



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

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1/12/93
PDR
AE80-1

May 13, 1993

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: INITIATION OF 10 CFR PART 20 RULEMAKING

In your memorandum dated March 11, 1993, you requested NRR review and concurrence for a rule change package which proposed initiating rulemaking for the revised 10 CFR Part 20, "Standards for Protection Against Radiation." Proposed amendments to Part 20 (and Part 19) involved deleting the definition of "Controlled Area," revising the definition of "Occupational Dose" and proposing Part 19 training requirements. These changes were taken from an initial list of 37 changes (proposed by NRC personnel), and given high priority for proposed rulemaking to expedite the elimination of confusion associated with Part 20 definitions.

On March 12, 1993 the rule change package was provided to the cognizant NRR technical branch for review and concurrence. Subsequently, RES staff met with NRR and NMSS staff on March 30, 1993, to discuss the rule change package and the full list of proposed changes.

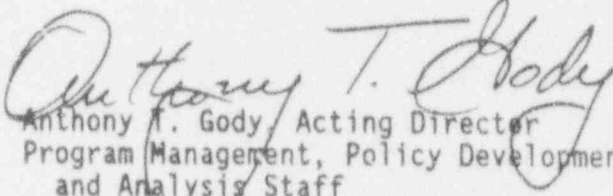
To date, cognizant staff in NRR, NMSS and RES have agreed to break down the list of proposed changes for Part 20 into three rulemaking packages which include the following:

1. "Fast" package, consisting of occupational dose and Part 19 changes which are of immediate interest to the staff;
2. "Administrative" package, consisting of obvious errors, minor clarifications or very straight-forward additions that cause no significant changes; and
3. "Delayed" package, consisting of changes that require more time and attention for development.

Working sessions between the aforementioned office staffs are ongoing to reach agreement on the scope of the rule change for each of these packages.

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Since the initial rulemaking package (enclosed) will be replaced by several packages and the content of those packages is under development, NRR plans no further action in response to the March 11, 1993, request.


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

Enclosure:
As stated

cc w/o enclosure:
A. Roeklein
D. Cool



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

PDR
AES0-1

FROM: ORIGINAL DUE DT: 03/19/93 TICKET NO: 0930046
CLEMENS J. HELTEMES, DEPUTY DIRECTOR DOC DT: 03/11/93
RES NRR RCVD DATE: 03/12/93

TO:
MURKEY ET.AL.

FOR SIGNATURE OF: ** YEL **

GODY

DESC: OFFICE CONCURRENCE ON INITIATION OF RULEMAKING ROUTING:
FOR 10 CFR PART 20 MURLEY
GODY
MIRAGLIA
GODY
MAILROOM 12 G 18

ASSIGNED TO: FMAS CONTACT: SLOSSON

Please review the due date immediately:

If the due date does not allow adequate time to respond to this ticket, you may request a revised due date. The request must have prior approval from the appropriate Associate Director or NRR Deputy Director and must include a valid justification. Contact NRR mailroom with the new due date (Celeste Smyre, ext-21229).

Please do not carry concurrence packages to Directors office without first going through the NRR mailroom.



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PDR
AE80-1

MAR 11 1993

MEMORANDUM FOR: Robert M. Bernero, Director
Office of Nuclear Material Safety and Safeguards

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Martin G. Malsch, Deputy General Counsel
for Licensing

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

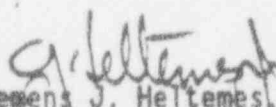
SUBJECT: OFFICE CONCURRENCE ON INITIATION OF RULEMAKING FOR
10 CFR PART 20

The enclosed rule initiation package is provided for parallel division and office review and concurrence. This action is being expedited in order that any ensuing rule change might be completed near the date scheduled for mandatory implementation of the new 10 CFR part 20.

Please provide your comment and concurrence on the enclosed rulemaking initiation package to me by March 19, 1993.

The following is a summary of this request:

1. Title: Standards for Protection against Radiation
2. RES Contact: Alan Roeklein (301) 492-3740
3. Requested Action: Review and provide comments and concurrence.
4. Due Date: March 19, 1993
5. Cognizant Individuals:
NRR/PRPB: Lemoine Cunningham
NMSS/PRAB: Richard Cunningham


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

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

PDR
AESO-1

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 AND TO APPLY OCCUPATIONAL
DOSE LIMITS TO WORKERS AND REVISE CRITERIA ON WHEN
RADIATION PROTECTION IS REQUIRED

The revised 10 CFR Part 20, Standards for Protection Against Radiation, was published to be effective June 20, 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. The staff has become aware through its discussions with NRR, 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.

