

Addresses - Memorandum Dated April 2, 2001

Office Directors and Regional Administrators

SUBJECT: NOTICE OF PROPOSED RULEMAKING – FEE RECOVERY – FY 2001

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B. John Garrick, Chairman, Advisory Committee on Nuclear Waste	T-2	E26
George E. Apostolakis, Chairman, Advisory Committee on Reactor Safeguards	T-2	E26
John T. Larkins, Executive Director, Advisory Committee on Reactor Safeguards/Advisory Committee on Nuclear Waste	T-2	E26
G. Paul Bollwerk, III, Chief Administrative Judge, Atomic Safety and Licensing Board Panel	T-3	F23
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Hubert J. Miller, Regional Administrator, Region I	RGN-I	
Luis A. Reyes, Regional Administrator, Region II	RGN-II	
James E. Dyer, Regional Administrator, Region III	RGN-III	
Ellis W. Merschhoff, Regional Administrator, Region IV	RGN-IV	



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 2, 2001

MEMORANDUM TO: Those on the Attached List

FROM: Anthony C. Rossi, Acting Director
Division of Accounting and Finance
Office of the Chief Financial Officer

SUBJECT: NOTICE OF PROPOSED RULEMAKING -- FEE
RECOVERY -- FY 2001

A proposed rule was published on March 28, 2001, in the Federal Register (66 FR 16982) that would establish the fees necessary to recover approximately 98 percent of NRC's FY 2001 budget. The comment period expires April 27, 2001. The FY 2001 Energy and Water Development Appropriations Act amended the Omnibus Budget Reconciliation Act of 1990 (OBRA-90) to decrease the NRC's fee recovery amount from 100 percent to 98 percent for FY 2001 in order to address fairness and equity concerns related to charging NRC license holders for agency expenses that do not provide a direct benefit to the licensee. The FY 2001 proposed rule reflects the 2 percent decrease. The OBRA-90 amendment further decreases the fee recovery amount by an additional two percent per year beginning in FY 2002 until the fee recovery amount is 90 percent by FY 2005.

The amount of the FY 2001 budget to be recovered is \$453.3 million, which is \$6.3 million more than the fee recovery amount for FY 2000; however, the FY 2001 fee recovery amount is reduced by a \$3.1 million carryover from additional collections in FY 2000 that were unanticipated at the time the FY 2000 fee rule was published. This leaves approximately \$450.2 million to be recovered in FY 2001 through 10 CFR Part 170 licensing and inspection fees, 10 CFR Part 171 annual fees, and other offsetting receipts.

We estimate that approximately \$112.1 million will be recovered in FY 2001 from 10 CFR Part 170 fees and other offsetting receipts, and we estimate a net adjustment of approximately \$0.4 million for payments received in FY 2001 for FY 2000 invoices. The remaining \$337.7 million would be recovered through the 10 CFR Part 171 annual fees, compared to \$341.0 million for FY 2000.

The specific proposed changes to 10 CFR Part 171 (annual fees) and 10 CFR Part 170 (licensing and inspection fees) are as follows:

1. 10 CFR Part 171

- a. New baseline annual fees would be established for FY 2001. The proposed rebaselined annual fees would decrease for most categories of licensees, including operating power reactors, uranium recovery licensees, and many categories of materials users. The annual fee decreases are primarily due to the reduction in the NRC's fee recovery requirement from 100 percent in

FY 2000 to 98 percent in FY 2001, reduced budgeted costs for some classes of licensees, increased costs recovered through 10 CFR Part 170 fees, and the \$3.1 million carryover from FY 2000. However, annual fees would increase for other licensees, including holders of transportation quality assurance program approvals for use only. The annual fee increases are due primarily to increased budgeted costs allocated to the affected categories of licensees.

- b. NRC would discontinue sending NRC Form 526, the small entity certification form, with each materials license annual fee invoice. Licensees who have been contacted about improperly filed small entity certifications have indicated they filed the form because it was enclosed with the invoice. This proposed action is an effort to minimize the number of improperly filed small entity certifications. Licensees would be able to access NRC Form 526 on the NRC's external web site at <http://www.nrc.gov>. Alternatively, NRC Form 526 could be obtained either through the local point of contact listed in the NRC's "Materials Annual Fee Billing Handbook," NUREG/BR-0238, which is enclosed with each annual fee invoice, by calling the NRC's fee staff at 301-415-7554, or by e-mailing the fee staff at fees@nrc.gov.
- c. The reduced annual fee of \$2,300 for small entities, and the \$500 lower-tier small entity fee, would not change for FY 2001. The small entity fees would be re-examined every two years, on the same schedule as the biennial review of fees required by the Chief Financial Officers Act of 1990, to determine if the small entity fees should be revised. The NRC had indicated in the FY 2000 fee rule that it would re-examine the small entity fees each year that annual fees are rebaselined.

