September 16, 2005

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS -COMSECY-05-0036 - EVALUATION OF AGREEMENT STATE IMPLEMENTATION OF THE GENERALLY LICENSED DEVICE AMENDMENT

The Commission has approved the staff's proposal to continue to review Agreement State Generally Licensed (GL) Device proposed and final rules and hold in abeyance any determination on those rules and compatibility of those rules if the Agreement State has the essential elements of the NRC's rules, but is more restrictive than the NRC's program. For Agreement States without a GL Device rule or a GL Device rule less restrictive than the NRC rules, the staff should factor this determination into results of the NRC's review of the State's proposed and final rules and the compatibility findings during Integrated Materials Performance Evaluation Program (IMPEP) reviews. This practice should continue until the Commission determines the course of action on the Organization of Agreement States, Inc. (OAS) Petition for Rulemaking and the OAS' and the State of Florida's "Request for Compatibility Category Change to the GL Rule."

Agreement States should take every opportunity to provide their views on compatibility or any other issue to the Commission, whether they are participating on working groups or interacting with NRC staff during the very open rulemaking process, in the development of new rules. Agreement State issues related to implementation of those rules should be brought promptly to the Commission's attention prior to the time in which a compatible rule should be adopted.

cc: Chairman Diaz
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
OGC
DOC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR