

March 31, 1999

COMMISSION VOTING RECORD

DECISION ITEM: SECY-99-059

TITLE: AGREEMENT STATE COMPATIBILITY FOR CRITICALITY REQUIREMENTS APPLICABLE TO LOW-LEVEL WASTE DISPOSAL FACILITIES

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of March 31, 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 31, 1999.

Andrew L. Bates
Acting 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-99-059

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACKSON	X					3/5/99
COMR. DICUS	X				X	3/8/99
COMR. DIAZ	X				X	3/15/99
COMR. McGAFFIGAN	X					2/26/99
COMR. MERRIFIELD	X					3/3/99

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 31, 1999.

Commissioner Comments on SECY-99-059

Commissioner Dicus

I approve staff 's recommendation to consult with the Agreement States on the proposal to revise to compatibility category for 10 CFR 61.16(b)(2) subject to the following: Consistent with the April 19, 1998 SRM, the consultations with the Agreement State should include a technical basis that includes "realistic scenarios." If realistic scenarios cannot be developed to demonstrate the need for this proposed revision, staff should inform the Commission.

Commissioner Diaz

I approve the staff's plan to request Agreement State review and comment on the proposal to revise the compatibility of 10 CFR 61.16(b)(2) from category *NRC* to category *Health and Safety*. To assist the Agreement States to focus on the salient aspects of this issue, and thereby foster the development of more objective comments, the material provided to the States for review should: show that LLW emplacement criticality is a realistic public health and safety issue; present an analysis that is supported by the results of recent technical assessments that have been done on emplacement criticality of LLW; include the emplacement criticality guidance that is currently under development, and; provide a staff assessment of the potential resource impacts on Agreement States as a result of assuming what is currently a Federal level assessment capability.