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Roecklein
File (Part 20)

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ALL AGREEMENT STATES

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FAST TRACK RULEMAKING FOR 10 CFR 19 and 20 (SP-93-094)

Mr. Hugh L. Thompson, Jr., Deputy Executive Director for Nuclear Materials Safety, Safeguards & Operations Support, has identified the rulemaking addressing the definition of "occupational exposure," deletion of "controlled area," and revision of criteria on when radiation protection training is required as very important to implementation of the revised 10 CFR Part 20. This rulemaking was discussed with the Agreement States at the meeting on May 20 of this year. I understand there was general support by the Agreement States' participants to go forward expeditiously with these changes. We have determined that it is essential that we try to complete the rulemaking by the mandatory implementation date of January 1, 1994. Your cooperation and patience will be important if we are to achieve this goal.

A copy of the draft notice for this rulemaking is enclosed. We need any input as soon as possible and no later than August 10, 1993, if possible. Unless you identify major issues or problems, we plan to proceed to publication of the proposed rule without the customary detailed review by the States. You are encouraged, as always, to comment during the public comment period.

The Agreement States will not be expected to modify their regulations before the January 1, 1994 date. We recognize that many of you will need at least three years to conform to the changes. As is the custom, though, you may wish to consider interim methods with your licensees to address the issues in this rulemaking.

original signed by Carlton Kammerer

Carlton Kammerer, Director
Office of State Programs

Enclosure:
As stated

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19 and 20

RIN 3150 - _____

Amendments to 10 CFR Parts 19 and 20 to Delete Controlled Area,
to Revise the Definition of Occupational Dose and to Revise
Criteria on When Radiation Protection Training is Required

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its regulations to, (1) delete the definition of "Controlled area" to make it clear that any area to which access is restricted for purpose of radiological protection is a restricted area as defined in 10 CFR Part 20, (2) revise the definition of "Occupational dose" to delete reference to the "Restricted area," and (3) revise Section 19.12, "Instruction to Workers," so that radiation protection training will be provided to all persons occupationally exposed. Licensees will continue to be able to control access to areas for purposes other than radiation protection.

DATE: Comment period expires (30 days following publication in the Federal Register). Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland between 7:45 a.m. and 4:15 p.m. Federal workdays.

Copies of the regulatory analysis, the environmental assessment and finding of no significant impact, the supporting statement submitted to OMB, and comments received may be examined at: the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alan K. Roecklein, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3740.

SUPPLEMENTARY INFORMATION:

Background

The revised 10 CFR Part 20, "Standards for Protection Against Radiation," was published on May 21, 1991. Compliance will become mandatory on January 1, 1994. Extensive discussion regarding interpretation and implementation of the new rules has ensued both within the NRC staff and with licensees and other interested parties.

The revised Part 20 includes a definition for "Controlled area" to be 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 NRC has become aware through discussions with Agreement States and licensees that these definitions have led to some confusion which could be corrected by a rule change.

The NRC is aware that some licensees have interpreted the revised Part 20 to permit the use of the term "Controlled area" to refer to areas to which access is controlled for purposes of protection against radiation but are not considered to be restricted areas under the terms and definition of Part 20. In particular, questions have arisen as to areas not explicitly identified as "Restricted areas" where dose rates are greater than the 2 mrem in an hour limit for unrestricted areas, but less than the 5 mrem in an hour value defining a radiation area. Some interpretations have suggested using "Controlled area" as the designation for such areas. The NRC believes that this is an incorrect interpretation of the rules.

Section 20.1301(a), "Dose limits for individual members of the public," requires that licensees conduct operations so that the dose in any unrestricted area from external sources does not exceed 0.002 rem (0.02 mSv) in any 1 hour. If dose rates exceed that level, the area must be designated a "Restricted area," and access must be limited for the purpose of protecting individuals against undue risks from exposure to radiation. The "Controlled area," which is partly defined as "...outside of a restricted area...", cannot be used to control access for radiation protection purposes. Also, radiation

protection provisions such as radiation monitoring and surveying are generally associated with restricted areas and not controlled areas.

