

October 15, 2003

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA by Andrew L. Bates
Acting For/**

SUBJECT: STAFF REQUIREMENTS - COMSECY-03-0046 - POTENTIAL
AGREEMENT STATE POLICY ISSUES FROM AN NRC
RESPONSE TO A CITIZEN'S QUESTIONS

The Commission has approved the proposed responses to the citizen's questions subject to the changes noted below.

1. The response to the question from the April 15, 2003 e-mail should be revised to read: "NRC policies and guidance documents pertinent to the regulation of Part 40 facilities (in this specific case, source material milling facilities) are not matters of compatibility for Agreement States. However, Agreement States adopt and utilize similar guidance in their programs and NRC guidance is often used as the basis for State-developed guidance. Also, see response below to question 6 in your April 20, 2003 e-mail and letter."
2. The response to question 9 from the April 20, 2003 e-mail and April 20, 2003 letter should be revised to read: "An Agreement State may adopt its own regulations with respect to the disposal of non 11e.(2) byproduct material at a licensed uranium mill or 11e.(2) disposal facility located in the Agreement State. However, before approving the disposal of non-11e.(2) byproduct material on the site, the Agreement State should coordinate its actions and, if possible, obtain either an approval or a no objection from the U. S. Department of Energy (DOE). By statute, DOE is required to assume long term custody of 11e.(2) byproduct material if certain conditions are met. However, DOE is not required by statute to assume long term custody of non-11e.(2) byproduct material. Agreement States which permit disposal on a site of non 11e.(2) byproduct material without proper coordination with DOE could create uncertainty about the future transfer of the site to DOE."

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