

March 15, 1999

COMMISSION VOTING RECORD

DECISION    SECY-98-273  
ITEM:

TITLE:        POTENTIAL FUNDING ASSISTANCE FOR AGREEMENT STATES FOR CLOSURE OF FORMERLY  
TERMINATED NRC LICENSES

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 15, 1999.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commissioners, and the SRM of March 15, 1999.

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Annette Vietti-Cook  
Secretary of the Commission

Attachments: 1. Voting Summary  
2. Commissioner Vote Sheets  
3. Final SRM

cc:        Chairman Jackson  
          Commissioner Dicus  
          Commissioner Diaz  
          Commissioner McGaffigan  
          Commissioner Merrifield  
          OGC  
          EDO  
          PDR  
          DCS

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VOTING SUMMARY - SECY-98-273

RECORDED VOTES

	<b>APRVD</b>	<b>DISAPRVD</b>	<b>ABSTAIN</b>	<b>NOT PARTICIP</b>	<b>COMMENTS</b>	<b>DATE</b>
CHRM. JACKSON	X				X	2/14/99
COMR. DICUS	X				X	1/25/99
COMR. DIAZ	X				X	2/1/99
COMR. McGAFFIGAN	X				X	1/26/99
COMR. MERRIFIELD	X					12/7/98

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and some provided additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on March 15, 1999.

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## Commissioner Comments on SECY-98-273

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### Comments of Commissioner Diaz on SECY-98-273

I approve the implementation of Program Option 1. I request that the staff expeditiously send to the Commission a draft letter requesting appropriation from the General Fund for the purpose of making funds available to Agreement States for site clean-up in the form of grants. In this regard, I find Commissioner McGaffigan's suggestion of basing our grants to Agreement States on the estimated cost for each site to comply with the 25 millirem/year public dose requirement to be a worthwhile proposal. I also agree with his proposal to have the staff conduct further risk-ranking of the sites, as well as with Commissioner Dicus' recommendation to have staff conduct an evaluation of the different approaches that would allow Agreement States to return jurisdiction of these sites to the NRC.

In the event that we do not receive our appropriation from General Funds, to avoid the "equity and fairness" issue, I believe staff should explore the willingness of relevant Federal agencies to fund the NRC grants, e.g., DOE, DOD. (In this case the staff, working with the CFO, should provide the Commission with an estimate of NRC's administration costs.) Regarding the clean-up estimates provided in this paper, I believe they are inordinately low. If this is due to the Agreement States not responding to the staff's request for information, I suggest that staff communicate to the Agreement States that our ability to have sufficient funds to award them could be impaired by their lack of response.

### Commissioner McGaffigan's Comments on SECY-98-273:

I approve the staff recommendation to implement Option 1 which would continue Agreement State jurisdiction over formerly licensed sites and develop a grant program to make funds available to Agreement States for file review and remediation in certain cases. I also agree with the staff recommendation to pursue a separate appropriation from the General Fund for these purposes and offer the following comments for the staff's consideration.

In submitting a General Fund appropriations request to Congress for FY 2001 and FY 2002, the staff should provide a clear basis for the request and a decision framework that describes how NRC will allocate the appropriated funds to individual Agreement States. I recognize that some Agreement States will require far greater funds than others simply due to the number of formerly licensed sites located within their borders. I also recognize that remediation costs vary from site to site depending on the extent and type of contamination, the radionuclides involved, the location of the site, current or proposed use of the site, etc. However, I am concerned that these differences may be further exacerbated by the differences in cleanup criteria applied by one Agreement State versus another. For example, the costs associated with demonstrating compliance with a 1 or 10 millirem/year public dose standard can be exponentially more than demonstrating compliance with a 25 millirem/year public dose standard, as was demonstrated by the generic environmental impact statement and regulatory analyses in promulgating NRC's cleanup rule. As a result, there is the potential for the limited funds to be disproportionately provided to one or two Agreement States that opt to apply a cleanup standard-whether it is dose-based or concentration-based-that is extremely conservative, e.g., 1 millirem/year, particularly when compared to natural background levels of radiation. To prevent this situation, the staff should develop a decision framework for providing funds to individual Agreement States to ensure a relatively fair and equitable allocation of available funds. One option would be for NRC to provide funding to an individual Agreement State based on the estimated cost for each site to comply with a 25 millirem/year public dose standard. In these cases, any additional cleanup costs for compliance with more conservative criteria, as determined by the Agreement State, would be funded by the State. In addition, it may be necessary to conduct further risk-ranking of the sites to ensure that funds are available for the "higher risk" sites in the event that appropriated funds are less than requested or prove to be insufficient to fully remediate all sites identified to date. Finally, I firmly believe that developing such a plan is instrumental for NRC to fine-tune its funding request which, based on the Site Decommissioning Management Program experience, could result in a higher estimate and could play a critical role in receiving Congressional approval of the requested funds.