

June 5, 1997

FOR: The Commissioners

FROM: L. Joseph Callan /s/  
Executive Director for Operations

SUBJECT: STATUS OF THE NRC RECYCLE AND REUSE STAFF ACTION PLAN

**PURPOSE:**

This paper is to inform the Commission on the status of implementation of the reuse and recycle staff action plan.

**BACKGROUND:**

SECY-96-200 (Enclosure 1) provided a brief summary of the recycle and reuse rulemaking efforts and issues. SECY-96-200 noted that the March 16, 1992, Memorandum of Understanding signed by EPA **EXIT** and NRC was intended to foster cooperation between the two agencies to provide a framework to resolve issues, avoid duplication, and focus priorities (57 FR 54127). In that spirit, at the direction of the Commission, the staff submitted an action plan for recycle and reuse (SECY-94-221, Enclosure 1 to SECY-96-200). The major elements of the plan were: a) initiate a recycle rule after the finalization of the rule on radiological criteria for license termination; b) cooperate with EPA in the development of the recycle and reuse rule; c) develop the technical basis and regulatory products needed to support a rule on recycle and reuse; and d) conduct several public enhanced participatory rulemaking workshops (EPR) similar to those used in the rule on radiological criteria for license termination. The Commission did not object to the implementation of this plan (Enclosure 2 to SECY-96-200).

SECY-96-200 also identified EPA rulemaking approaches and cooperative interactions that could affect the NRC efforts in a parallel rulemaking on recycle and reuse. The significant ways the EPA rulemaking could affect the NRC rulemaking include: the scope of the EPA rule, the health and safety objective, consistency and accuracy of the technical bases, the EPA cost/benefit model, the EPA public outreach efforts, and the statutory authority of EPA to set generally applicable standards that are binding on the NRC. The staff anticipated that the EPA recycle rulemaking would result either in a conforming recycle and reuse rule by NRC or a rule that in part conformed to and in part broadened the scope of the EPA rule to include additional needs of NRC licensees. Based on the assumption of continued close cooperation with EPA and on their schedule for issuing a pre-proposed rule in December 1996 to be followed by a public workshop and comments by Spring 1997, the staff expected to be able to better define NRC rulemaking options after Spring 1997.

**DISCUSSION:**

In the Fall of 1996, the EPA moved to a writing and policy phase in the development of their pre-proposed rule. During this time, the EPA declined to provide for NRC review the risk assessment or cost/benefit modeling methods or results used in the EPA pre-proposed rule in order to expedite their own schedule. In the interim, the NRC staff directed its contractor to complete the dose modeling for the recycle and reuse of iron or steel, copper, aluminum, and concrete, using the best available technical information. This work is scheduled for completion in August 1997.

In the area of public outreach, NRC staff participated on October 16-17, 1996, in "A Workshop on Recycling Scrap Metal from Nuclear Facilities" sponsored by the Environmental Law Institute with a grant from the EPA. The workshop participants included representatives of environmental groups, labor unions, Native American tribes, state managers of hazardous waste and radiation programs, the scrap metal industry, nuclear industries, and federal agencies. The views expressed in the EPA workshop by both environmental groups as well as those involved in steel manufacturing were largely opposed to the rulemaking effort proposed by EPA. While there was some state agency support for the rulemaking effort, nuclear industry groups and other state representatives were neutral in their opinions.

EPA has recently indicated that they are now in a position where further collaborative efforts in reviewing each agency's risk assessment analyses could be resumed in order to avoid duplication and resolve any differences early. Once the technical information from NRC's contractor is available the staff will provide the Commission with a paper soliciting Commission direction on rulemaking options. It is expected that this paper will be completed by November 30, 1997.

**COORDINATION:**

The Office of General Counsel has no legal objection to this paper.

L. Joseph Callan  
Executive Director for Operations

CONTACT: Robert A. Meck, RES  
415-6205

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