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Mr. Samuel J. Chilk  
Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

**ATTENTION:** Docketing and Service Branch

**SUBJECT:** Comments on Proposed Rulemaking to 10 CFR Parts 19 and 20  
to Amend Definitions and Criteria for Radiation Protection  
Requirements

Dear Mr. Chilk:

This letter provides the comments of the Nuclear Energy Institute (NEI)<sup>1</sup> in response to the request for comments on proposed rulemaking to 10 CFR Parts 19 and 20 noticed in the Federal Register on February 3, 1994 (59 Fed. Reg. 5132). The proposed rule has been carefully and extensively reviewed by the nuclear power industry. The results of that review have been incorporated into the enclosed comments. This letter is limited to comments provided on behalf of nuclear power reactor licensees; it does not reflect input or comments for other licensees. The following general comments and the detailed comments provided in the enclosure are submitted for your consideration:

A significant aspect of the proposed rule is to delete the definition of "controlled area" and revise the definition of "unrestricted area" to clarify NRC's intent that "...for purposes of radiation protection, areas are either restricted or unrestricted," i.e., the use of

<sup>1</sup> NEI is the successor organization to the Nuclear Management and Resources Council (NUMARC). NUMARC was the organization of the nuclear industry responsible for coordinating the efforts of all utilities licensed by the NRC to construct or operate nuclear power plants, and of other nuclear industry organizations, in all matters involving generic regulatory policy issues and the regulatory aspects of generic operational and technical issues affecting the nuclear industry. NEI's members include every utility licensed to operate a commercial nuclear power plant in the United States, the major nuclear steam supply system vendors, major architect/engineering firms, fuel fabrication facilities, materials licensees and other holders of NRC licenses, and other individuals and organizations involved in the nuclear energy industry.

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controlled areas with regard to Part 20 implementation would no longer be allowed under the proposed rule. This aspect of the proposed rule will remove flexibility in implementation and will impose administrative and other burdens on many licensees that are not justified because the proposed rule is not expected to result in a substantial increase in the overall protection of public health and safety. Also, the proposed revision to the definition of unrestricted area may potentially be in conflict with the intent of "unrestricted area" as it is used in 10 CFR Part 50, e.g., for event notification and reporting requirements (Parts 50.72 and 50.73) and radiological effluent control requirements (Parts 50.34a and 50.36a), because Part 50 does not contain a separate and distinct definition of unrestricted area. It is our understanding, gained from discussions with NRC staff at a public meeting on March 14, 1994, that the proposed changes related to controlled and unrestricted areas are intended to address implementation difficulties perceived by NRC as being experienced by some materials licensees. At the meeting, we discussed our view that similar implementation difficulties are not being experienced by nuclear power industry licensees due to: (1) the high level of industry involvement with the development and implementation of the revised Part 20 and related regulatory guidance; (2) generally substantial, license-based differences between nuclear power industry and materials licensees, particularly with regard to proceduralized radiation protection and training programs, high level of health physics staffing and resources, and facility design and site layout features; (3) generally more restrictive regulatory requirements for minimizing doses to members of the public, e.g., Appendix I to 10 CFR Part 50 and 40 CFR Part 190; and (4) the industry's extensive historical experience with implementation of the controlled area concept, as employed at most nuclear power facilities prior to the concept being codified in the revised Part 20.

If NRC proceeds with deleting the controlled area concept, we request that nuclear power industry licensees be exempted from this aspect of the rule. A suggested generic approach to carry over the current definitions of controlled area and unrestricted area as part of the rulemaking is included in the enclosed comments. The suggested approach would provide for continued use of the controlled area concept, by which the current adequate level of protection of health and safety will be maintained without imposing unnecessary regulatory burden on Part 50 licensees.

The proposed rule also includes a revision to radiation protection training requirements in 10 CFR Part 19 intended to clarify "... that anyone in the course of their employment in which the individual's assigned duties involve the potential for exposure to radiation and/or radioactive material would have to be provided appropriate radiation protection training." We believe that the phrase, "... potential for exposure ...," as used in the proposed revision to Part 19.12, is too open-ended and could lead to an escalation in the applicability of training requirements, imposing significant and unnecessary burden on licensees without substantial benefit to the protection of public health and safety. Proposed alternative wording is provided in the enclosure that will more concisely depict the intent of the proposed change and also will achieve better consistency with similar requirements for individual dose monitoring that are provided in Part 20.

