

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER MCGAFFIGAN

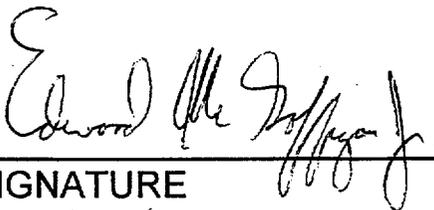
SUBJECT: **SECY-99-250 - NATIONAL MATERIALS PROGRAM:  
REQUEST APPROVAL OF THE FORMATION OF A  
WORKING GROUP ON THE INCREASE IN THE NUMBER OF  
AGREEMENT STATES AND IMPACT ON NRC'S  
MATERIALS PROGRAM**

Approved  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

See attached comments.

  
\_\_\_\_\_  
SIGNATURE

11/19/99  
\_\_\_\_\_  
DATE

Entered on "AS" Yes  No \_\_\_\_\_

### **Commissioner McGaffigan's Comments on SECY-99-250**

I cautiously approve the staff's plan to form a working group comprised of NRC staff and representatives of the Conference of Radiation Control Program Directors and the Organization of Agreement States to address the impacts of an increasing number of Agreement States. I provide the following comments for consideration by my fellow Commissioners and the staff. If a majority of the Commission supports this effort, I agree with Commissioner Merrifield's comment regarding the need for an 18-month time line.

I firmly believe that the U.S. Nuclear Regulatory Commission should continue to provide the regulatory framework for the national materials program. At minimum, this includes promulgating rules, developing guidance, and defining policy through coordination with the Agreement States and other stakeholders. Without a single, focused effort at the Federal level to provide a program template, the current differences between individual State programs would likely become more extreme and, in some cases, the adequacy of a State program and its compatibility with other programs could result in public health and safety concerns. This result would obviously not be in the nation's best interest. It is also important to recognize that not all States have an interest in or the resources to become an Agreement State; therefore, NRC will need to maintain a materials program to ensure adequate oversight of licensees located in non-Agreement States. Also, turning the materials program over to the States either individually or collectively will not be without cost, both for start-up and maintenance of the program. Finally, the States continue to face many of the same technical and policy issues as the NRC faces, e.g., disposal of radioactive wastes (LLW and TENORM). The CRCPD process of developing model regulations appears to be significantly more time consuming than the NRC rulemaking process. Consequently, there is no reason to believe that these complex issues will be resolved any more timely or effectively if the regulatory framework is dissipated among the States pursuant to CRCPD model regulations. In fact, resolution may be far more problematic.

The paper appears to presume that there will be no change to the fee structure for NRC's budget. I have long argued for and continue to fully support NRC's repeated requests to Congress to remove the costs associated with oversight of the Agreement State program from the fee-based portion of the budget and grant an appropriation from the general fund for these purposes. If these Agreement State program costs are removed from the fee base, I see no reason why the national materials regulatory framework cannot be preserved at NRC rather than transferring it to the States.

Finally, the paper is silent on whether the working group meetings would be open to the public. I strongly suggest that if at all possible the meetings be open to the public to allow for additional input and public involvement in the decision making process.

