

July 29, 1986

Note to: File

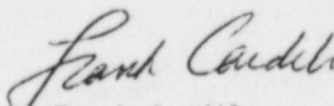
From: Frank Cardile, Project Manager

SUBJECT: Summary of ELD Comments on Proposed Rule
on Bankruptcy Notification.

Comments were received in February 1986 from J. Mapes and B. Pineles of ELD on the proposed rule on Bankruptcy Filing; Notification Requirements. The comments consisted of handwritten annotations on the draft. In accordance with the memo from J. Phillips to F. Cardile, dated 6/25/86, I have summarized these comments as follows:

1. Suggested word changes were made to include a backfit analysis;
2. Editorial changes were suggested in the Supplementary Information and rule text;
3. It was suggested that the specific requirement in the rule text be revised as follows:

Each licensee must notify the appropriate NRC Regional Administrator by certified mail of the filing of a voluntary or involuntary petition for bankruptcy pursuant to Chapters 7, 9, 11, or 13 of Title 11 of the United States Code by a licensee or by an entity (as that term is defined in 11 U.S.C. section 101(14)) controlling a license or licensee or by an affiliate (as that term is defined in 11 U.S.C. section 101(2)) of the licensee or as result of the license or licensee being listed as property of the estate in a bankruptcy petition. This notification must be made within 10 days and must indicate the bankruptcy court in which the petition for bankruptcy was filed and the date of the filing of the petition.


Frank Cardile

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

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MAY 20 1985

MEMORANDUM FOR: Robert B. Minogue, Director
Office of Nuclear Regulatory Research

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

SUBJECT: RULEMAKING TO REQUIRE NOTIFICATION OF BANKRUPTCY

There have been cases in which materials licensees filed for bankruptcy, presenting problems with regard to payment of costs for decontamination and decommissioning as well as for securing of licensed radioactive material.

It is important that NRC be notified of cases of bankruptcy filing by licensees for two reasons. First, the agency must be alerted so that it may take any necessary action to deal with potential hazards to the public health and safety that may be posed by a licensee that does not have the resources to properly secure the licensed material or to clean up possible contamination. Second, it is essential that we be promptly notified in order that the agency may have the opportunity to move appropriately in the bankruptcy court to have any available assets of the licensee applied first to cover costs of cleaning up the site, before funds are disbursed to other creditors and become unavailable.

The agency currently has two rulemaking endeavors underway dealing with the related matter of financial responsibility: a proposed rule on decontamination and decommissioning, and an advance notice of proposed rulemaking concerning financial assurance for cleanup following accidental releases.

It may be possible to add a "notification of bankruptcy" requirement in one of those two efforts, or it may be better to proceed in a separate rulemaking.

We request that you undertake an appropriate rulemaking to add a requirement that licensees provide prompt notification to the Commission of the filing of a petition in bankruptcy.

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

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