

NOTATION VOTE

RESPONSE SHEET

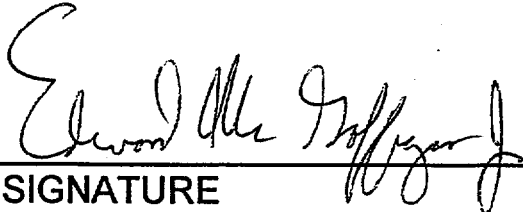
TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MCGAFFIGAN  
SUBJECT: SECY-99-278 - NRC/AGREEMENT STATE JURISDICTION  
FOR FORMERLY LICENSED SITES

Approved  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

See attached comments.

  
\_\_\_\_\_  
SIGNATURE

January 21, 2000  
\_\_\_\_\_  
DATE

Entered on "AS" Yes  No \_\_\_\_\_

**Commissioner McGaffigan's Comments on SECY-99-278**

I approve the staff recommendation to implement Option 3--Continue to Provide Technical Assistance to the Agreement States--to effect timely closeout of sites formerly licensed by NRC located in Agreement States. I also offer the following comments for consideration by the staff.

Clearly, there are diverse opinions on whether the NRC or Agreement States have jurisdiction over sites formerly licensed by NRC located in Agreement States. However, I agree with the staff that it is not absolutely necessary to fully resolve the jurisdictional issue. In fact, resolution of the jurisdictional issue as proposed in Options 1 and 2 may be years away, if ever, and as a result, site closeout would be further delayed unnecessarily. With regard to providing funding and technical assistance to the Agreement States, I continue to believe that allocation of funds to an individual Agreement State should be limited to the estimated cost for each site to comply with the radiation standards set forth in 10 CFR part 20, Subpart E, e.g., 25 millirem per year to an individual when releasing a site for unrestricted use. This approach is consistent with Commission direction to the staff in staff requirements memoranda dated March 15, 1999 on SECY-98-273 and August 25, 1999 on SECY-99-193. Any additional cleanup costs for compliance with more conservative criteria, as determined by the Agreement State, would be funded by the State. This approach should also be applied as we lend technical assistance to an Agreement State to facilitate site closeout. Differences between NRC and an Agreement State on the appropriate radiation standard may make it undesirable or, at minimum, not practical to have NRC and the State sign a joint letter to the licensee, as proposed in the paper. Also, as the staff points out, a joint letter could create confusion regarding the jurisdictional issue at a particular site. Therefore, I suggest that the staff continue working with the affected Agreement States either collectively or individually to determine whether separate letters or a joint letter to the Agreement State licensee is indicated.

With regard to resources, I propose that the staff redirect the FTE needed to support this initiative in FY 2001. For FY 2002, the FTE should be included as part of the budget proposal to the Commission, and, together with the grant money, should be included among the various fairness and equity issues.