With regard to the two aspects of the proposed rule discussed above, i.e., controlled area concept and radiation protection training requirements, we have made recommendations intended to: maintain the current adequate level of protection of health and safety; prevent incurring unnecessary regulatory burden; avoid reducing flexibility in implementation; and permit accomplishing NRC's stated intent to address difficulties arising from implementation of the revised Part 20. If the proposed deletion of the controlled area concept and the proposed revision to radiation protection training requirements are issued as a final rule in current form and applied to Part 50 licensees, this would constitute a backfit as described in Part 50.109 and should be analyzed as such by NRC. If a backfit analysis is pursued by NRC, we request the opportunity to provide specific input on behalf of the nuclear power industry for consideration in the analysis.

The proposed revisions to the definitions of "member of the public," "occupational dose," and "public dose" are intended to clarify that "... doses to members of the public must remain within the limits for members of the public, even if they are present within a restricted area." We support the intent of these changes, but additional clarification is needed to confirm that licensees retain the flexibility to classify some workers as members of the public, rather than as occupationally exposed individuals. This would preserve the option to apply more restrictive dose limits to workers classified as members of the public in lieu of providing training or monitoring without any added benefit to the protection of health and safety. As described in our enclosed comments, we are

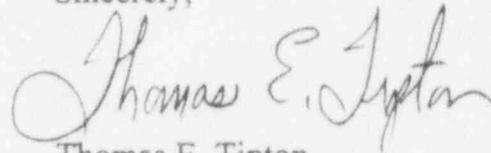
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requesting confirmation of our understanding of regulatory intent on this matter that would retain such flexibility for licensees.

The proposed rule also includes a requirement to provide a written report on personnel exposure data to any individual identified in certain reports and notifications to NRC. This provision overlaps a similar requirement in Part 19.13 and we recommend that the two requirements be consolidated in either Part 19 or 20 to minimize redundancy.

We urge the NRC to consider the potential backfit issues associated with the proposed rule and to recognize that the perceived difficulties intended to be addressed are not relevant to nuclear power industry implementation of Part 20. In this light, we have proposed options that we believe are appropriate to maintain adequate protection of health and safety and avoid unnecessary regulatory burden on nuclear power industry licensees without inhibiting NRC's pursuit of resolution of the pertinent issues. If you or your staff have any questions or wish to discuss our comments, please contact Ralph Andersen, John Schmitt or me.

Sincerely,



Thomas E. Tipton  
Vice President and Director  
Operations, Management  
and Support Services

TET/RLA:slr  
Enclosure

**Nuclear Energy Institute (NEI) Comments  
on Proposed Rulemaking to 10 CFR Parts 19 and 20  
to Amend Definitions and Criteria for Radiation Protection Requirements**

1. **General**

There are several elements in the proposed rule of particular significance to the nuclear power industry for which we are providing specific comments for NRC consideration. These are: (1) the proposed deletion of the controlled area and revision of the definition of the unrestricted area; (2) the proposed revision of Part 19 training requirements; and (3) the proposed revisions to the definitions of member of the public, occupational dose, and public dose. We are also providing comments on the proposed addition of a requirement for reporting of excess dose to individuals.

NUMARC<sup>1</sup> met with NRC staff at a public meeting on March 14, 1994 to discuss the proposed rule and to gain insight on regulatory intent. It is our understanding from discussions at the meeting and our review of the proposed rule that the proposed changes are generally intended to address implementation difficulties perceived by NRC as being experienced by some licensees. Examples of these difficulties include: (1) uncertainty regarding how to implement the "controlled area" and "restricted area" definitions in Part 20; (2) that the definition of "occupational dose" can be interpreted to allow members of the public to exceed public dose limits while in restricted areas; (3) that the definition of "occupational dose" means that an individual is only occupationally exposed when in a restricted area; and (4) the current Part 19 provisions do not require training for workers who never enter a restricted area, but may be exposed to radiation or radioactive material by virtue of their employment.

