Action: Paperiello, NMSS
Cys: Travers
Knapp
Miraglia
Norry
Blaha
Bangart, SP
Schroll, SECY
Horn, OEDO
Lubinski, NMSS

SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 21, 1998

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: John C. Hoyle, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-98-232 - SEAMAN NUCLEAR'S APPLICATION FOR A LICENSE TO DISTRIBUTE PORTABLE MOISTURE DENSITY GAUGES TO GENERAL LICENSEES

The Commission disapproves the staff's plans to issue a license to Seaman Nuclear for distribution of certain portable moisture density gauges to generally licensed persons at this time. The staff should consult with the Agreement States, specifically, the States of California and North Carolina, regarding the Seaman application. In addition, the staff should consider the results of the Materials Risk Study and what effect the staff's recommendations from the Risk Study, due to the Commission in December 1998, have on the proposed license for Seaman Nuclear. As part of the Agreement States consultation, the staff should share the relevant findings of the Risk Study and its preliminary recommendations with the Agreement States. The staff should then provide the Commission an assessment of the States' comments, its findings, and a recommendation on whether to proceed with issuing a distribution license to Seaman Nuclear. If the staff resubmits the proposal to generally-license these devices, it should discuss: 1) the enforceability of the Seaman Nuclear voluntary commitment to annually "contact" the users to maintain accountability, 2) whether NRC would have a regulatory basis for imposing a similar requirement on future distribution licensees, and 3) whether the Agreement States would be willing to impose such a requirement. The proposal should also provide the Commission with an estimate of the resource impact of adding approximately 5000 generally-licensed devices to the "pool" subject to the proposed registration program and whether the program's timeline as described in SECY-98-199 would be negatively impacted. (NMSS) 199800090 199800204

The Commission notes that 10 CFR 32.51(a)(2)(iii) does not specify consideration of the consequences of losses and subsequent accidents of such devices. Therefore, as part of its Materials Risk Study, the staff should provide the Commission with a review of this aspect together with recommendations as to whether this section of the regulation should be amended to address this issue. 199800090

To facilitate NRC consultations with Agreement States for future issues, a screening method should be established for program office managers to use in determining whether individual issues should be referred to the Office of State Programs for possible coordination with Agreement States.