

June 5, 2012

MEMORANDUM TO: Chairman Jaczko
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff

FROM: J. E. Dyer */RA/*
Chief Financial Officer

SUBJECT: COMMISSION NOTIFICATION OF A FINAL RULE SIGNED
BY THE CHIEF FINANCIAL OFFICER

On June 5, 2012, I approved the enclosed final rule that amends Title 10 of the *Code of Federal Regulations* (10 CFR) parts 170, "Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services under the Atomic Energy Act of 1953, as Amended," and 171, "Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licenses by the NRC." These amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended, which requires the U.S. Nuclear Regulatory Commission (NRC) to recover through fees approximately 90 percent of its budget authority in fiscal year (FY) 2012. The NRC's required fee recovery amount is \$909.5 million. After accounting for billing adjustments, the total amount to be billed as fees is approximately \$901 million.

The NRC received responses from eight commenters on the proposed rule. Several commenters suggested that the NRC improve the licensing and regulatory process to further reduce fees for licensees. One commenter requested that the NRC use the Small Business Administration's "Table of Small Business Size Standards" to define a small business as it relates to the assessment of fees to small entities. Another commenter suggested that the NRC include more small entity fee assessment levels to further reduce the financial burden of fees for some small entities. One commenter requested that the percentage change in fees be assessed to all licensees at an equal percentage. Other comments included the need for more detailed invoices, efficient management of resources, and transparency in budgeting. Our evaluation of these comments did not result in any rule changes. The NRC's responses to the comments are found on pages 10 through 21 of the enclosed final rule.

In FY 2012, the NRC's total fee recovery amount decreases by \$6.3 million from FY 2011. The decrease is primarily due to the lower FY 2012 budget supporting the operating reactors, spent fuel storage, research and test reactors and fuel facility reviews, partially offset by the higher FY 2012 budget for uranium recovery facilities, and materials users.

Compared to FY 2011, the final FY 2012 annual fees increase slightly for power reactors, material users, fuel facilities, and the U.S. Department of Energy, and annual fees decrease for research and test reactors, spent fuel storage facilities, and most uranium recovery licenses. The FY 2012 annual fees are compared to those assessed for FY 2011 and FY 2010 in the enclosed table.

The final rule also includes the following changes:

1. **Hourly Rate.** The NRC established a professional hourly rate of \$274 to recover the cost of activities under 10 CFR part 170. The FY 2012 hourly rate is higher than the FY 2011 rate of \$273, primarily due to higher agency direct budgeted resources partially offset by a small increase in the number of direct full-time equivalents.
2. **10 CFR Part 170 Flat Fees.** The NRC revised the flat license application fees in 10 CFR 170.21 and 170.31 to reflect the new hourly rate.
3. **Full Cost Recovery for Master Materials Licenses (MMLs).** The NRC cost of regulating activities related to decommissioning activities for the MMLs is included in the MML 10 CFR part 171 annual fees. Going forward, MMLs will be charged 10 CFR part 170 hourly fees for all activities related to decommissioning actions. The MML annual fee will not include the cost of providing this service.
4. **Application of Fee Relief.** The NRC applies the 10 percent of its budget that is excluded from fee recovery (fee relief) to offset the total budget allocated for activities that do not directly benefit current NRC licensees. The budget for these fee-relief activities is totaled and then reduced by the amount of the NRC's fee relief. Any difference between the fee relief and the budgeted amount of these activities results in a fee-relief adjustment (increase or decrease) to all licensees' annual fees, based on their percentage share of the budget. For FY 2012, the total budgeted resources for fee-relief activities are \$91.1 million. The NRC's 10 percent fee-relief amount for FY 2012 is \$101.1 million, resulting in a \$10 million surplus for licensees. The surplus is further reduced by an assessed surcharge of \$3.9 million for low-level waste activity, resulting in a net surplus of \$6.1 million to licensees. This surplus will be applied to licenses in the form of decreased annual fees based on their percentage of the budget. Fuel facilities and small materials licensees' annual fee did not decrease since their share of the low-level waste surcharge is greater than the fee surplus.

This notice informs the Commission that, in accordance with my delegated rulemaking authority, I have signed this final rule and am forwarding it to the Office of the Federal Register for publication.

