

October 28, 1992

MEMORANDUM FOR: James M. Taylor  
Executive Director for Operations

William C. Parler  
General Counsel

FROM: Samuel J. Chilk, Secretary /s/

SUBJECT: SECY-92-249 - FINAL PLAN FOR THE ENHANCED  
PARTICIPATORY RULEMAKING PROCESS ON THE  
RADIOLOGICAL CRITERIA FOR DECOMMISSIONING

The Commission (with all Commissioners agreeing) has approved the staff plan for conducting workshops as set forth in SECY-92-249 subject to the comments below, the staff requirements memorandum dated September 9, 1992 on the Enhanced Participatory Process (attached), and the attached editorial changes.

1. Practicality and reasonableness are fundamental benchmarks that must be applied in this rulemaking. Consequently, the staff should identify actual cases for review by workshop participants which include several types of facilities and cover a range of sites. One example which might be illustrative is the case mentioned in the Department of Defense testimony prepared for the canceled September 16, 1992 hearings where site-specific negotiations led to a standard that was not technically feasible or cost-effective. Presentation of a situation where application of a standard and cleanup technology was "successful" as well as one that was "not successful" (including cost information on both), would be useful in illustrating issues involving "objectives", "risk", and "practicality". Likewise, objective 4, "Return to Background Levels," (see page 14 of Enclosure B) provides an overly simplistic characterization of a complex technical issue which should be modified to indicate some of the difficulties of implementing such an approach.

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SECY NOTE: THIS SRM, SECY-92-249, AND THE VOTE SHEETS OF THE CHAIRMAN, AND COMMISSIONERS ROGERS, CURTISS AND de PLANQUE WILL BE MADE PUBLICLY AVAILABLE 10

WORKING DAYS FROM THE DATE OF THIS SRM

2. Consistent with the SRM dated April 15, 1992 on the March 11, 1992 Commission briefing and SECY-92-045, all participants and interested groups should be advised of the manner and extent to which the criteria developed in this rulemaking would be used. Emphasis should be placed on the number and size of sites for which the criteria would apply, and the tradeoffs with stringency and ease and reliability of application. In Issue II (see page 21 of Enclosure B), practicality is only attributed to the Risk Limit or Risk Goal approach. Practicality is also a factor in the other approaches.
3. A discussion of how the process of an ALARA analysis can be documented, particularly the cost-benefit analysis, may prove helpful to workshop participants. Cost is often left out of the analysis, and sometimes the "reasonably" is also not factored into the analysis. The use of this process needs a better explanation regardless of the objective that is finally proposed.
4. The Commission has consistently maintained that the agency must continue to provide adequate protection of the public health and safety and the environment while pursuing this initiative to establish generic criteria related to decommissioning. Accordingly, the Federal Register notice and the Issues Paper should reflect that case- and activity-specific risk decisions will continue to be made, as necessary, during the pendency of this process (e.g., in order to conduct site decommissioning and license termination).
5. The discussion of previous burials (see page 34 of Enclosure B, Secondary Issue D) should include a range of options instead of simply no action or exhumation.

The staff should incorporate the above comments and editorial changes into the Federal Register notice and the Rulemaking Issues Paper. The Federal Register notice should be forwarded to the Secretary for signature and publication.

(EDO/OGC)

(SECY Suspense:

12/18/92)

The Commission (with the Chairman and Commissioners Rogers, Remick and de Planque agreeing) has approved the staff recommendation to not include a discussion of compatibility in the enhanced participatory rulemaking workshops. Commissioner Curtiss had no objection to the issue of compatibility being discussed in the context of this rulemaking.



The workshop discussions could be improved if all participants were provided additional background material in advance. As such, the Issues Paper and other background material should be made available in the Public Document Room (PDR), provided to participants, and made available to individual members who plan to attend the workshops or provide written comments.

(EDO) (SECY Suspense: 12/18/92)

For inclusion in the rulemaking issues paper, the staff should develop a primer describing the various terms and concepts associated with the Best Effort (technology-based) approach from the various environmental statutes for use by workshop participants and other interested individuals.

(EDO) (SECY Suspense: 2/19/93)

For inclusion in the rulemaking issues paper, the staff should obtain recent information on activities in other countries, particularly in France, England and Germany. These countries are involved in large decontamination and decommissioning projects and may possess information that could be useful to workshop participants.

(EDO) (SECY Suspense: 2/19/93)

Attachments:

As stated

cc: The Chairman  
Commissioner Rogers  
Commissioner Curtiss  
Commissioner Remick  
Commissioner de Planque  
OIG  
Office Directors, Regions (via E-Mail)  
OP, SDBU/CR, ASLBP (via FAX)