NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: CHAIRMAN MESERVE

SUBJECT: **SECY-02-0196 - RECOMMENDATIONS STEMMING FROM THE SYSTEMATIC ASSESSMENT OF EXEMPTIONS FROM LICENSING IN 10 CFR PARTS 30 AND 40; AND A RULEMAKING PLAN FOR RISK-INFORMING 10 CFR PARTS 30, 31, AND 32**

Approved X w/comments Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

See attached comments.

SIGNATURE

March 21, 2003

DATE

Entered on "STARS" Yes X No ____

COMMENTS OF CHAIRMAN MESERVE ON SECY-02-0196

In SECY-02-0196, the staff recommends revising certain requirements governing the use of byproduct material. In particular, staff recommends Option 2, which provides for the revision of a number of out-of-date or ineffective requirements in 10 C.F.R. Parts 30, 31, and 32.

I believe that it is our fundamental responsibility to consider revision of regulations that have a major impact on our licensees and that are significantly inconsistent with current scientific understanding or contemporary regulatory policy. We must seek to ensure, on the one hand, that licensees and potential licensees are not needlessly burdened by requirements that fail to serve any meaningful purpose and, on the other hand, that activities within our jurisdiction that could threaten public health and safety are given appropriate regulatory scrutiny. Many of our requirements governing byproduct material are antiquated and, as a result, fail these tests. I thus approve moving forward with a rulemaking plan that embodies the revisions specified in Option 2. Staff should ensure in this process that the revisions to the requirements reflect a tailoring of the regulatory response to the risks posed by the radioactive material and use under consideration.

I agree with Commissioner Merrifield that the staff should incorporate into the rulemaking plan the consideration of updating the tables in §30.70, exempt concentrations, and § 30.71, exempt quantities, to present a consistent level of risk and to reflect the dose calculation methodology in the latest recommendations of the International Commission on Radiological Protection. The Commission's decision to forego the revision of Part 20 at this time should not be construed to mean that the Commission has decided as a general matter to ignore the best current understanding of health risk from radiation.

NUREG-1717 should be applied with care in this effort. I am concerned that certain unnecessary conservatism in the dose evaluations in NUREG-1717 could subject some industries to undeserved legal or regulatory scrutiny. Thus, I agree with Commissioner Merrifield that the staff should provide the Commission with a plan to address revision of relevant analyses in NUREG-1717. Staff should focus its efforts on analyses that could influence regulatory decisions.

I also approve both the staff's use in the rulemaking of the staff's proposed policy position concerning labeling of products and/or point-of-sale packaging and the coordination of this rulemaking with that proposed in SECY-01-0072.