

March 27, 1997

MEMORANDUM TO: L. Joseph Callan
Executive Director for Operations

Ronald M. Scroggins
Acting Chief Financial Officer

FROM: John C. Hoyle, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - COMSECY 96-065 -
STRATEGIC ASSESSMENT DIRECTION SETTING ISSUE:
FEES (DSI 21)

The Commission believes that the NRC's public health and safety mission must be the foundation in making decisions about what activities the agency should perform. In making decisions on the work which the NRC will perform, the Commission does, and will continue to, consider the cost of its activities and consistently examines ways to accomplish its mission within a responsible budget. The NRC must evaluate thoroughly the efficiency and effectiveness of existing and proposed activities and continually seek ways to reduce expenditures without compromising safety. Whether the NRC's budget is funded by the public through taxes paid to the treasury or by licensees through fees paid to the treasury, the NRC's decisions about its programs should be the same.

The Commission believes that fees should not be a primary factor in determining the work to be performed in response to NRC health and safety mission. It is the Commission's position that programmatic decisions in response to NRC mandates will not be driven by fees. Specific activities conducted by the NRC will be evaluated for efficiency and effectiveness.

The NRC performs two primary types of activities. These types of activities are categorized as mandated and non-mandated. Mandated activities include those directed by statutes, Executive Orders, treaties, Commission decisions, etc. Non-mandated activities include those activities which are not required to respond to mandates, but are performed as a 'service' to another organization. The Commission's decision provides for a responsible decision-making process for mandated activities while allowing the NRC to assist other organizations on a reimbursable basis. When the Commission is requested to perform non-mandated

activities the requestor will reimburse the NRC for the cost of performing the requested activities.

In order to implement this decision staff should develop, for Commission review and approval, a set of criteria for defining mandated and non-mandated activities. These criteria will allow for a clear framework within which to consistently determine funding of NRC activities.

(CFO/EDO)

(SECY Suspense: 6/30/97)

As to the issue on how NRC should recover its costs in a fair and equitable manner the Commission will continue the agency's current approach to comply with existing law and collect 100 percent of the appropriated budget authority from NRC applicants and licensees. However the Commission continues to believe that to be fair and equitable to NRC licensees, the Commission will seek OMB and Congressional authorization to remove certain NRC activities that do not directly benefit NRC licensees from the fee base and instead fund those activities from non fee-based appropriations or separate appropriations. The staff should review the reimbursable work agreement policy addressed in SECY-95-012 and propose revisions to the policy, for Commission review and approval, to address the distinction between mandated and non-mandated activities, as discussed in the previous paragraph.

(CFO)

(SECY Suspense: 6/30/97)

The Commission recognizes that changes, which have occurred or will clearly occur (e.g., electric utility economic deregulation which will rapidly change the competitive environment for NRC power reactor licensees) since the Commission issued the Report to Congress on the U.S. Nuclear Regulatory Commission's Licensee Fee Policy Review issued in February 1994, might identify new issues for consideration by Congress. Therefore, the staff should prepare an update to the February 1994 report. This update should consider the Commission's final decisions, and applicable stakeholder comments, on the NRC's Direction Setting Issues. In particular, the staff should consider those areas which were specifically identified in the 1994 report. These include: (1) Agreement State training and travel costs, (2) the costs associated with the development of NRC materials regulations and guidance and NRC oversight of Agreement States programs, (3) the costs of site decommissioning management plan activities not recoverable under 10 CFR Part 170, and (4) the costs of NRC's regulatory assistance to foreign regulatory bodies — all of which should receive a separate appropriation outside the fee base. Recommendations on items (1) and (4) should be provided in a time frame that will allow consideration in our budget submittal for FY 1999.

(CFO)

(SECY Suspense:

Items (1) and (4) 6/30/97)

Other issues 9/30/97)

As to FTEs, it is the Commission's position that the NRC should identify those FTEs associated with reimbursable work as business-like activities under the terms of the January 1996 OMB letter to the CFO Council. The staff should include identification of business-like activities as part of the FY 1999 budget planning process. The FTEs associated with the business-like activities should be separate from the total FTE budget ceiling and the NRC should seek early OMB support for inclusion of the "reimbursable business-like FTEs" in the FY 1999-2001 budget submittal as directed in the January 1996 OMB letter.

(CFO)

(SECY Suspense: 7/31/97)

cc: Chairman Jackson
Commissioner Rogers
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
OGC
OCA
OIG
CIO