

*Jose
Pete
Jim T.
Glenda
Diane*

NOTATION VOTE

RESPONSE SHEET

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

Approved X Disapproved X Abstain _____

Not Participating _____

COMMENTS:

See attached comments.

Edward M. Goffey

SIGNATURE

12/14/98

DATE

Entered on "AS" Yes X No _____

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

1/4

Commissioner McGaffigan's Comments on SECY-98-260 (FY 1999 Fee Rule)

I approve, in part, and disapprove, in part, recommendation (1). For the same reasons given by Commissioner Merrifield in his vote on this paper, I also disapprove soliciting public comments on recovering the cost of allegations and other investigations though Part 170 instead of Part 171 in FY 2000. While I do not object to seeking public comments on recovering costs for issuance of orders and escalated enforcement actions through Part 170, I also share Commissioner Merrifield's skepticism on whether there is sufficient basis to do so.

I approve recommendation (2), and commend the staff for its efforts in responding to the concerns raised in COMSAJ-98-01/COMEXM-98-01, "Annual Fees for Storage of Spent Fuel." The staff's proposal does bring greater fairness and equity in how such fees are apportioned among reactor licensees. I also support the Spent Fuel Storage/Decommissioning Study Team's recommendation to pursue legislation to amend the Nuclear Waste Policy Act to allow generic costs associated with NRC's spent fuel storage activities from the Nuclear Waste Fund in future fiscal years.

I approve recommendations (3) and (4) in their entirety.

In light of concerns about the imbalance between the portion of fees that are recovered under Parts 170 versus Part 171, I believe that the Commission would benefit from a better understanding of the amount and nature of uncompensated overtime performed in FY 1998, particularly the distribution of the uncompensated work among billable and non-billable accounts. I understand and appreciate that many of our employees are committed to doing "whatever it takes" to get the job done, but I am concerned that our licensees may not appreciate this level of commitment displayed by NRC employees or its relevance to fees. I believe that the staff should review the agency policies with regard to the types of work to be performed during uncompensated overtime, as recommended in the *Fee Initiative Study* under Fee Initiative 8.

E. M. G.