

McElroy

JUN 14 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: SCHEDULE CHANGE FOR PART 35

This is a request for written authorization from your office to change the Part 35 schedule that was submitted on November 21, 1983 and approved by you on December 20, 1983. According to that schedule, the final package was to be submitted to you on June 30, 1984 for transmittal to the EDO.

There are several reasons for the need to change the schedule:

1. Two schedule advances should have resulted in being thirty days ahead of schedule, with comments due March 30 instead of the scheduled April 30. The "For Comment" package was completed two weeks ahead of schedule. Because Headquarters cognizant staff and all interested regional staff were given a formal presentation designed to resolve many expected comments, the comment period was reduced from the planned sixty to forty-five days. However, two key offices, ELD and RES submitted their comments five weeks after the due date. Therefore, instead of being thirty days ahead, we were seven days behind.
2. The cognizant individuals from these two key offices have both left the agency. There was an orderly transition in RES; the ELD replacement has been on vacation since he was assigned to the project, but will be returning this week.
3. The volume of comment has been much greater than expected. We received 105 pages of comments from twelve IIRC offices and eleven Agreement States. Their resolution required extensive editing and preparation of several new explanatory and supporting sections, which are still being written.

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4. Several work days have been consumed in a related issue on training and experience standards that has been raised by a large group of physicians. To ensure continuity in agency policy regarding the use of byproduct materials in medicine, the Part 35 workforce has had to play an active role in this issue, which has yet to be resolved.

For these reasons the following schedule is proposed:

Finish writing new supporting sections requested by commenters	June 29, 1984
Receive back from typing, proof, correct, and receive final copy	July 6, 1984
Mail out for concurrence	July 10, 1984
Concurrences due	July 31, 1984
Forward package to Office Director	August 3, 1984

There may be one issue that could cause need for a second schedule change. The ELD comments, which were received by mail after Mr. Klucsik's departure, indicate that his successor, Mr. Dorian, "may suggest decoupling the licensing from the operating rule and expanding the licensing section to a new subpart [of the regulation] ... there may be a legal problem with not telling the applicant more than we do on the regulations." Mr. Klucsik had been an active participant in the preparation of this package for the past two-and-one-half years. This is the first notice we received that ELD might want a substantive revision. We have sought clarification from Mr. Dorian, but he will not be returning from vacation until the end of this week. We will meet with ELD to discuss these new concerns, and do our best to dissuade them from recommending a revision of the licensing section. However, if they insist on the revision, which would represent a significant change in agency policy that affects all NRC licensees, we will have to plan a management meeting to discuss this. The revision of Part 35 would be on hold pending the results of the meeting.

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Original Signed by
 Richard E. Cunningham

Richard E. Cunningham, Director
 Division of Fuel Cycle and
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