<sup>1</sup> Subsequent to the date of the meeting, NUMARC has been incorporated into the Nuclear Energy Institute.

Based on our understanding of the issues underlying the proposed rule, we have concluded that the nuclear power industry licensees generally are not experiencing the implementation difficulties discussed by NRC staff at the meeting or delineated in the proposed rule due primarily to the following:

- The nuclear power industry has been intensively involved in the development and implementation of the revised Part 20 and related regulatory guidance. The industry has commented extensively on the draft regulatory guides and made substantial input to NRC's *Questions and Answers on Part 20 Implementation* that includes staff clarifications of regulatory intent on new requirements and regulatory concepts in the revised Part 20. Also, the industry sponsored two workshops on revised Part 20 implementation that involved NRC headquarters and regional staff. Nuclear utilities hosted a series of regional meeting, often with invited NRC staff, to discuss approaches to revised Part 20 implementation. As a result of such initiatives, potential implementation issues arising from misinterpretations of the rule were largely eliminated. Key among these were issues related to controlled and restricted areas, occupational and public dose, members of the public, and monitoring and training requirements that are the subjects of the proposed rulemaking.
- There are substantial, license-based differences between nuclear power industry and most other licensees that guard against potential health and safety impacts related to the implementation issues identified by NRC with regard to the proposed rule. Part 50 licensees are required to maintain highly proceduralized radiation protection and training programs that are subject to frequent inspection and review by NRC and other organizations.
- The facility design and site layout features make up a "defense in-depth" approach to control of access to the restricted area. For example, the restricted area at many sites resides within a security protected area for which access is guarded and controlled 24 hours a day by security staff. Also, Part 100 siting criteria have resulted in sites that are generally large with regard to the extent of owner-controlled property between unrestricted areas beyond the site boundary and sources of radiation exposure within the restricted area.

- There are more restrictive requirements and a higher degree of regulatory attention applied to nuclear power licensees that create a performance and compliance threshold typically well below that permitted by Part 20. For example, doses to members of the public are maintained as low as reasonably achievable (ALARA) in accordance with Part 50 Appendix I dose guidelines and 40 CFR 190 EPA dose limits that are more restrictive than the public dose limits in Part 20. With regard to regulatory oversight, NRC resident inspectors are assigned on a permanent basis to reside at each nuclear power reactor facility; regional radiation protection inspectors conduct routine unannounced inspections onsite, one to several times in a year.
- The nuclear power industry has extensive historical experience with several of the key concepts considered "new" in the revised Part 20 that underlie some of the implementation difficulties being addressed by the proposed rule. For example, the controlled area concept has long been implemented by many Part 50 licensees prior to issuance of the revised Part 20. In fact, NRC has stated in Question #94 of the *Questions and Answers on Part 20 Implementation*, that the controlled area was "...defined and used in the new Part 20 to provide regulatory recognition of the existence of such areas and to clarify their regulatory status within the context of 10 CFR Part 20." Also, the practice of controlling occupational and public doses well below regulatory limits by vigorous application of the as low as reasonably achievable (ALARA) approach has been the industry standard for many years before ALARA was incorporated as a requirement in the revised Part 20.

In the Supplementary Information with the proposed rule, NRC discusses two aspects of the proposed rule, deletion of the controlled area concept and revision of the Part 19 training requirements, in the context that the changes are expected to result in only "small" or "negligible" impacts on licensees. Specifically, NRC states:

*"For those reactor licensees who have already formally implemented the revised standards or who have a need for the additional flexibility afforded by the use of the concept of controlled area for purposes of radiological protection, the provisions for exemptions from NRC's regulations provides an avenue of relief. The NRC currently believes that the elimination of the concept of "Controlled area" will have such a small impact on most power reactor licensees that it does*

*not constitute a backfit as envisioned by 10 CFR 50.109. The action removes flexibility but does not directly impose new procedures. However NRC welcomes comments on whether this action does in fact constitute a backfit, the degree of burden imposed by the action, particularly for licensees who have already implemented the revised standards, and on whether in the limited matter of "Controlled area," provisions for grandfathering should be provided in the final rule to avoid such burdens." (page 12)*

