

May 29, 2001

NOTE TO: Jacqueline Silber

FROM: Mike Kaltman

SUBJECT: COMMENTS ON FINAL FEE RULE

Reactor Fees

The following table shows the Part 171 license fees for three classes of activities that are relevant to NRR:

	<u>FY 2000</u>	<u>Proposed FY 2001</u>	<u>Final FY 2001</u>
Reactors	\$2,606,000	\$2,571,000	\$2,487,000
Spent Fuel Storage/ Reactor decommissioning	209,000	276,000	266,000
	<u>\$2,815,000</u>	<u>\$2,847,000</u>	<u>\$2,753,000</u>
Nonpower Reactors	\$87,100	\$99,000	\$74,000

The decrease in fees for all three classes of activities is attributable to increased actual recovery of costs from licensees compared to the assumptions made when the fees were first proposed for FY 2001.

The 27.3% increase in spent fuel storage/reactor decommissioning fees is a reflection of the increase in budgeted activities between FY 2000 and FY 2001 and (to a lesser extent) the higher grades of NRR personnel compared to NMSS staff involved with these activities. I looked into the methodology used to calculate these fees for both years and found that the computational methodology was the same. I also changed the basis of the computation from a percentage base to a FTE base; that change did not yield a significant difference in the annual fees.

Depth of Information Provided by NRC

NEI commented that NRC should "provide licensees and the public with a more expansive explanation of the specific activities and associated costs that form the bases for Part 171 fees. This will enable stakeholders to provide the NRC with more substantive feedback on the efficiency of regulatory activities." Specific reference was made to the Reactor Oversight Program as an area where cost savings could be achieved.

OCFO's response took the following positions (1) ample information was provided on which to base constructive comments, citing work papers, a 30-day comment period, and budget documentation (NUREG-1100), all of which are publicly available, and (2) "budgets and the manner in which NRC carries out its activities are outside the scope of this rulemaking." In a

telephone conversation with an OCFO staffer, I was informed that OCFO had established a precedent for not addressing budget questions in the fee rule context.

DIPM's position is that the OCFO response, as it stands, misses an opportunity to dispose of an issue that should be addressed. The staff believes the following addition (in italics) should be added to the text on page 6:

... provide more effective comments concerning the efficiencies of NRC's regulatory activities and the manner in which NRC carries out its fiscal responsibilities are not addressed in this final rule.

The above notwithstanding, it should be noted that specific suggestions related to improving efficiencies in the Reactor Oversight Process (ROP) are being considered as part of the NRC staff evaluation of initial implementation of the ROP and in continuing process improvements. The staff evaluation of initial ROP implementation is being provided as a SECY paper and is scheduled for completion in July 2001.

PMAS Staff Position

PMAS staff recommends concurrence by the Office Director with the provision that the textual addition be added to the Final Rule. The PMAS position is based on the importance it places on an open and constructive working relationship with NEI and the visibility of the ROP program. However, we should note that OCFO may be reluctant to make the suggested change.

cc: L. Barnett

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