

NOTATION VOTE

RESPONSE SHEET

TO: John C. Hoyle, Secretary
FROM: COMMISSIONER MERRIFIELD
SUBJECT: SECY-98-260 - FY 1999 FEE RULEMAKING

Approved X in part Disapproved X in part Abstain _____

Not Participating _____

COMMENTS:

See attachment comments.



SIGNATURE

12/4/98
DATE

Entered on "AS" Yes X No _____

**NOTE: SENSITIVE
INFORMATION -- LIMITED
TO NRC UNLESS THE
COMMISSION DETERMINES
OTHERWISE**

MB

COMMISSIONER MERRIFIELD'S COMMENTS ON SECY-98-260 (FY 1999 Fee Rule)

Although I approve of a majority of the staff's recommendations, I disapprove of the specific proposal under recommendation number one (1) to solicit public comments on recovering the costs of allegations and other investigations through Part 170 instead of through Part 171 in FY 2000. I believe soliciting comments on changing the fee recovery policy for allegations and other investigations is problematic and unnecessary. When public comments were solicited on this very issue in 1993, most commenters believed that the costs for these activities should be recovered through Part 171 because they raise generic issues of concern to all licensees, they are not requested by a licensee, and they are beyond a licensee's control. Similarly, most staff offices contacted as part of the FY 1999 Fee Initiatives Study provided well-reasoned comments disagreeing with the proposal to recover fees through Part 170. Therefore, I believe that soliciting public comments on these activities would not result in changing the current fee policy and would only serve to subject the Commission to needless criticism from recipients of these allegations. While I also believe that there may not be a sufficient basis to recover costs for issuances of orders and escalated enforcement actions through Part 170, I have no objection to soliciting public comments on that issue.

I agree with the staff's recommendation to establish a spent fuel storage/decommissioning annual fee to be assessed to all Part 50 licensees regardless of their operating status and to Part 72 licensees who do not hold Part 50 licenses, and to recover the remaining generic decommissioning costs through a surcharge. This should result in a more even and fair recovery policy for various decommissioning and storage activities. That having been said, it is unfortunate that the federal government has not provided for permanent disposal of high-level waste. Because of the delay in the DOE high-level waste repository program, I believe the Commission should seek legislation for FY2000 to amend the Nuclear Waste Policy Act so that generic costs associated with the NRC's spent fuel storage activities can be derived from the Nuclear Waste Fund.

I agree with the staff's recommendation to propose legislation for FY 2000 to amend the Atomic Energy Act to authorize NRC to assess licensing and inspection fees to all federal agencies. Other NRC licensees should not be responsible for paying the costs of NRC licensing of federal agencies.