*"The conforming change to 10 CFR Part 19 is minor and will affect only a small number of licensees and will have a negligible impact. For the modification of the training requirements to match the definition of occupational exposure, the Commission believes that licensees will need to make relatively minor modifications to training procedures to reflect the new definition. Training remains "commensurate with potential radiological health protection problems" and, thus, the scope of the training activities is not anticipated to require modification. The Commission also believes that any small incremental increase in burden of additional occupationally exposed individuals requiring training will be offset by the reduction in burden inherent in the fact that members of the public entering a restricted area will no longer be required to be trained in accordance with the provisions of 10 CFR Part 19." (page 13)*

We believe that the proposed changes related to deletion of the controlled area concept and revision of training requirements, if issued as a final rule in current form, would constitute a backfit as defined in 10 CFR 50.109. The proposed changes would not provide a substantial increase in the overall protection of public health and safety because the level of doses received by potentially affected workers (in controlled or unrestricted areas) and members of the public (in restricted areas) would not be reduced as a result of implementation by Part 50 licensees. These doses are already low and are maintained ALARA consistent with existing requirements in 10 CFR 20.1101.

As outlined in the specific comments provided in the respective sections below, implementation of the proposed rule in its current form would result in a degree of burden and increased costs not justified by foreseeable benefits to the protection of health and safety. Also, there would be a reduction in flexibility in implementation that has already been exercised to a large extent by licensees in their implementation of the revised Part

20, resulting in an inefficient use of resources to rescind changes made only recently in procedures and training, and in some cases, technical specifications.

We request that all Part 50 licensees be exempted from the proposed deletion of the controlled area concept, and we suggest in our comments below an approach to accomplish this in the final rule. Effecting a generic solution in the rule is more appropriate than either of the two alternatives discussed in the Supplementary Information to the proposed rule, i.e., application for individual exemptions or grandfathering. Individual exemption requests would pose an undue burden on licensee and regulator resources and would involve a potential lapse between issuance of the final rule and obtaining a specific exemption. Grandfathering would lack the finality of a solution incorporated in the rule and would potentially create uncertainty with regard to the availability of use of the controlled area concept for Part 50 licensees in the future who had not opted for its use prior to the time of the grandfathering.

We also request that NRC establish a clear and concise standard for required training of workers that has a basis equivalent to the current adequate level of protection of health and safety for members of the public and is consistent with related and similar concepts in Part 20. Details are provided below.

We make recommendations in our comments intended to constructively avert undue burden on Part 50 licensees, while maintaining the current adequate level of protection of public health and safety. Adoption by NRC of provisions similar to those recommended will support timely rulemaking that makes available the other enhancements in the proposed rule, i.e., revisions to definitions of "member of the public", occupational dose", and "public dose", and the provision for reporting excess dose to individuals. Alternatively, we believe that the proposed deletion of the controlled area concept and the proposed revision to radiation protection training requirements, if issued as a final rule in current form and applied to Part 50 licensees, would constitute a backfit as described in 10 CFR 50.109 and should be analyzed as such by NRC. If a backfit analysis is pursued by NRC, we request the opportunity to provide specific input on behalf of the nuclear power industry for consideration in the analysis.

## 2. Proposed Deletion of the Controlled Area Concept

The proposed rule would delete the controlled area concept by deleting the definition of "controlled area" and revising the definition of "unrestricted area", that would have the effect of requiring that for the purposes of radiation protection, areas are either restricted or unrestricted. NRC also states that the deletion of the controlled area concept "has the effect of returning the regulation to the former situation". NRC's stated intent is to alleviate the "considerable uncertainty among a number of licensees" regarding how to implement the controlled area concept. NRC also points out that "licensees continue to have the option of controlling access to areas for reasons other than radiation protection."

Among Part 50 licensees, there is generally no significant uncertainty regarding how to implement the controlled area concept. Many Part 50 licensees have employed this concept long before it was codified in the revised Part 20. This situation, i.e., the pre-existing use of the controlled area concept by Part 50 licensees, has been acknowledged by NRC in Question #94 the Q & A on Part 20 implementation as a primary reason for incorporating the concept into the revised Part 20. Also, the industry has been involved extensively in activities with NRC staff (e.g., workshops, regional meetings, and the Q & A) to clarify details about implementation of the controlled area concept in the context of the revised Part 20, such as the classification of individuals working in the controlled area as "occupational" or public", and related monitoring and training requirements.

