

From: Frederick Combs
To: Cool, Donald
Date: Wed, Apr 26, 2000 3:50 PM
Subject: Office Concurrence on Requirements for Certain GL Devices, April 17, 2000
Memorandum

This is in response to your April 17, 2000 memorandum requesting office concurrence on the Commission paper on "Final Rule to amend 10 CFR Parts 30, 31, 32, 170 and 171, "Requirements for Certain Generally Licensed Industrial Devices containing Byproduct Material."

We concur on the paper but have the following comments:

1. Page 68 and page 90. We don't disagree with an accelerated implementation, but the timing period. We disagree with the requirement that 32.52(a) and (b) be implemented by Agreement States coincident with the effective date of the regulations, that is 60 days from promulgation. First, as noted on page 60, the three Agreement States that commented on the proposed regulation all opposed the accelerated implementation, favoring the normal three years. Management Directive 5.9 allows that "Certain circumstances (e.g. adoption of a basic radiation protection standard or other rule that will have significant impact on the regulation of agreement material on a nationwide basis, such as the low-level radioactive waste manifest) may warrant that the effective dates for both NRC licensees and Agreement State licensees be the same. In some cases, and with sufficient justification, health and safety considerations may warrant adoption by the States in less than the recommended 3-year time frame."

However, we do not believe that there has been sufficient justification given the long standing issues related to general licenses to require the Agreement State regulatory agency for each distributor to amend each distribution license under their jurisdiction by either license condition or order (if they are unable to issue compatible regulations) in a two month period in light of the States comments. Each State has different administrative acts and we believe that in some cases, two months is insufficient time. We would support six month to 1 year as an accelerated implementation date for Agreement State distributors. This is consistent with the precedent for other rules where there was an impact on the regulation of agreement material on a nationwide basis.

2. We recommend that on page 82 - 85, Summary of Final Amendments by Paragraph, also include a sentence at the end of each section as to its level of compatibility. (E.G., Section 30.31 is Category C. Section 30.34(h)(1) is a Category D/H&S, Section 31.1 is a Category D, Section 31.2 is a Category D. Section 31.5(b) is a Category B. etc.) Although Agreement State Compatibility, on page 89, discusses the changes in compatibility, a concise reference with the summary of the final amendments by paragraph would provide a more usable listing of the categories of compatibility.

STP action 0-90

CC: Haney, Catherine, Kerr, Kathaleen, Lohaus, Paul,...