NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MERRIFIELD

SUBJECT: **SECY-99-278 - NRC/AGREEMENT STATE JURISDICTION FOR FORMERLY LICENSED SITES**

Approved ✓ Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: I approve option 3.

SIGNATURE

12/21/99
DATE

Entered on "AS" Yes ✓ No ____

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

February 4, 2000

SECRETARY

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-99-278 - NRC/AGREEMENT STATE JURISDICTION FOR FORMERLY LICENSED SITES

The Commission has approved the staff's recommendation to implement Option 3 -- Continue to Provide Technical Assistance to the Agreement States, as described in SECY-99-278, subject to the following comments.

When informing an Agreement State of the decision, the staff should clarify that the State retains jurisdiction over the site but that, pursuant to the SRMs for SECY-98-273 (dated March 15, 1999), SECY-99-193 (dated August 25, 1999), and COMRAM-99-001(dated December 29, 1999), the NRC anticipates the opportunity to provide funds for review of sites for which there is no financially responsible party.

The NRC allocation of funds to individual Agreement States should be limited to the estimated cost for each site to comply with the radiation standards set forth in 10 CFR Part 20, Subpart E, e.g., 25 millirem per year to an individual when releasing a site for unrestricted use. This approach is consistent with Commission direction to the staff in staff requirements memoranda on SECY-98-273 and SECY-99-193. Any additional cleanup costs for compliance with more conservative criteria, as determined by the Agreement State, would be funded by the State. The NRC should also apply this approach as it lends technical assistance to an Agreement State to facilitate site closeout.

Differences between NRC and an Agreement State on the appropriate radiation standard may make it undesirable or, at minimum, not practical to have NRC and the State sign a joint letter to the licensee, as proposed in the paper. Also, as the staff points out, a joint letter could create confusion regarding the jurisdictional issue at a particular site. Therefore, the staff should continue working with the affected Agreement States either collectively or individually to determine whether separate letters or a joint letter to the Agreement State licensee is indicated.

The staff should redirect the FTE needed to support this initiative in FY 2001. For FY 2002, the staff should include the FTE as part of the budget proposal to the Commission, and, together with the grant money, should be included among the various fairness and equity issues.

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
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Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
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