

2.1.03



REQUEST REPLY BY:
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

1/24/03
COMSECY-03-0002

January 8, 2003

Approved.

Richard A. Meserve 1/13/03

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Diaz

FROM: William D. Travers
Executive Director for Operations

SUBJECT: RULEMAKING PLAN AND PROPOSED SCHEDULE FOR
RULEMAKING EFFORT ON CONTROL OF SOLID MATERIALS

In a Staff Requirements Memorandum (SRM), dated October 25, 2002, the Commission directed the staff to proceed with an enhanced participatory rulemaking on control of solid materials, subject to the Commission comments provided. The SRM indicated that the staff should develop a rulemaking plan and submit, for Commission approval, a proposed schedule for the rulemaking effort within 90 days of the SRM; the SRM noted that the schedule should reflect the Commission's desire to complete the rulemaking within 3 years.

In response to the SRM, the staff has developed a proposed schedule for completion of a proposed and final rule on control of solid materials within the time period noted in the SRM. Because SECY-02-0133 already assesses several options that the Commission reviewed in directing the staff to prepare a proposed rule, we are submitting the schedule as part of a "modified" rulemaking plan to aid in guiding the rulemaking process per the approach suggested in Section 3.1(e)(1) of the NRC Regulations Handbook (NUREG/BR-0053, Rev 5).

The staff is providing this "modified" rulemaking plan to the States at the same time that it is providing it to the Commission. The staff has benefitted by obtaining State views through State involvement at the Fall 1999 workshops, as one of the invited stakeholders at the May 2000 Commission meeting, and on the Working and Steering Groups. In addition, the staff will seek further State comment during this process.

If the Commission approves the schedule contained in the attachment, the staff will continue with efforts that it already has underway to develop necessary information for issuing a proposed rule. Some of the items in the attached schedule need to come about in a timely and satisfactory way for this schedule to be met; the staff will inform the Commission if there are problems with any of these items.

SECY, please track.

Attachment: Modified Rulemaking Plan

cc: SECY
OGC
OCA
OPA
CFO

CONTACT: Frank Cardile, NMSS/IMNS
(301) 415-6185



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While I still do not agree to pursue rule-making for Control of Solid Materials at this time, I approve the proposed schedule supporting the Commission's majority position on this issue.

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Diaz

Oreta Joy Dicus
Oreta Joy Dicus 1/13/03

FROM: William D. Travers
Executive Director for Operations

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JAN 03 9:20

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1/24/03
COMSECY-03-0002

January 8, 2003

Approved with comments.
See attached comments.

MEMORANDUM TO:

Chairman Meserve
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Diaz

Nils J. Diaz
Nils J. Diaz 01/15/03

FROM:

William D. Travers
Executive Director for Operations

William Travers

SUBJECT:

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COMMENTS OF COMMISSIONER DIAZ ON COMSECY-03-0002,
RULEMAKING PLAN AND PROPOSED SCHEDULE FOR
RULEMAKING EFFORT ON CONTROL OF SOLID MATERIALS

I approve the staff's proposed Modified Rulemaking Plan and proposed schedule for the rulemaking on control of solid materials, subject to the following comments.

Modified Rulemaking Plan:

- Item 3.1. The Federal Register notice should note the "considerable information collection efforts already conducted and scheduled to be completed prior to completion of the proposed rule." We should make it clear to stakeholders that although there is already a significant amount of information available for proceeding with this rulemaking, the Commission has not made a decision on the scope or details of the regulation and is continuing to develop a solid technical basis for the rulemaking.
- An information copy of the Federal Register notice should be provided to the Commissioner prior to publication since this is an action that will most likely generate significant stakeholder interest.

Proposed Schedule in Table 1:

- Staff should promptly inform the Commission of problems with any of the scheduled items that could potentially result in a delay in the schedule for the rulemaking beyond the three years directed in the SRM for SECY-02-0133. As I noted in my vote on SECY-02-0133, "[t]he history of this endeavor shows that all due care and consideration has been given to this issue and the time to act is now. Inconsistent application of de facto standards should not continue to be part of our regulatory framework."



UNITED STATES
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COMSECY-03-0002

January 8, 2003

MEMORANDUM TO:

Chairman Meserve
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Diaz

Approved
Elle Guffey
1/21/03

FROM:

William D. Travers
Executive Director for Operations

William Travers

SUBJECT:

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~~COMSECY-03-0002~~

January 8, 2003

Approve w/o comment.

MEMORANDUM TO: Chairman Meserve
 Commissioner Dicus
 Commissioner McGaffigan
 Commissioner Merrifield
 Commissioner Diaz

FROM: William D. Travers *William Travers* 1/16/03
 Executive Director for Operations

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