



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20545-0001

REGULATORY FEES FILE # 217/98

60NSAJ 98-001/

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February 2, 1998

MEMORANDUM FOR: John C. Hoyle, Secretary  
FROM: Shirley Ann Jackson, Chairman  
Edward McGaffigan, Jr., Commissioner  
SUBJECT: ANNUAL FEES FOR STORAGE OF SPENT FUEL

During a recent drop-in visit by representatives from Public Services Company of Colorado, a concern was raised regarding NRC policy on annual fees for interim on-site storage of spent fuel. While both wet storage (i.e., spent fuel pool) and dry storage (i.e., independent spent fuel storage installation, or ISFSI) are considered to be safe and acceptable methods for spent fuel storage, the current fee structure could create a disincentive for licensees to pursue dry storage.<sup>1</sup> The potential disincentive arises from the imposition of annual fees for Part 72 licensees (approximately \$280K/year), but no annual fee on Part 50 "possession only" licensees that forgo an ISFSI in favor of spent fuel pool storage.

Since the Commission has formally found that both wet and dry storage are safe and acceptable, we believe that the Commission should avoid actions that would provide an incentive to choose one approach over another.

<sup>1</sup>As the Commission found in the Waste Confidence Decision, spent fuel can be stored safely and without significant environmental impact at a reactor licensee's spent fuel storage basin or at either an onsite or offsite ISFSI. See U.S. Nuclear Regulatory Commission, "Requirements of Licensee Actions Regarding the Disposition of Spent Fuel Upon Expiration of Reactor Operating Licenses," 49 FR 34688, August 31, 1984, as amended at 55 FR 38474, September 18, 1990.

If a majority of the Commission agrees, then the staff should ensure that the proposed FY 1998 fee rule (Part 171) is consistent with this view. As a minimum, the CFO should be directed to ensure that the fee policy gives equal treatment to dry storage and SFP storage of spent fuel, thereby removing the existing disincentive for dry storage. The CFO should make a recommendation on how to address this concern as part of the fee rulemaking package for FY 1998.<sup>2</sup>

SECY. please track.

cc: Commissioner Dicus  
Commissioner Diaz  
OGC  
EDO  
CFO

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<sup>2</sup>Under normal circumstances where there are no policy issues involved, the CFO may issue a proposed fee rule without prior Commission approval. However, in this instance the Commission should provide its view on the proposed rule and suggest that the annual fees for spent fuel storage methods be modified prior to publication of the proposed fee rules in the Federal Register.