Some have interpreted Part 20 to mean that an individual who is occupationally exposed, can receive dose while performing tasks which were not assigned, which is not occupational exposure. This would not be applied to occupational limits if the dose were received outside the restricted area. This, too, was not the intent of the rule. 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" replaces "radiation and radioactive material" to correct a technical error in the rule text. Occupational dose then becomes 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.

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. 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

while an individual was engaged in activities that are licensed by the Commission, controlled by the licensee, and involve exposure to radiation and/or to radioactive material.

I believe that these changes will remedy the 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, will require no new procedures, and is thus not subject to 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.

Eric S. Beckjord, Director
Office of Nuclear Regulatory Research

Enclosures:

1. Justification for Rulemaking
2. Regulatory Agenda Entry

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 new 10 CFR Part 20 provides for the designation of a Controlled Area, defined as "an area outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason." The new Part 20 also continues to define Occupational Dose as the dose received by an individual in a restricted area or in the course of employment. Part 19.12 requires instruction to workers working in or frequenting the restricted area. The staff has become aware that these provisions can lead to some confusion. For example, if members of the public enter a restricted area, they become subject to Occupational Dose limits - a member of the public could, by virtue of having entered a restricted area, receive up to 5 rem in a year. The definition of occupational dose also defines the circumstances when an employee could be subject to occupational dose limits while not performing "assigned duties." Thus, if an employee were to perform other duties which were not assigned, the worker could be subject to the public dose limits for that period. By definition, a "controlled area" is an area to which access is limited for any reason, not necessarily for reasons of radiation protection. The distinctions among controlled, restricted, and unrestricted areas are unclear. These definitions have lead to confusion on the part of NRC licensing and inspection personnel, agreement state personnel, and licensees.

2. The necessity and urgency of addressing the issue:

Licensees, regional staff, and Agreement States have advised the staff that these definitions are confusing. This confusion needs to be addressed, and doing so by the mandatory implementation date of the revised Part 20, January 1, 1994, will facilitate its smooth and efficient implementation. Moreover, the staff has found it difficult to answer questions posed by the public 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:

The source of confusion is inconsistent definitions 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 a requirement unnecessarily burdensome or impractical for some licensees to implement, case-by-case exemptions from the requirement might be appropriate. However, in that the difficulty is inconsistency in the rule itself, the appropriate remedy is rulemaking.

4. How the issue will be addressed through rulemaking:

In Section 20.1003, the definition of a "Controlled Area" will be deleted from the rule and the definition of "Occupational Dose" will be changed to delete references to assigned duties and the restricted area. The staff believes that the definitions of "restricted area" and "unrestricted area" 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 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 person. 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 general public."

Conforming changes are 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 19.12 to delete the phrase "working in or frequenting any portion of a restricted area," and add the phrase "with the potential for receiving occupational dose".

The effect of these amendments would be to make clear that

(1) individuals in the employ of a licensee (or licensee's contractor) 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 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.

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.

Timetable

Division Review and Office Concurrence	April 30, 1993
Proposed Rule to EDO	May 9, 1993 *
75 Day Public Comment Period	June 14--Aug. 30, 1993
Final Rule for Division Review and Office Concurrence	October 1, 1993
Final Rule to EDO for Issuance	November 1, 1993

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

REGULATORY AGENDA ENTRY

PDR
AESO-1

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

CFR CITATION: 10 CFR PART 19.12 AND 20 (20.1001 - 20.2401)

ABSTRACT:

The revised 10 CFR Part 20, "Standards for Protection Against Radiation," was published May 21, 1991, effective June 20, 1991, and with mandatory compliance by January 1, 1994. The new regulations defined a "Controlled Area" as an area, access to which could be limited for any reason. In addition, "Occupational Dose" continued to be defined as the dose received in a restricted area or in the course of employment. The staff has become aware through its discussions with regional staff, Agreement States, and licensees, that these definitions are confusing. It would appear that in some cases members of the public could be subject to occupational dose limits. Employees of licensees could be exposed to radiation in their employment and be considered members of the public if their exposure occurred outside of their assigned duties. The distinction among controlled, restricted, and unrestricted areas and when the training under 19.12 is required can be unclear.

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:

Division Review and Office Concurrence	April 30, 1993
Proposed Rule to EDO	May 9, 1993 *
75 Day Public Comment Period	June 14-Aug. 30, 1993
Final Rule for Division Review and Office Concurrence	October 1, 1993
Final Rule to EDO for Issuance	November 1, 1993

LEGAL AUTHORITY:

To be determined

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. Roecklein
Office of Nuclear Regulatory Research

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