Deletion of the controlled area concept would not represent a return to the "former situation", as indicated by the Federal Register notice. The use of an "owner controlled area", similar to the controlled area concept, had been permissible prior to implementation of the revised Part 20 because the previous definitions of restricted and unrestricted areas were not mutually exclusive, as would be the case with the proposed rule. Therefore, this change would be more restrictive than either the revised or the earlier version of Part 20.

To a large extent, the potential impacts and burden imposed on Part 50 licensees by the proposed change if issued as a final rule would result from the elimination of this established feature based on many original site and facility layouts. For example, many licensees aligned their restricted area boundary with the security "protected area" to provide a consistent and cost-effective high level of access control, while establishing the unrestricted area boundary for radiological effluent concentration compliance at the site

boundary. The area in between was established as the "site controlled area", "owner controlled area", etc., analogous to the "controlled area" in the revised Part 20. Typically, this area has been and continues to be controlled for various radiation protection purposes, including establishment of occupancy factors to demonstrate compliance with public dose limits and to delineate monitoring and/or training requirements for workers potentially exposed to low levels of direct radiation from turbine shine, outside liquid storage tanks, etc.

Deletion of the controlled area concept could lead to either designating the entire site as a restricted area or designating the portion of the site currently the controlled area as an unrestricted area. There are potential impacts and some degree of burden associated with either option. The actual costs of changing procedures and training documents to implement the changes has been variously estimated by Part 50 licensees as \$10,000 to \$100,000 or more. For example, one licensee indicated that more than 100 procedures and other documents would have to be reviewed; many would have to be revised. Several licensees also indicated that they may have to apply for amendments to the license because there are specific references to "controlled area" in their technical specifications. In some cases, access control and health physics recordkeeping software would have to be modified to remove features related to the controlled area, recently incorporated in system upgrades to implement the revised Part 20.

In the case of making the entire site a restricted area, the clear delineation for monitoring and training purposes would be lost. A more specific approach to classifying and tracking individuals who require training and/or monitoring, as distinct from those who do not, would have to be established. A graded system of multiple boundaries and access control would likely be implemented. Site modifications might be required, such as fences or other barriers at the site boundary, or alternatively, guards or surveillance systems, to control access, depending on clarification of regulatory intent.

If the unrestricted area boundary were moved in from the site boundary, e.g., established at the security protected area boundary, other issues would arise. Occupancy factors established to demonstrate compliance with public dose limits outside the restricted area would come into question without some degree of control over access. Control of effluents would become difficult because of the shorter distance for dispersion and dilution of concentrations; and currently available dose assessment models may not be valid, i.e., with large inherent uncertainties, at relatively short distances from an

elevated release point, e.g., plant stack. Also, anticipated conditions, such as hydrogen injection to mitigate intergranular stress corrosion cracking (IGSCC), or transient conditions, such as fuel failures or primary to secondary leakage, could result in exceeding the 2 mrem in an hour limit at the "unrestricted area boundary." The reporting criteria in 10 CFR 50.72 and 50.73 for effluent concentrations in unrestricted areas could potentially lead to confusion, if defined differently from the Part 20 unrestricted area, or to virtually continuous reporting by some plants at full power operation if the Part 20 and Part 50 unrestricted area are intended by regulation to be identical.

In summary, administrative costs for implementation would be significant; other costs and burdens as outlined above could be even larger, including annual costs, impacts from transient situations, and compliance issues. As discussed earlier (in Section 1), there would be little, if any, improvement to the protection of health and safety.

We request that if deletion of the controlled area concept is included in the final rule, Part 50 licensees be exempted as part of the rulemaking. In this case we suggest the current definitions in Part 20 for "controlled area" and "unrestricted area" be added to the definitions in Part 50.2, and that corresponding changes be made to Part 20 for clarification. For example, the Part 20 definition of "unrestricted area" could include a footnote to indicate that for Part 50 licensees, alternative definitions for controlled and unrestricted areas are provided in Part 50. Part 20.1301(b) could be changed to provide that dose limits for members of the public apply at all times, regardless of location. Part 20.1302 could be changed to delete specific reference to "in unrestricted areas" and "to unrestricted areas" to convey simply that adequate surveys shall be made to demonstrate compliance. And Parts 20.1801 and 20.1802 could be changed to refer to "outside of restricted areas" instead of referring to "in unrestricted areas."

