

March 19, 1993

PDR
AE80-1

MEMORANDUM FOR: Clemens J. Heltemes, Deputy Director
for Generic Issues and Rulemaking
Office of Nuclear Regulatory Research

FROM: Anthony T. Gody, Acting Director
Program Management, Policy Development
and Analysis Staff
Office of Nuclear Reactor Regulation

SUBJECT: OFFICE CONCURRENCE ON INITIATION OF RULEMAKING
FOR 10 CFR PART 20

Following receipt of the proposed rule change package for Part 20, cognizant RES personnel agreed to a meeting with NRR and NMSS personnel to discuss the full list of changes proposed by NRC personnel. This meeting is scheduled for March 30, 1993.

NRR review and comment will be provided on any modified rule change package developed subsequent to the March 30, 1993 meeting.

Original signed by R. Wessman
for Anthony T. Gody, Acting Director
Program Management, Policy Development
and Analysis Staff
Office of Nuclear Reactor Regulation

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NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20545

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Char
Don

Please see my
suggested fixes & comments
write your notes here.
Alank.

FAX NO'S 301 - 504-2260
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PLEASE CHECK ONE - LOCAL (X) LONG DISTANCE ()

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NUMBER OF PAGES 13 AND COVER SHEET

FROM John Buchanan
(for Jay Cunningham)
OFFICE NRR

PHONE EXT. 504-3184
MAIL STOP # 10-D-4

Don,

I agree that the schedule needs to be revised, but I don't think it should take 8 weeks from now to get division review and office concurrence on the proposed rule. Alan is supposed to have it all but written. Also, once we have division review and office concurrence, 4 weeks to walk it over to Taylor seems a bit much.

The second topic is the backfit issue. I will instruct Alan to write a paragraph on backfit saying that some believe this is backfit, but revision of procedures would only be necessary if the licensee had misinterpreted the rule to allow > 2 mr/hr in controlled areas. Those who interpreted the rule properly, that a controlled area is an otherwise unrestricted area for which access could be controlled for reasons other than radiation protection, would not need any revision to existing procedures. This rulemaking does not preclude the use of controlled areas, it does make it more clear that controlled areas must meet the criteria for unrestricted areas.

Third, the rest of their comments are inconsequential and Alan has dealt with them adequately.

6-2-93



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Eric S. Beckjord, Director
Office of Nuclear Regulatory Research

SUBJECT: INITIATION OF RULEMAKING - AMENDMENTS TO 10 CFR PARTS 19 AND 20 TO DELETE CONTROLLED AREA, TO APPLY OCCUPATIONAL DOSE LIMITS TO WORKERS, AND TO REVISE CRITERIA ON WHEN RADIATION PROTECTION TRAINING IS REQUIRED

The revised 10 CFR Part 20, Standards for Protection Against Radiation, was published on May 21, 1991, with mandatory compliance by January 1, 1994. The revised Part 20 defines a "Controlled area" as an area, access to which could be limited for any reason. In addition, "Occupational dose" is defined as the dose received in a restricted area or in the course of employment in which the individuals assigned duties involve exposure to radiation and radioactive materials. The staff has become aware through its discussions between RES, HRR, NMSS, regional staff, Agreement States, and licensees that these definitions have led to some confusion.

Some licensees have interpreted the revised Part 20 to permit the use of the term "Controlled area" for controlling access for any purpose, including radiation protection. This is not the intent of the rule. The intent of the revised Part 20 is that any area for which access is controlled for radiation protection is, by definition, a "Restricted area." The term "Controlled area" was added to acknowledge that licensees might choose to restrict access to an area for reasons other than radiation protection although it is not a requirement. Numerous staff Q and A's have been devoted to this issue, and questions continue to remain.

arise provisions regarding implementation

Under the current Part 20 definitions, an individual who is occupationally exposed, yet never enters a restricted area, requires no training on radiation protection, risk or ALARA. Some licensees have interpreted the definition of occupational dose to mean that an individual is occupationally exposed when in a restricted area or performing assigned tasks (such as surveys), but not occupationally exposed when doing other functions of their occupations, such as eating lunch in the on-site break room. This, too, was not the intent of the rule. While not unique to the revised rule, the problem has come to light now because of the focus by licensees on compliance with new requirements. By eliminating the phrases "in a restricted area or" and "the individual's assigned duties" from the definition of Occupational dose, this confusion can be eliminated. In addition, "radiation and/or radioactive material" should replace "radiation and radioactive material" to correct a technical error in the rule text. With these changes, occupational dose would then become dose received as a result of an individual's employment which involves exposure to radiation and/or radioactive material, as was intended by the revised rule.

pass example delete

X
X
X

transporting a source through a controlled or unrestricted area.

