

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER DIAZ
SUBJECT: **SECY-99-259 - EXEMPTION IN 10 CFR PART 40 FOR MATERIALS LESS THAN 0.05 PERCENT SOURCE MATERIAL - OPTIONS AND OTHER ISSUES CONCERNING THE CONTROL OF SOURCE MATERIAL**

Approved XX ^{w/comments} hw Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

See attached comments.


SIGNATURE

1.18.2000
DATE

Entered on "AS" Yes No

COMMISSIONER DIAZ'S COMMENTS ON SECY-99-259 - EXEMPTION IN 10 CFR PART 40 FOR MATERIALS LESS THAN 0.05 PERCENT SOURCE MATERIAL - OPTIONS AND OTHER ISSUES CONCERNING THE CONTROL OF SOURCE MATERIAL

I approve the staff's recommendation to proceed with rulemaking to amend § 40.51(b)(3) and (4) to require prior Commission approval for transfers to persons exempt under § 40.13(a). The staff should provide the proposed rule within 6 months of the date of the SRM.

I approve the staff to initiate interaction with the EPA, OSHA, and the States to explore the best approach to delineate the responsibilities of the NRC and those agencies with regard to low-level source material. However, due to the potential risk associated with use of such material, the staff should provide, within 12 months of the date of the SRM, or before if possible, a status report of its activities and a plan, including important milestones, for how to proceed.

I approve the staff to develop of a rulemaking plan to improve the control of distribution of source material to exempt persons and to general licensees, and the incorporation of the resolution of PRM-40-27 in order to make Part 40 more risk-informed. The staff should provide the rulemaking plan with 12 months of the date of the SRM. In doing so, the staff should provide adequate justification for additional reporting requirements for distributors, exempt persons, and general licensees. Specifically, attachment 4 to SECY-99-259 discusses adding annual material transfer reports in order to determine what products and the amount of source and byproduct material that is distributed. The staff should not include such reporting requirements if their sole purpose is for NRC to obtain knowledge about how people are using material under the exemption or general license. Since additional reporting requirements would add recurring burden to distributors and recipients, the staff should only include reporting requirements necessary for assurance of adequate protection of public health and safety. If the staff believes it needs additional information about products and amounts of material distributed and used by persons exempt and general licensees, the staff should use the information developed as part of the reassessment of exemptions, including comments that will be provided on the draft report, obtain additional information as part of its interactions with EPA, OSHA, and the States, and consider the use of a contractor or survey of users to obtain the information. This will allow the staff to obtain information about all exempt persons and general licensees using material, not simply persons that receive material from specific licensees.