



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

April 2, 1984

McElroy
rec'd 4/6/84
mlm

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

FROM: Richard L. Bangart, Director, Division of Technical Programs
Region IV

SUBJECT: REVISION OF 10 CFR PART 35 AND REGULATORY GUIDE 10.8

We appreciated the fine presentation by Mr. Norman McElroy on March 21, 1984, at the Region IV office regarding Part 35. Please consider the following comments in regard to the regulation and its implementation.

1. The records retention interval specified in the regulation often ranges from 1 to 2 years while the inspection interval presumably continues as once in 3 years. Records should be required to be maintained until the next inspection in order to enable the inspector to verify that the licensee has maintained the safety program during the interval. Although the inspector may review only the most recent records, other records generated since the last inspection should be retained to enable full review of licensee corrective actions associated with previous enforcement action or for allegation investigation. Retention of all records for the inspection cycle would permit verification of compliance for the entire interval.
2. Mr. McElroy indicated during his presentation that licenses issued under the proposed regulation would not include a condition requiring the licensee to use licensed material "in accordance with statements, representations, and procedures contained in the application."

However, the draft Regulatory Guide 10.8 stipulates that the applicant should declare that he will follow model procedures included as appendices to Regulatory Guide 10.8 or enclose similar procedures for review.

Since the licensee will be legally bound neither by license condition nor by the regulation to implement those specific procedures, their application must be considered as their commitment. In the event that we have a problem with a licensee concerning his implementation of submitted procedures, we will have no regulatory recourse other than a Notice of Deviation. This limits the options for escalated enforcement.

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The regulation does require that the Radiation Safety Officer establish and implement written procedures, but there is no standard specified for minimum content nor a stipulation that these procedures be similar to those submitted with the application or committed to by reference in the application. As a result, requirements to be inspected against become inspector judgement.

Richard L. Bangart

Richard L. Bangart, Director
Division of Technical Programs