

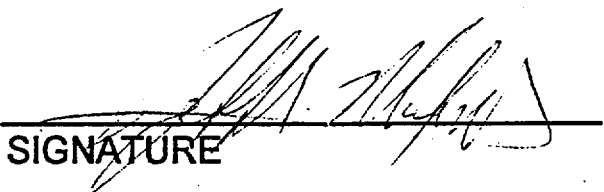
NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MERRIFIELD
SUBJECT: SECY-99-272 - AGREEMENT STATE COMPATIBILITY FOR
CRITICALITY REQUIREMENTS APPLICABLE TO LOW-
LEVEL WASTE DISPOSAL FACILITIES

Approved _____ Disapproved Abstain _____
Not Participating _____

COMMENTS: *See attached comments.*


SIGNATURE

12/25/99
DATE

Entered on "AS" Yes _____ No _____

Comments from Commissioner Merrifield on SECY-99-272:

On the basis that the proposed staff actions are not necessary for the adequate protection of the public health and safety, I disapprove the staff's proposal to revise the compatibility of 10 CFR 61.16(b)(2) from category *NRC* to category *Health and Safety* and disapprove finalizing the draft guidance document. I do not believe there is a need for staff to continue to analyze the potential for accidental criticality resulting from waste emplacement at a low level waste repository which meets the requirements for 10 CFR Part 61.

In previous directions to the staff (SRM 98-010 and SRM 99-059), the Commission directed the staff to develop guidance on emplacement criticality safety for use by Agreement States. However, this guidance was to be developed only if the staff could provide realistic scenarios based on realistic public health and safety issues which demonstrate emplacement criticality concerns. In SECY-99-272, the staff responded to the Commission direction by developing theoretically plausible scenarios for which a criticality could occur. Although theoretically plausible, these scenarios represent highly unlikely events and are therefore not realistic. They are not realistic because they do not take into account other regulatory limits in 10 CFR Parts 61, 71, and 150 or standard operating procedures of a business which needs to dispose of material received as soon as possible. I believe the staff did the best job they could in providing theoretical scenarios; but since I do not believe they are realistic scenarios, I do not believe we or the Agreement States should devote our limited resources on an event of low risk significance. I fully agree with the staff analysis that the impact of implementing the proposals of SECY-99-272 on the existing sites and existing Agreement States would be minimal. But it would require some action at least on the part of the Agreement States. There are other more important areas where we need to devote our limited resources.

A more realistic scenario, in my opinion, involves the receipt on the surface of special nuclear material in quantities in excess of the limits of 10 CFR Part 150.11. Under this scenario, criticality is of concern not only on the surface but also in the immediate disposal area. However, this scenario is a case which requires specific NRC approval, our procedures will address criticality concerns, and there is no need for independent Agreement State action.



12/22/99




UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 5, 2000

SECRETARY

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette Vietti-Cook, Secretary 

SUBJECT: STAFF REQUIREMENTS - SECY-99-272 - AGREEMENT STATE
COMPATIBILITY FOR CRITICALITY REQUIREMENTS
APPLICABLE TO LOW-LEVEL WASTE DISPOSAL FACILITIES

The Commission has disapproved the staff's proposal to revise the compatibility of 10 CFR 61.16(b)(2) from category *NRC* to category *Health and Safety* and finalize the emplacement criticality guidance on the grounds that such actions are unnecessary for adequate protection of public health and safety.

The Commission does not believe there is a need for Staff to continue to analyze the potential for accidental criticality resulting from waste emplacement at a low level waste repository which meets the requirements for 10 CFR Part 61.

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
CIO
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR
DCS