The approach described above is intended only to serve as an example. We would appreciate the opportunity to discuss alternatives with NRC staff.

### **3. Proposed Revision of Part 19 Requirements for Instruction of Workers**

The proposed rule includes a revision to the 10 CFR Part 19.12 requirements for instruction of workers (i.e., training) that changes the applicability from "...individuals working in or frequenting any portion of a restricted area ..." to "...individuals who in the

course of employment in which the individual's assigned duties involve the potential for exposure to radiation and/or radioactive material." We support the intent to clarify that the decision to provide training should not be based on an individual's physical location. However, the specific wording provided in the proposed rule is not consistent with related and similar provisions in Part 20. Also the wording is too open-ended and could potentially lead to a significant escalation in the applicability of the requirements for training, imposing significant burden on licensees without commensurate benefit to the protection of the individual's health and safety.

The proposed Part 19.12 should include the use of the phrase "occupational dose" to ensure consistency with the definition in Part 20. The use of the phrase "potential for exposure" in the proposed wording in Part 19.12 and the lack of definition of scope regarding "radiation and/or radioactive material" lead to a lack of clarity and inconsistency with the definition of "occupational dose" in Part 20. Also, the concept of "potential for exposure" is inconsistent with a similar provision in Part 20 for determining individual monitoring requirements, which use the concept of "likely to receive [occupational] dose."

Personnel at or near a nuclear power facility working for the licensee could "potentially" be determined to require training, including workers who receive relatively small doses (i.e., less than 100 mrem in a year) from direct exposure from turbine shine, outside liquid storage tanks, etc. Such training would provide minimal benefit to the protection of the individual's health and safety. The potential doses involved are small and the associated risk is low. Also, typically there would be no practical methods for reducing dose that could be presented in this training, thus it would lack an important purpose associated with other required individual worker training. At some facilities the wording of the proposed rule could significantly increase the number of personnel required to receive training (e.g., by 50% or more) with commensurate increases in costs and administrative burden with no reduction in exposure. This would be the case even for training that "does not have to be extensive", as described in the Supplementary Information, because of the number of workers involved and the typical frequency of training (i.e., every one or two years). Therefore, the proposed wording change would result in significant additional cost without a commensurate benefit to protection of health and safety.

In the Supplementary Information, NRC states that "... whether [the] worker's dose exceeds 100 mrem in a year or not, if the worker has the potential to receive some occupational exposure, training commensurate with potential radiological health protection problems present in the workplace is required to ensure informed consent and control of exposure." We believe this is an overly restrictive standard for required training. In Part 20 the NRC sets the dose limit for members of the public as 100 mrem in a year with no requirement for "informed consent." Also, 100 mrem in a year is equivalent to an average dose of 2 mrem in a week. At such a low level of dose, it is highly unlikely there are practical methods for controlling dose that could be provided to an individual in training. Appropriate dose control actions, if any, would more likely be taken by the licensee as part of the ALARA program required by regulation. Therefore we believe that required training for individuals who are not likely to receive an annual dose in excess of 100 mrem is neither justified on the basis of providing benefit to protection of health and safety, nor warranted on the basis of informed consent because it is equivalent to the public dose limit.

We recommend that NRC establish a clear and concise standard for required training that has a threshold equivalent to the current adequate level of protection of health and safety for members of the public and is consistent with other related and similar criteria and concepts in Part 20. In this light, we suggest wording similar to the following: "At a minimum, individuals who are likely to receive in 1 year an occupational dose in excess of 100 mrem shall be ..." Also, we recommend that "likely to receive" should be interpreted consistent with current regulatory guidance and staff clarifications of regulatory intent.

