

*Jesse  
Pete  
Jim T.  
Diane  
Glenda*

NOTATION VOTE

RESPONSE SHEET

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

Approved in part Disapproved in part Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS: Please see attached comments.

*Pete Jay Dicus*  
SIGNATURE  
December 15, 1998  
DATE

Entered on "AS" Yes x No \_\_\_\_\_

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

*9/5*

Commissioner Dicus' Comments on SECY-98-260

I approve in part and disapprove in part staff's recommendation #1. I approve staff's recommendation that the FY 1999 fee rule include the following three new areas for cost recovery under Part 170; (1) inspections (except for vendor inspections), including plant specific performance assessments, evaluations and incident investigations; (2) reviews of reports, responses to Confirmatory Action Letters and other submittals that do not result in a licencing action; and (3) full cost recovery for project managers (except for time spent on generic work). I base my approval on the staff's reasonable argument that these services assist the licensee in complying with statutory obligations under the Commission's regulations, and therefore provide a benefit to the licensee. I reluctantly agree to continue with the current policy of not assessing Part 170 fees for vendor inspections. However, I believe that this is an area that should be considered for future resolution which may involve proposed legislative changes.

I approve staff's recommendation that public comments be solicited on including orders and responses thereto, and escalated enforcement actions. However, I share Commissioner Merrifield's concern that changing the fee recovery policy for allegations and other investigations is problematic. As staff points out in the fee study, such assessments would create incentives for opponents of facilities to file allegations for the sole purpose of raising licensee costs. Therefore, I disapprove soliciting public comments on fees associated with allegations and investigations in the FY 1999 fee rulemaking.

I approve staff's recommendations # 2 and # 3.

I disapprove staff's recommendation # 4 to eliminate flat amendment fees for materials licences from part 170 and include the costs in the materials license Part 171 annual fee. I credit the staff for attempting to streamline the amendment fee process for small materials users. However, I view this change as running counter to staff's recommendation #1. Recommendation # 1 involved a shift from Part 171 to Part 170, where as recommendation # 4 represents a shift in the opposite direction. I believe that this signals conflicting Commission guidance regarding the methodology for assessing fees to licensees. Furthermore, I based my approval of recommendation #1 on the staff's argument that the three new areas provide a benefit to the licensee, and therefore, the licensee should be assessed the fee. Clearly, in the case of license amendment reviews, the licensee is receiving a direct benefit, and using the same argument, should also be assessed the fee. I do approve staff's proposed alternative to revise the fees only at the time of the biennial fee review and not revise them each year to reflect hourly rate changes. This should reduce the number of incorrect fee payments, thereby reducing administrative costs and amendment delays.