

McElroy

APR 11 1984

MEMORANDUM FOR: John G. Davis, Director  
Office of Nuclear Material Safety and Safeguards

FROM: Richard E. Cunningham, Director  
Division of Fuel Cycle and Material Safety

SUBJECT: PROGRESS REPORT ON 10 CFR PART 35

This is in response to your memorandum of December 20, 1983 that asked for a monthly progress report on 10 CFR Part 35. The revision is on schedule.

The package was distributed on February 13, 1984 to NRC staff and the Agreement States for comment on technical and policy matters. Comments were due March 30, 1984. Most have responded, and the remainder have been asked to get their comments in promptly. An information collection supporting statement for OMB has been prepared and is being reviewed. The Cost Analysis Group of the Committee to Review Generic Requirements has reviewed the Regulatory Analysis and their comments were resolved.

During the period March 9 through March 23, Mr. McElroy visited the five regions to discuss the revision of Part 35 with the staff. He opened each discussion with a description of the Commissioners' instructions on how to modify the package and how the drafting committee responded to the instructions. Except for minor details, the regions all agree with the technical content of the regulatory text.

The draft Federal Register notice also describes a proposed licensing system. ~~The applicant would submit safety procedures for NRC review.~~ The purpose of NRC review would be to provide assurance that the applicant was capable of operating a safe program and was committed to safety. After receiving his license, the licensee would be free to modify those day-to-day procedures, within the limitations of the regulation, after following an internal review and approval process described in the regulation. The licensee would not have to notify NRC of such modifications.

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APR 11 1984

John G. Davis

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At our meeting on April 5, 1984, it was brought to your attention that some regions and many Agreement States disagree with this licensing approach. Consistent with your three instructions to me at our meeting, the staff has been directed to retain the licensing method described in the Statement of Considerations. The staff has also been directed to indicate in the staff paper to the Commissioners that this control mechanism is similar to NRC's method of regulating reactors by using technical specifications. The staff has also been directed to revise the Federal Register notice to fully describe both licensing methods that have been considered, the one described above and one in which the licensee is required, as a condition of his license, to conduct his day-to-day program in strict accord with the procedures submitted in support of the application. The description of both will be followed by a burden and benefit analysis and a request for public comment on both licensing methods.

*one - meeting p. 100*

Original Signed by  
Richard E. Cunningham

Richard E. Cunningham, Director  
Division of Fuel Cycle and  
Material Safety

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*approved draft on 4 10 84 nlm*