

IN RESPONSE, PLEASE  
REFER TO: M920311A

April 15, 1992

MEMORANDUM FOR: James M. Taylor  
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - BRIEFING ON RULEMAKING  
PROCESS FOR DEVELOPING RESIDUAL RADIOACTIVITY  
STANDARDS FOR DECOMMISSIONING, 9:00 A.M.,  
WEDNESDAY, MARCH 11, 1992, COMMISSIONERS'  
CONFERENCE ROOM, ONE WHITE FLINT NORTH,  
ROCKVILLE, MARYLAND (OPEN TO PUBLIC  
ATTENDANCE) and SECY-92-045 - ENHANCED  
PARTICIPATORY RULEMAKING PROCESS

The Commission was briefed by the staff on its plans for conducting an enhanced participatory rulemaking process directed at the establishment of residual contamination criteria for decommissioning and decontamination of licensed facilities. The Commission continues its substantial interest in the staff's implementation of this first-of-a-kind effort and is anxious that it be given the best prospects for success. The Commission believes this process should be decoupled to the extent practicable from the term "Below Regulatory Concern" in light of the continuing moratorium on the July 1990 BRC Policy Statement. In addition, the Commission (with all Commissioners agreeing) approved the staff's plan to conduct an enhanced participatory rulemaking, as described in SECY-92-045, incorporating the comments listed below:

1. The staff should conduct frequent (initially, every 6 to 8 weeks and less frequent later, depending on the circumstances) Commission briefings to update the Commission on progress of the rulemaking effort and to seek Commission approval of decisions that might have major policy implications or set precedents for future rulemakings or other Commission activities. Prior to each Commission briefing, the staff should propose

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SECY NOTE: THIS SRM AND THE VOTE SHEETS OF THE CHAIRMAN, AND COMMISSIONERS CURTISS, REMICK AND de PLANQUE WILL BE MADE PUBLICLY AVAILABLE IMMEDIATELY.  
SECY-92-045 WAS PREVIOUSLY RELEASED TO THE PUBLIC.

major topics that it believes the Commission should consider. Suggested topics for the first briefing are:

- a. Criteria for selecting invited participants;
- b. The feasibility of conducting a separate workshop for Federal agencies;
- c. The advisability of reimbursing travel expenses for selected participants;
- d. An analysis of resources required to complete the process which should specifically address criteria to be used in reviewing, and the potential resources required for funding, requests from workshop participants for travel expenses.

(EDO)

(SECY Suspense: 5/1/92)

2. A candid, open process providing equal opportunity for full participation by all interests is essential. Therefore, the relationship of the workshops to the rulemaking process must be well defined, and the workshop locations must be selected in a manner which will maximize participation.
3. As part of the process, the staff should advise all participants and other interested groups 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.
4. The Commission recognizes that consultation with EPA in the rulemaking is important because of EPA's expertise and responsibilities. In accordance with the Memorandum of Understanding (MOU) that NRC recently signed with EPA, the staff should consult with EPA staff early in the process. In addition to inviting EPA to participate in the workshops, the staff should consult with EPA staff as NRC develops the Rulemaking Issues Paper and as NRC evaluates the workshop comments and develops the draft proposed rule.
5. Information on standards that are being used by other countries for decommissioning of nuclear facilities should be developed and included in the Federal Register notice which announces the workshops.

- 6. Subject to the availability of resources, the staff should move forward with those initiatives that could be accomplished under criteria and guidance that were in existence prior to the July 3, 1990 BRC Policy Statement. This includes those initiatives that have been held in abeyance to date, provided that staff's actions on these initiatives do not depend on the outcome of the enhanced participatory rulemaking process, and are supported by a statement of need for action and an assessment of any significant adverse impacts on the enhanced participatory rulemaking. With these conditions, the Commission approves the staff's recommendation to move forward with the waste oil petition. In the final rule package forwarded to the Commission for approval, the staff should emphasize the rationale presented in Enclosure 3 to SECY-92-045 that any waste oil incineration would be under pre-existing effluent limits and does not constitute implementation of the BRC Policy Statement.

When moving forward with any other initiatives, the staff should be sensitive to the continuing moratorium on the BRC Policy Statement and the potential impact such initiatives might have on the enhanced participatory rulemaking. The staff should also propose an updated course of action and schedule for those other items listed in Enclosure 3.

(EDO)	(SECY Suspense:		
		for waste oil:	6/15/92
		for schedule:	5/22/92)

The staff should fulfill it's commitment to make publicly available the information from the public meetings on the BRC policy, but should avoid focus on the July 1990 BRC Policy Statement. The information should be made publicly available through the mechanism that involves the least cost and resources.

(EDO)	(SECY Suspense:	7/24/92)
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- cc: The Chairman
- Commissioner Rogers
- Commissioner Curtiss
- Commissioner Remick
- Commissioner de Planque
- OGC
- OCAA
- OIG
- ACRS
- PDR - Advance
- DCS - P1-24