The term "Controlled area" was added to the rules to acknowledge that licensees might choose to restrict access to an area for reasons such as security or general safety but not radiation protection. The NRC staff believes that licensees would continue to have this option whether it is provided in the rule or not. Thus, in order to prevent further confusion regarding use of the term "Controlled area," the NRC is proposing to delete the term from the rule.

Some licensees have interpreted the definition of occupational dose to mean that an individual is occupationally exposed only when in a restricted area, but not occupationally exposed when performing other functions of their jobs, such as transporting a source through an unrestricted area. This, too, was not the intent of the rule. The problem has come to light now because of the focus by licensees on implementing the new requirements. By eliminating the phrase "in a restricted area" from the definition of occupational dose, this confusion could 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, it will become clear that occupational dose is dose received as a result of an individual's employment in the licensed activity which involves exposure to radiation and/or radioactive material, as was intended by the revised rule. These changes would also make it clear that the dose received by a member of the public cannot be permitted to exceed the public dose limit, even if the individual is in a restricted area.

Section 19.12, "Instruction to Workers," currently requires that all individuals working in or frequenting any portion of a restricted area be instructed in the health protection problems associated with exposure to radiation and in radiation protection procedures needed to minimize exposure. Under this provision if a worker never enters a restricted area, he or she would require no radiation protection training. On the other hand, members of the public, such as delivery persons, who might occasionally enter a restricted area, would be required to be trained even though hazards associated with their activities are very low. The proposed change to § 19.12 would make it clear that anyone exposed to radiation and/or radioactive material in the course of employment in a licensed activity would be required to take appropriate radiation protection training.

Agreement States

The proposed rule changes would apply to all NRC licensees and Agreement States (Definitions in 10 CFR Part 20 are Division I matters and are thus matters of compatibility). The proposed changes were discussed in June 1993 with Agreement State representatives and the changes were strongly supported. The Agreement States cannot be expected to modify their regulations before the January 1, 1994 date. Some States will need as much as three years to conform to the changes. In the interim States may wish to consider alternative methods to address the issues being addressed in this rulemaking.

Description

The provision in 10 CFR Part 20 for a "Controlled area," its definition and its use in several other sections of Part 20 would be deleted. Licensees would continue to have the option to control access to areas for reasons other than radiation protection.

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 radiation protection 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 10 CFR 19.12, "Instructions to Workers," would be revised so that training commensurate with the hazards present would be provided to all persons who would be occupationally exposed rather than just to individuals who would be working in or frequenting any portion of a restricted area.

Impact

The impact of these proposed rule changes are considered to be minimal. The NRC believes 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 term "Controlled areas," and clarifying the definition of occupational exposure will not impose any additional burden upon licensees. This notice makes it clear that licensees have the option to control access to areas for reasons other than

radiological protection, which was the intent. Licensees who have already written procedures controlling access to areas for reasons other than radiation protection would not be required to change those procedures. Licensees who may have established control over areas for radiation protection purposes but not designated or considered such areas as "restricted areas" in their procedures, have incorrectly interpreted the rules, and would need to change their procedures accordingly.

Finding of No Significant Environmental Impact: Availability

The NRC has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required.

The option of establishing access control over an area owned by a licensee for reasons of security, for example, exists whether or not the term "Controlled area" is specifically defined in 10 CFR Part 20. The provision for Controlled areas in the rule is not a requirement, and it is reasonable to expect that deleting it from the rule would not cause more or fewer areas to be controlled. Public access to licensee owned facilities and land is expected to remain unchanged as a result of this amendment. No other environmental impact or benefit is associated with the "Controlled area" provision.

Changing the definition of "Occupational dose" to make it clear that workers engaged in licensed activities are subject to radiation protection

procedures associated with occupational exposure and that members of the public cannot be permitted to receive doses that exceed public dose limits just by entering a restricted area, is considered a benefit with no environmental impact. This change would have no effect on the kind or quantity of material released into the environment and, if anything, would make it less likely for members of the public to be exposed to more than public dose limits.

Amending the radiation protection training requirements to clarify that they apply to workers engaged in licensed activities involving occupational exposure regardless of whether they may or may not be within a restricted area, implies no impact or benefit to the environment.

The environment assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Alan K. Roecklein, U.S. NRC 5650 Nicholson Lane, Rockville, MD 20852, (301) 492-3740.