James A. Taylor pl179X2

These changes would also make it clear that a member of the public cannot be permitted to exceed the public dose limit just by entering a restricted area.

Subject to your approval, I plan to initiate a high priority rulemaking to delete the definition of "Controlled area" and make appropriate conforming revisions where the term is used in the revised Part 20. The statement of considerations will make it clear that licensees have the option of establishing controlled areas, access to which is controlled for reasons other than radiological. In addition, the rulemaking would revise the definition of "Occupational dose" to delete reference to the "Restricted area" so that the occupational dose limit and its associated provisions, such as training and badging requirements, would apply to an individual who was engaged at any time in activities that are licensed by the Commission, controlled by the licensee, and involve exposure to radiation and/or to radioactive material. Section 19.12, "Instruction to Workers," will be revised so that training commensurate with the hazards present will be provided to all persons who will be occupationally exposed rather than just to individuals who will be working in or frequenting any portion of a restricted area.

I believe that these changes will remedy considerable confusion associated with the revised Part 20 and will not have an adverse impact on the health and safety of workers or the public. Removing the implied requirement to establish Controlled areas, and simplifying the definition and administration of occupational dose is considered to be a reduction of burden, ~~and will require no new procedures, and is thus not~~ a backfit subject to the backfit rule. I believe that this rule would be most useful if it is published in final form prior to January 1, 1994, which is the date when all licensees must implement the revised 10 CFR Part 20. I also believe that this action falls within the EDO's jurisdiction to authorize publication. The enclosed schedule reflects these assumptions.

← however, some power reactor licensees may have to revise their procedures and, therefore, the rule change may be

Eric S. Beckford, Director
Office of Nuclear Regulatory Research

Enclosures:

1. Justification for Rulemaking
2. Regulatory Agenda Entry

Don,
If we say it maybe a backfit we're dead.
If a plant has provided for controlled areas correctly, that would be their option under the proposed change, and no revision in the procedures would be necessary.

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ENCLOSURE 1
JUSTIFICATION FOR RULEMAKING

PDR
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JUSTIFICATION FOR RULEMAKING

AMENDMENTS TO 10 CFR PARTS 19 AND 20 (§ 20.1001 - § 20.2401) TO DELETE CONCEPT OF CONTROLLED AREA AND TO APPLY OCCUPATIONAL DOSE LIMITS ONLY WHEN REQUIRED BY CONDITIONS OF EMPLOYMENT AND REVISE CRITERIA ON WHEN TRAINING IN RADIATION PROTECTION IS REQUIRED

1. The issues to be addressed by rulemaking:

The revised 10 CFR Part 20, Standards for Protection Against Radiation, was published on May 21, 1991, with mandatory compliance by January 1, 1994. The revised Part 20 defines a "Controlled area" as an area, access to which could be limited for any reason. In addition, "Occupational dose" is defined as the dose received in a restricted area or in the course of employment in which the individuals assigned duties involve exposure to radiation and radioactive materials. The staff has become aware through its discussions between RES, NRR, NMSS, regional staff, agreement States, and licensees that these definitions have led to some confusion.

As a consequence of the present definition of controlled area, some licensees have established areas to which access is being controlled for purposes of radiation protection, but not considering these areas as restricted areas under the requirements of Part 20. Under Part 20, any area for which access is controlled for radiation protection is, by definition, a "Restricted Area." The term "Controlled Area" was added to acknowledge that licensees might choose to restrict access to an area for reasons other than radiation protection, although to do so is not a requirement. In any case, any area to which access is controlled for radiation protection must be

have interpreted the rule to permit control of

*is this true
also contradicts
cover memo
statement
re new
procedures*

*No, or
at least we don't
know. He does know
some licensees have
interpreted the rule
that way, which was
original wording. The
is a RC change. It
would restate it as we
did initially*

considered a "restricted area" and subject to all the attendant Part 20 requirements.

