



OFFICE OF THE SECRETARY

UNITED STATES NUCLEAR REGULATORY COMMISSION WASHINGTON, D.C. 20555

ACTION - Scroggins, OC

Cys: Taylor Thompson Blaha Hiller, OC ✓ DMeyer, ADM BShelton, IRM

November 9, 1989

Rec'd 11/14/89 OC AD 23-1 PDR

MEMORANDUM FOR: James M. Taylor Acting Executive Director for Operations FROM: Samuel J. Chilk, Secretary SUBJECT: SECY-89-314 - LICENSE FEES - PROPOSED SCHEDULE

This is to advise you that the Commission (with all Commissioners agreeing) has approved the publication of the Proposed Schedule of License Fees subject to the modifications proposed by Commissioner Curtiss in the attached copy of his vote sheet.

The FRN should be revised and forwarded for signature and publication.

-(EEO)- (OC)

(SECY Suspense: 11/27/89)

Attachment: As stated

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

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NOTATION VOTE

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER CURTISS

SUBJECT: SECY-89-314 - LICENSE FEES - PROPOSED
SCHEDULE

APPROVED ^{X/with} comments DISAPPROVED _____ ABSTAIN _____

NOT PARTICIPATING _____ REQUEST DISCUSSION _____

COMMENTS:

See attached comments.

James R. Letni
SIGNATURE
11-3-89
DATE

ENTERED ON "AS" YES X NO _____

Commissioner Curtiss' comments on SECY-89-314:

The legislative history accompanying the provision authorizing the Commission to assess the fees that are the subject of SECY-89-314 includes the following statement:

"It is the intention of the conferees that, because certain Commission licensees, such as universities, hospitals, research and medical institutions, and uranium producers have limited ability to pass through the costs of these charges to the ultimate consumer, the Commission should take this factor into account in determining whether to modify the Commission's current fee schedule for such licensees." (Statement of Managers, Consolidated Omnibus Budget Reconciliation Act of 1985) (emphasis added).

The rule proposed by the staff accounts for the reference to universities, hospitals, and research and medical institutions by extending the exemption provisions of section 170.11(a)(4) to non-profit educational institutions. But there is no discussion of the reference to uranium producers. One way or another -- either by extending similar treatment to uranium producers or explaining why such treatment is not warranted -- the statement of considerations needs to account for the fact that uranium producers are among those identified in the legislative history. With this additional clarification in the statement of considerations, together with a minor clarification in the section discussing the application of the backfit rule (attached), I approve the staff's recommendation to publish the rule for comment.

(d) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individual or group.

VIII. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required for ~~this proposed rule~~ because these amendments are mandated by ~~31 U.S.C. 9701~~ ^A do not require the modification of or addition to systems, structures, components, or design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct or operate a facility.

IX. List of Subjects - Part 170

Byproduct material, Nuclear materials, Nuclear power plants and reactors, Penalty, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 170.