

March 8, 1991

MEMORANDUM FOR: James M. Taylor, Executive Director for  
Operations

FROM: Samuel J. Chilk, Secretary /S/

SUBJECT: SECY-91-017 - IMPLEMENTATION OF THE OMNIBUS  
BUDGET RECONCILIATION ACT OF 1990 -- 100  
PERCENT FEE RECOVERY

This is to advise you that the Commission (with all Commissioners agreeing, unless otherwise noted) has approved the staff's proposals in SECY-91-017 except as noted below:

1. The Commission does not agree to the proposed change to the billing schedule for Part 171 fees; the current quarterly billing schedule should be continued for power reactors. Materials licensees should be billed annually under Part 171.
2. The Commission does not agree to charging power reactor licensees the costs of providing regulatory services to other Federal agencies. If the Commission can do so, it should charge Federal agencies for these services under 10 CFR Part 171. If the Commission can not charge under Part 171, these costs should be assessed to power reactors.
3. The Commission understands that OGC is currently reevaluating whether the Commission can assess export applicants and licensees fees under Part 170. If the Commission is permitted to do so, it should recover the costs attributable to export licensees/applicants under Part 170. If the Commission can not charge under Part 170, these costs should be assessed to power reactors.

---

SECY NOTE: THIS SRM, THE SUBJECT SECY PAPER, AND THE VOTE SHEETS OF CHAIRMAN CARR AND COMMISSIONERS ROGERS, CURTISS, AND REMICK WILL BE MADE PUBLIC WHEN THE NOTICE OF PROPOSED RULEMAKING IS PUBLISHED IN THE FEDERAL REGISTER.

4. The NRC Agreement State and state liaison programs should not be charged to operating power reactors. The Commission recommends including these expenses with NRC's overhead and general and administrative costs.
5. The generic costs related to LLW disposal activities should not be assessed totally against operating reactors; based upon the staff's figures, 60% of the generic costs should be added to operating reactors under Part 171 and 40% to the annual charge for materials and fuel cycle facilities licensees.
6. The Commission disagrees with charging operating reactors the costs associated with NRC activities for State and local governments and Indian Tribes; these costs should be recovered through fees assessed to licensees under Part 170.

In regard to non-profit educational institutions, Chairman Carr and Commissioner Curtiss would not exempt these licensees. Commissioners Remick and Rogers believe that the current exemption for non-profit public or private institutions dedicated to education (such as colleges and universities) should be continued. Due to the 2-2 split in the Commission vote, the exemptions for nonprofit educational institutions will remain in effect, and these costs should be assessed to power reactors under Part 171.

7. The Commission does not agree that the generic activities associated with NRC materials licensees, transportation approvals and certificate holders, and uranium mill/mining licensees (\$33 million) should be charged to operating power reactors. Transportation certificate holders and uranium mill/mining licensees should pay for the generic costs associated with their respective regulatory activities under Part 171. The generic costs associated with material licensees should be charged to them in annual fees based on the relative amounts now being charged under Part 170.

The NRC has had a policy of deferring fees for reviewing standard reactor designs that is reflected in 10 CFR Part 52. Chairman Carr and Commissioner Rogers believe that the agency's costs for these activities should be recovered from the vendors and not be deferred for fifteen years. Commissioners Curtiss and Remick believe that the operating power reactors should bear the agency's costs for review of specific applications in view of the indirect benefits they obtain from such activities. Due to the 2-2 split in the Commission vote, the present policy of deferring fees remains in effect.

On issues where the Commission is evenly divided, public comment should be sought on whether fees should be charged.

The staff should prepare a proposed rule and the EDO is authorized to issue the proposed rule consistent with the above direction.

The proposed rule should be widely distributed to licensees, states, and all members of Congress who may have an interest in the issues associated with recovery of 100% user fees.

**(EDO) (SECY SUSPENSE: 4/15/91)**

The final rule, together with an analysis of the public comments received should be submitted to the Commission for review and approval.

cc: Chairman Carr  
Commissioner Rogers  
Commissioner Curtiss  
Commissioner Remick  
OGC  
GPA