

November 23, 1999

COMMISSION VOTING RECORD

DECISION SECY-99-250
ITEM:

TITLE: 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
MATERIAL PROGRAM

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of November 23, 1999.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission, and the SRM of November 23, 1999.

Annette Vietti-Cook
Secretary of the Commission

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

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

VOTING SUMMARY - SECY-99-250

RECORDED VOTES

| | APRVD | DISAPRVD | ABSTAIN | NOT PARTICIP | COMMENTS | DATE |
|------------------|--------------|-----------------|----------------|-------------------------|-----------------|-------------|
| CHRM. MESERVE | X | | | | X | 11/15/99 |
| COMR. DICUS | X | | | | X | 11/10/99 |
| COMR. DIAZ | X | | | | X | 10/26/99 |
| COMR. McGAFFIGAN | X | | | | X | 11/19/99 |
| COMR. MERRIFIELD | X | | | | X | 10/28/99 |

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on November 23, 1999.

Commissioner Comments on SECY-99-250

Chairman Meserve

I approve the staff's plan to form a working group with representatives from Agreement State and CRCPD. However, the staff should provide the Commission with a schedule for providing staff recommendations.

Commissioner Dicus

I approve SECY-99-250, and would ask that the working group reviewing the potential future impacts of an increased number of Agreement States complete its effort and report its findings and recommendations to the Commission before the end of the FY 2001.

Commissioner Diaz

During the October 20, 1999, briefing, CRCPD stated it would be establishing a panel to review the role of CRCPD in national materials rulemaking activities and the structure of the national materials program. The Working Group proposed by the staff in this paper should work with the CRCPD panel, to the extent possible, to ensure adequate coordination and sharing of information.

Commissioner McGaffigan

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.

Commissioner Merrifield

I want to compliment the staff for raising this issue because I, as well of the other members of the Commission, believe it is an important issue to address, particularly in light of future budget decisions. I approve the staff's plan to form a working group consisting of the staff, Agreement States, and CRCPD to address the impacts of the increased number of Agreement States and to provide recommendations to the Commission concerning the future of the national materials program. However, the paper does not provide a schedule for providing an appropriate paper with staff recommendations. Unless the staff can provide justification for a different schedule, I request the results be provided to the Commission within 18 months of the date of the SRM. Although I consider these deliberations important, I am also concerned that the staff maintain a fairly firm control of the FTE expended to prepare the final product for Commission deliberation.