Paperwork Reduction Act Statement

This proposed rule does not amend information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

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Regulatory Analysis

The NRC has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the NRC. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the draft analysis may be obtained from Alan K. Roecklein, U.S. NRC 5650 Nicholson Lane, Rockville, MD 20852, (301) 492-3740.

The NRC requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the ADDRESSES heading.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NRC certifies that, if promulgated, this rule will not have a significant economic impact upon a substantial number of small entities. The proposed amendments would apply to all NRC Agreement State licensees, but because these amendments neither impose new requirements or alter existing requirements and are clarifying alone, they are considered to have no economic impact on any large or small entities.

Any small entity subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the NRC of this in a comment that indicates --

- (a) The licensee's size in terms of annual income or revenue, number of employees and, if the licensee is a treatment center, the number of beds and patients treated annually;
- (b) How the proposed regulation would result in a significant economic burden upon the licensee as compared to that on a larger licensee;
- (c) How the proposed regulations could be modified to take into account the licensee's differing needs or capabilities;
- (d) The benefits that would be gained or the detriments that would be avoided by the licensee if the proposed regulations were modified as suggested by the commenter; and
- (e) How the regulation, as modified, would still adequately protect the public health and safety.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required for this proposed rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR Parts 19 and 20.

1. In § 20.1003 the following words are deleted.

"Controlled area means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason."

2. In § 20.1003 the definition of "Member of the public" is revised to read as follows:

§ 20.1003 Member of the public means any individual except when that individual is receiving an occupational dose.

3. In § 20.1003, the definition of "Occupational dose" is revised to read as follows:

§ 20.1003 Occupational dose means the dose received by an individual ~~in a restricted area or~~ in the course of employment while engaged in activities licensed by the Commission in which the individual's assigned duties involve exposure to radiation ~~and to~~ and/or to radioactive material from licensed and 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.

4. In § 20.1003, the definition of Public dose is revised to read as follows:

§ 20.1003 Public dose means the dose received by a member of the public from exposure to radiation and/or radioactive material released by a licensee, ~~within a licensee's controlled area or in unrestricted areas~~ or to any other source of radiation under the control of a licensee. It does not include occupational dose or doses received from background radiation, as a patient from medical practices, or from voluntary participation in medical research programs.

5. § 20.1301 (b) is revised to read as follows:

§ 20.1301 (b) If the licensee permits members of the public to have access to ~~controlled areas~~ restricted areas, the limits for members of the public continue to apply to those individuals.

6. § 20.1302 (a) is revised to read as follows:

§ 20.1302 (a) The licensee shall make or cause to be made, as appropriate, surveys of radiation levels in unrestricted areas ~~and controlled areas~~ and radioactive materials in effluents released to unrestricted areas to demonstrate compliance with the dose limits for individual members of the public in § 20.1301.

7. § 20.1801 is revised to read as follows:

§ 20.1801 Security of stored material.

The licensee shall secure from unauthorized removal or access licensed materials that are stored in ~~controlled or~~ unrestricted areas.

8. § 20.1802 is revised to read as follows:

§ 20.1802 Control of material not in storage.

The licensee shall control and maintain constant surveillance of licensed material that is in an ~~a controlled or~~ unrestricted area and that is not in storage.

9. § 20.2104 (a) is revised to read as follows:

§ 20.2104 Determination of prior occupational dose.

(a) For each individual who ~~may enter the licensee's restricted or controlled area and~~ is likely to receive, in a year, an occupational dose requiring monitoring pursuant to § 20.1502 the licensee shall --

10. § 19.12 is revised to read as follows:

§ 19.12 Instructions to workers.

All individuals who in the course of employment are engaged in licensed activities which involve exposure to radiation and/or to radioactive material...working in or frequenting any portion of a restricted area... shall be kept informed of the storage, transfer, or use of radioactive materials or of radiation in the licensee's facility...such portions of the restricted area...; shall....for the protection of personnel from exposures to radiation or radioactive materials ~~occurring in such areas;~~... The extent of these instructions shall be commensurate with potential radiological health protection problems ~~in the restricted area~~ present in the workplace.

Dated at Rockville, Maryland, this ___ day of _____, 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,
Executive Director for Operations.