March 26, 1980). Commonwealth holds operating licenses for seven nuclear generating units and construction permits for six other units. Accordingly, Commonwealth has substantial experience with the NRC inspection process and also with the labor relations concerns which apparently prompted the proposed rulemaking.

Commonwealth has no objection to those portions of the proposed rule which codify the existing practice of holding NRC-licensee meetings during NRC inspections. Neither does Commonwealth have any quarrel with the NRC's present policy of conducting its business in the open. Indeed we note that NRC inspection reports, which summarize the discussion at the informal conferences during inspections, are widely circulated. Finally, Commonwealth agrees that the NRC Staff should not be denied the ability to invite to such conferences any workers or consultants, whose presence is necessary to resolve items raised during inspections.

Commonwealth views with great concern, however, the proposal to allow the NRC to invite to such informal conferences "individuals with legitimate interests in matters pertaining to the inspection." If not more carefully limited, the overbroad language in the proposed rule could lead to practices which would threaten the delicate balance of management-labor relations which has been established at nuclear stations, and throughout Commonwealth's system.

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The proposed rule, drafted in response to union requests, goes beyond authorizing the NRC Staff to invite persons the NRC Staff needs to have present. Although the Supplementary Information explains that this is not meant to include representatives of the general public and adds that invitees would be limited to those with legitimate, specific interests, the authority of the NRC to invite interested persons to the inspection conference is still unreasonably broad.

The NRC's responsibility is to supervise safety and environmental protection at nuclear power plants. There already exists at Commonwealth's plants a union grievance system which is the product of years of hard bargaining by both sides. This system provides a careful mechanism for sorting through worker complaints, demands and suggestions which ensures that meaningful, constructive items are thoroughly aired. The general policy of federal labor law is to promote the use by private parties of grievance procedures established through collective bargaining prior to intervention by federal agencies. The proposed rule, intentionally or otherwise, opens up a separate, parallel path for processing union-management conflicts which undercuts the grievance system. Commonwealth believes this is extremely ill-advised.

Decades of experience with labor relations support Commonwealth's concern that easy access by workers and worker representatives to informal NRC inspection conferences may undermine the present balance between labor and management at Commonwealth's stations. First, easy access to inspection conferences would give workers and unions an unusual opportunity to negotiate directly with licensee management, end-running the normal grievance channels. Second, easy access to inspection conferences will predictably result in disruption of normal work activities by workers with complaints seeking to be heard when NRC inspectors arrive on-site. Third, the normal balance of power between unions and management will inevitably be distorted by the implicitly coercive presence of NRC inspectors at such conferences. While the argument might be made that the inspection meetings will be limited by the NRC Staff to safety or environmental matters arising during inspections, we believe that this line would be very difficult to draw in practice, since virtually everything that happens at nuclear stations can have safety implications. Similarly, worker representatives can and frequently do claim to have a "legitimate interest" in everything that goes on at nuclear stations.

The NRC's avowed purpose in promulgating the proposed rule was to "facilitate resolution of matters in the inspection conference." This purpose can be accomplished by revising the language in proposed 10 CFR §19.14 to read in pertinent part:

The NRC inspector and the licensee shall each have the option of inviting any licensee or contractor employees, employee representative, or consultants having responsibilities, knowledge or expertise relating to matters involved in the inspection, if their presence is necessary to proper resolution of matters involved in the inspection.

The statement of considerations accompanying the proposed rule should make it clear that the presence of worker representatives is not thought necessary, as a routine matter, in NRC Staff-licensee inspection conferences.

The proposed rule should also clarify that the right of the NRC pursuant to 10 CFR §19.14(a) to inspect licensee materials, activities, facilities, premises and records does not extend to NRC invitees under proposed 10 CFR §19.14(h). Similarly the statement of consideration accompanying the proposed rule should make it clear that new 10 CFR §19.14(h) is not intended to affect the extent to which workers' representatives are allowed to accompany NRC inspectors during inspections as presently set forth in 10 CFR §§19.14(c), (e), (f) and (g).

Commonwealth Edison Company thanks the Commission for the opportunity to submit these comments.

D. L. Peoples / P.R.B.

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