#### **4. Proposed Revision to the Definitions of Member of the Public, Occupational Dose, and Public Dose**

NRC is proposing revisions to the definitions of "member of the public", "occupational dose", and "public dose", to ensure that public dose limits in 10 CFR 20.1301 are applied to members of the public, "...regardless of their physical location." This action is being proposed because "...the Commission has become aware that this definition [i.e., definition of "occupational dose"] can be interpreted to allow individuals who are members of the public to receive an occupational dose and exceed public dose limits if they enter restricted areas." We do not agree that the current Part 20 definitions

(which do not differ substantially from the definitions in the previous Part 20 standards) could reasonably be interpreted to allow individuals who are members of the public to "exceed public dose limits if they enter restricted areas." This would be contrary to the requirement in 10 CFR 20.1101(b): "...to achieve occupational doses and doses to members of the public that are as low as reasonably achievable (ALARA)."

Consistent with the ALARA requirement, the nuclear power industry keeps doses to members of the public well below public dose limits, irrespective of an individual's location. This long-standing practice had been in effect in the nuclear power industry under the "old" Part 20, in which the ALARA principle was a "recommendation", and has been continued essentially unchanged under the revised Part 20 ALARA requirement. Where the problem perceived by NRC (i.e., doses to members of the public in restricted areas not being maintained ALARA) is actually observed for any licensees, it should be pursued as an implementation issue readily addressed through existing regulatory means under the current Part 20 and does not necessitate rulemaking.

We agree that the current Part 20 definitions of occupational dose and member of the public are inconsistent with regard to regulatory intent on whether public dose limits or occupational dose limits hypothetically apply to members of the public while in a restricted area, but the ALARA requirement provides that any dose received must be minimized. The proposed revisions to definitions will better clarify regulatory intent and potentially enhance licensee implementation. We do not view these revisions as a change to the adequate level of protection of health and safety that is already provided under the current rule.

Independent of the specific wording in the proposed revised definitions, we are concerned that the related discussion in the Supplementary Information may be taken to infer a reduction in flexibility in implementation that is contrary to previous clarifications provided in NRC's Questions and Answers on Part 20 Implementation (Q&A). For example, Questions #26 and #444 in the Q&A provide clarifications that licensees may exercise discretion in determining whether individuals who may be occasionally exposed or whose assigned duties are not closely connected to the licensed activity are "occupational" or "public" with regard to dose and related radiation protection requirements. In contrast, the related discussion and example given in the Supplementary Information to the proposed rule (pages 6-7) convey that any individual whose assigned duties "...involve a potential for exposure to radiation and/or radioactive materials..." is

"occupational" by definition, which we believe is overly prescriptive and unnecessarily burdensome.

For situations similar to those described in the pertinent Q&A on Part 20 implementation, the flexibility should be retained that allows licensees to categorize an individual's dose "occupational" or "public", and apply respective radiation protection measures, as appropriate to the circumstances. This flexibility is especially important at nuclear power facilities where employees or contractors located in the restricted, controlled, or nearby unrestricted areas may receive relatively small doses (i.e., less than 100 mrem in a year) due to external exposure from turbine shine, outside liquid storage tanks, etc., and/or may only infrequently access the plant. In either case, whether dose is categorized as "occupational" or "public", appropriate surveys are required to be conducted (i.e., in accordance with 10 CFR 20.1302 or 20.1501) and doses are required to be maintained ALARA.

In issuing the final rule, we request that NRC confirm the clarifications made previously in the Questions and Answers on Part 20 Implementation that licensees may exercise discretion in determining whether doses are "occupational" or "public" for individuals who may be occasionally exposed to small doses and/or whose assigned duties are not closely connected to the licensed activity. That discretion provides beneficial flexibility. The potential decrease in discretion could result in more individuals classified as "occupational."

#### **5. Proposed Requirement for Reports to Individuals of Exceeding Dose Limits**

NRC proposes to add §20.2205 to Part 20 with the intention "...that individual workers and individual members of the public are to be notified of exposures in excess of the dose limits that would require notifying the NRC." This proposed addition to Part 20 is similar to the current wording in §19.13(d) of 10 CFR Part 19, except that the Part 19 provision applies only to "notifications and reports to workers", and not necessarily to members of the public. If there is not a need for this redundancy, we recommend that §19.13(d) be deleted from Part 19, concurrent with the addition of §20.2205 to Part 20, to avoid confusion and reduce unneeded duplication in regulation.