Under the current Part 20 ^{19 provision} definition, an individual who is occupationally exposed yet never enters a restricted area, requires no training concerning radiation protection. Some licensees have interpreted the definition of occupational dose to mean that an individual is occupationally exposed only when in a restricted area. This, too, was not the intent of the rule. While not unique to the revised rule, this problem has come to light now because of the focus by licensees on compliance with new requirements. By eliminating the phrase "in a restricted area" from the definition of occupational dose, this confusion can be eliminated. In addition, "radiation and/or radioactive material" should replace "radiation and radioactive material" to correct a technical error in the rule text. With these changes, occupational dose would then become dose received as a result of an individual's employment which involves exposure to radiation and/or radioactive material, as was intended by the revised rule.

discussing Part 19 and Part 20

2. The necessity and urgency of addressing the issue:

Licensees, headquarters staff, regional staff, and agreement States have advised the staff that these definitions are ^{misleading} confusing. ^{This conflict is safe} This confusion needs to be addressed ^{before} and doing so by the mandatory implementation date of the revised Part 20 (January 1, 1994) ^{in order to} will facilitate its smooth and efficient implementation. ~~Moreover, the staff has found it difficult to use the revised rule to provide satisfactory answers to questions posed by the public~~

I think statement is true but we don't need it to get EDO approval.

~~regarding controlled area and occupational versus public dose limit provisions.~~ The proposed changes will have no adverse impact on health and safety of workers or the public.

3. Alternatives to rulemaking:

one
~~The~~ source of confusion is ~~inconsistent~~ *the new* definitions ^{of controlled area} in the revised Part 20. Were the matter one of interpretation or complexity, a regulatory guide could be an appropriate remedy. Moreover, were the matter one of implementation, case-by-case exemptions from the requirement might be appropriate. However, in that the difficulty is ~~inconsistency~~ in the rule itself, and all licensees are affected by the provision, the appropriate remedy is rulemaking.

4. How the issue will be addressed through rulemaking:

In Section 20.1003, the definition of a "Control ^{led} area" will be deleted from the rule. The statement of considerations will make it clear that a licensee has the option of controlling access to any area for reasons other than radiation-protection. Likewise, the definition of "Occupational dose" will be changed to delete reference to the Restricted area. The staff believes that the definition of "Restricted area" and ~~"Unrestricted area"~~ ^{is} are sufficient to limit access for purposes of radiation protection and that "Occupational dose" can be received outside "Restricted areas."

The definition of "Occupational dose" would be changed to read as follows:

~~"Occupational dose means the dose received by an individual, engaged at any time in activities licensed by the Commission and controlled by the licensee that involve exposure to radiation and/or to radioactive material from licensed and/or unlicensed sources of radiation, whether in the possession of the licensee or other persons. Occupational dose does not include dose received from background radiation, as a patient from medical practices, from voluntary participation in medical research programs, or as a Member of the public."~~

Conforming changes ^{will be} necessary in the definitions of "Member of the public" and "Public dose." Sections 20.1301(2)(b), 20.1302(a), 20.1801 and 20.1802 will require minor conforming amendments.

A conforming change will be made to Section 19.12 ^{so that training commensurate with the hazards present will be provided} to delete the phrase ~~"working in or frequenting any portion of a restricted area,"~~ and add the phrase ~~"having the likelihood of receiving occupational dose"~~ ^{to all individuals who are occupationally exposed, rather than just those working in or frequenting a restricted area.}

The effect of these amendments would be to make clear that (1) individuals in the employ of a licensee ^{including} ~~(or licensee's contractor)~~ ^S would be subject to occupational dose limits and associated protection requirements and (2) members of the public would be limited to the public dose limit, irrespective of their location within the licensee's facility. In addition, the confusion over the establishment of a "Controlled area" would be

I would paraphrase Don't try to include exact wording now

eliminated, and the present system of restricted and unrestricted areas retained. Licensees would be free to establish control of access to certain areas for reasons other than radiological protection if they choose, but these areas would not be defined in the regulations.

5. How the public, industry, and NRC will be affected by the rulemaking, including costs, benefits, occupational exposure, and resources:

Smooth and efficient implementation of the revised Part 20 will be facilitated by these changes. Removing the implied requirement to establish Controlled areas, and simplifying the definition and administration of occupational dose is considered to be a reduction of burden. ~~All licensees will~~
~~new procedures, and they will not~~ subject to the backfit rule.