The FY 2000 annual fees and the proposed FY 2001 annual fees for representative categories of licensees are as follows:

<u>Category of Licensees</u>	<u>FY 2000 Annual Fee</u>	<u>FY 2001 Proposed Annual Fee</u>
Power Reactors (Including Spent Fuel Storage/Reactor Decommissioning fee)	\$2,815,000	\$2,809,000
Spent Fuel Storage/Reactor Decommissioning	209,000	275,000
Nonpower Reactors	87,100	74,000
High Enriched Uranium Fuel Facility	3,327,000	3,551,000
Low Enriched Uranium Fuel Facility	1,116,000	1,191,000
UF ₆ Conversion Facility	478,000	510,000
Uranium Mills	132,000	94,300
Transportation Quality Assurance Plan Approvals for Use Only	2,300	6,100

Typical Materials Licensees

<u>Category of Licensees</u>	<u>FY 2000 Annual Fee</u>	<u>FY 2001 Proposed Annual Fee</u>
Radiographers	14,900	12,500
Well Loggers	10,100	8,800
Gauge Users	2,600	2,400
Broad Scope Medical	28,100	24,200

2. 10 CFR Part 170

- a. The two professional hourly rates which are used to determine the 10 CFR Part 170 fees assessed by the NRC would be revised. The proposed hourly rate for the reactor program is \$150 per hour as compared to \$144 per hour in FY 2000, and the proposed hourly rate for the materials program is \$144 per hour compared to \$143 per hour in FY 2000. The hourly rate increases are primarily due to the Government-wide pay increase in FY 2001.
- b. The fees for export and import licenses and materials licenses would be revised to reflect both the revised hourly rates and the results of the biennial review of 10 CFR Part 170 fees required by the Chief Financial Officers Act of 1990. As a result of the review, the revised fees reflect increases in average time in some cases, and decreases in average time in other cases.
- c. The fee currently assessed for revisions to the information initially submitted on NRC Form 241 by Agreement State licensees who wish to conduct licensed activities in areas under NRC jurisdiction under the reciprocity provision of 10 CFR Part 150 would be eliminated. The costs for processing the revisions would be included in the reciprocity application fee. As a result of this change and the increased hourly rate, the reciprocity application fee, which is currently \$1,200, would increase to \$1,400.
- d. An annual registration fee of \$450 would be established for licensees who are required under 10 CFR Part 31 to register their generally licensed devices each year with the NRC. The requirement for the registration fee would begin after the devices currently in use have been initially registered with the NRC; i.e., with the first re-registration of these devices, and annually thereafter. The fee would also be required for each new registration of devices acquired after the initial registrations have been completed.
- e. The fee waiver provisions in criterion 3. of Footnote 4 to §170.21 and criterion (c) of Footnote 5 to §170.31 would be revised to clarify that the fee waivers apply only to requests/reports submitted to the NRC for the purpose of supporting NRC's generic regulatory improvements or efforts.

Copies of the proposed rule are being provided to all branch chiefs and above in the headquarters and regional offices as part of the standard distribution process for rulemaking. In addition, a copy of the proposed rule with a summary of the proposed changes has been mailed to all licensees. Please note that we are no longer mailing final rules to all licensees. In addition to publication in the Federal Register, the final rule will be available on the internet at <http://ruleforum.llnl.gov>.

We recommend that you provide this information to those members of your staff most likely to come in contact with licensees (e.g., project managers, sections leaders, and inspectors). However, we request that all questions concerning NRC's fees be forwarded to the License Fee and Accounts Receivable Branch (LFARB) for response. The LFARB staff can be reached by phone at 301-415-7554, or by e-mail at fees@nrc.gov.

cc: Jesse L. Funches, OCFO
Peter J. Rabideau, DCFO

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