

February 16, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-98-303

TITLE: INTERIM ENFORCEMENT POLICY REGARDING PROPOSED NEW REQUIREMENTS FOR THE POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL (10 CFR 31.5)

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of February 16, 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 February 16, 1999.

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

VOTING SUMMARY - SECY-98-303

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACKSON	X					1/29/99
COMR. DICUS	X				X	1/21/99
COMR. DIAZ	X					1/21/99
COMR. McGAFFIGAN	X					1/26/99
COMR. MERRIFIELD	X					1/6/99

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and Commissioner Dicus provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on February 16, 1999.

Commissioner Dicus' Comments on SECY-98-303

I approve the interim enforcement policy subject to the following comments.

1. In the section, "Exercise of Enforcement Discretion," add at the end of the sentence, "and otherwise has undertaken good faith efforts to respond to NRC notices and provided requested information." Given the fact that the NRC request for information will represent the first contact by NRC for many of these general licensees, it is not unreasonable to expect that many of the responses will be incomplete or initially inaccurate. In such cases, general licensees should not be penalized provided good faith efforts were made to provide the requested information.
2. For the same reason, in the section, "Exceptions," insert "willful" at the beginning of the third exception so that it reads, "(c) willful failure to provide complete and accurate information to the NRC."