6. NRC resources and timetable for the rulemaking:

It is estimated that 0.4 staff years of effort by RES and other offices will be expended over the next 8 months to complete this rulemaking.

however, some power reactor licensees may have to revise their procedures and, therefore, the rule change may be a backfit

Timetable

Need to update

Discussion of Draft Rule Provisions

May 20, 1993

With Agreement States

8 weeks from now!

Division Review and Office Concurrence

July 30

~~June 30~~ May 30, 1993

Proposed Rule to EDO

August 27

~~July 9~~ June 9, 1993*

75-Day Public Comment Period

Sept 1 - Dec 22

July 12 - Sept 30, 1993

~~Final Rule for Division Review and Office Concurrence~~ November 1, 1993

~~Final Rule to EDO for Issuance~~ December 1, 1993

do we really need 4 weeks here

*This schedule is based on an assumption that CRGR and ACRS will agree to defer review until after public comment.

*Don
This schedule is for
proposed rule package.
We are still trying to
get rule initiation
package from us to us!
We now risk not getting
proposed rule out before
1/1/94. At what point
do we refocus resources
on doable things?
Alan H.*

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ENCLOSURE 2
REGULATORY AGENDA ENTRY

PDR
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REGULATORY AGENDA ENTRY

TITLE: AMENDMENTS TO 10 CFR PARTS 19 AND 20: DELETE CONTROLLED AREA
APPLY OCCUPATIONAL DOSE LIMITS ONLY TO WORKERS AND
REVISE CRITERIA ON WHEN RADIATION PROTECTION TRAINING
IS REQUIRED

CFR CITATION: 10 CFR PART 19 AND 20 (§ 20.1001 - § 20.2401)

The revised 10 CFR Part 20, Standards for Protection Against Radiation, was published on May 21, 1991, with mandatory compliance by January 1, 1994. The revised Part 20 defines a "Controlled area" as an area, access to which could be limited for any reason. In addition, "Occupational dose" is defined as the dose received in a restricted area or in the course of employment in which the individuals assigned duties involve exposure to radiation and radioactive materials. The staff has become aware through its discussions between RES, NRR, NMSS, regional staff, agreement States, and licensees that these definitions have led to some confusion.

As a consequence of the present definition of controlled area, some licensees have established areas to which access is being controlled for purposes of radiation protection, but not considering these areas as restricted areas under the requirements of Part 20. Under Part 20, any area for which access is controlled for radiation protection is, by definition, a "Restricted Area." The term "Controlled Area" was added to acknowledge that licensees might choose to restrict access to an area for reasons other than radiation protection, although to do so is not a requirement. In any case, any area to which access is controlled for radiation protection must be considered a "restricted area" and subject to all the attendant Part 20 requirements.

X true?
See previous comment

Under the current Part 20 definition, an individual who is occupationally exposed yet never enters a restricted area, requires no training concerning radiation protection. Some licensees have interpreted the definition of occupational dose to mean that an individual is occupationally exposed only when in a restricted area. This, too, was not the intent of the rule. While not unique to the revised rule, this problem has come to light now because of the focus by licensees on compliance with new requirements. By eliminating the phrase "in a restricted area" from the definition of occupational dose, this confusion can be eliminated. In addition, "radiation and/or radioactive material" should replace "radiation and radioactive material" to correct a technical error in the rule text. With these changes, occupational dose would then become dose received as a result of an individual's employment ⁱⁿ which ^{an individual's assigned duties} involves exposure to radiation and/or radioactive material, as was intended by the revised rule. X

The proposed deletion of the term "Controlled area" and change to the definition of occupational dose will have no adverse impact on health and safety of workers or the public.

Timetable:

Discussion of Draft Rule Provisions with Agreement States	May 20, 1993
Division Review and Office Concurrence	May 30, 1993
Proposed Rule to EDO	June 9, 1993*
75-Day Public Comment Period	July 12-Sept 30, 1993
Final Rule for Division Review and Office Concurrence	November 1, 1993
Final Rule to EDO for Issuance	December 1, 1993

* This schedule is based on an assumption that CRGR and ACRS will agree to defer review until after public comment.

Need to Revise

LEGAL AUTHORITY:

The Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and the Administration Procedures Act.

EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES:

Expected to facilitate smooth and efficient implementation of revised Part 20 by all licensees, with no impact on health and safety of workers or public.

AGENCY CONTACT:

Alan K. Roeklein

Office of Nuclear Regulatory Research