Enclosures:

1. FY 2012 Final Fee Rule
2. Comparison of Annual Fees (Per License)

cc: OGC
L. Mike, SECY

Compared to FY 2011, the final FY 2012 annual fees increase slightly for power reactors, material users, fuel facilities, and the U.S. Department of Energy, and annual fees decrease for research and test reactors, spent fuel storage facilities, and most uranium recovery licenses. The FY 2012 annual fees are compared to those assessed for FY 2011 and FY 2010 in the enclosed table.

The final rule also includes the following changes:

1. **Hourly Rate.** The NRC established a professional hourly rate of \$274 to recover the cost of activities under 10 CFR part 170. The FY 2012 hourly rate is higher than the FY 2011 rate of \$273, primarily due to higher agency direct budgeted resources partially offset by a small increase in the number of direct full-time equivalents.
2. **10 CFR Part 170 Flat Fees.** The NRC revised the flat license application fees in 10 CFR 170.21 and 170.31 to reflect the new hourly rate.
3. **Full Cost Recovery for Master Materials Licenses (MMLs).** The NRC cost of regulating activities related to decommissioning activities for the MMLs is included in the MML 10 CFR part 171 annual fees. Going forward, MMLs will be charged 10 CFR part 170 hourly fees for all activities related to decommissioning actions. The MML annual fee will not include the cost of providing this service.
4. **Application of Fee Relief.** The NRC applies the 10 percent of its budget that is excluded from fee recovery (fee relief) to offset the total budget allocated for activities that do not directly benefit current NRC licensees. The budget for these fee-relief activities is totaled and then reduced by the amount of the NRC's fee relief. Any difference between the fee relief and the budgeted amount of these activities results in a fee-relief adjustment (increase or decrease) to all licensees' annual fees, based on their percentage share of the budget. For FY 2012, the total budgeted resources for fee-relief activities are \$91.1 million. The NRC's 10 percent fee-relief amount for FY 2012 is \$101.1 million, resulting in a \$10 million surplus for licensees. The surplus is further reduced by an assessed surcharge of \$3.9 million for low-level waste activity, resulting in a net surplus of \$6.1 million to licensees. This surplus will be applied to licenses in the form of decreased annual fees based on their percentage of the budget. Fuel facilities and small materials licensees' annual fee did not decrease since their share of the low-level waste surcharge is greater than the fee surplus.

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COMPARISON OF ANNUAL FEES (PER LICENSE) - Table 2										
Fee Class	Fee Category (for materials licensees)	No. of Licenses		FY 2011 Annual Fee		FY 2012				
		FY11	FY12	FY 2010 Annual Fee	Annual Fee	Change from FY 10	Final Annual Fee	Change from FY 11	Proposed Annual Fee	Change Proposed to Final
POWER REACTORS (INCLUDING SPENT FUEL STORAGE AND REACTOR DECOMMISSIONING)										
	Power - Operating	104	104	\$4,636,000	\$4,432,000	-4.4%	\$4,555,000	2.8%	\$4,314,000	5.6%
	Spent Fuel Storage/Reactor Decom.	123	123	\$148,000	\$241,000	62.8%	\$211,000	-12.4%	\$211,000	0.0%
	Total for Operating Power Reactors			\$4,784,000	\$4,673,000	-2.3%	\$4,766,000	2.0%	\$4,525,000	5.3%
TEST AND RESEARCH REACTORS										
		4	4	\$81,700	\$86,300	5.6%	\$34,700	-59.8%	\$34,700	0.0%
FUEL FACILITIES										
	1.A.(1)(a) High Enriched Uranium	2	2	\$5,439,000	\$6,085,000	11.9%	\$6,329,000	4.0%	\$6,116,000	3.5%
	1.A.(1)(b) Low Enriched Uranium	3	3	\$2,047,000	\$2,290,000	11.9%	\$2,382,000	4.0%	\$2,302,000	3.5%
	1.A.(2)(a) Limited Fuel Fab	2	0	\$702,000	\$752,000	7.1%	\$0	-100.0%	\$0	N/A
	1.A.(2)(b) Gas Centrifuge Enrichment Demonstration	1	1	\$1,053,000	\$1,178,000	11.9%	\$1,225,000	4.0%	\$1,184,000	3.5%
	1.A.(2)(c) Other-Hot Cell Facility	1	1	\$526,000	\$589,000	12.0%	\$612,000	3.9%	\$592,000	3.4%
	1.E. Uranium Enrichment	2	2	\$2,807,000	\$3,271,000	16.5%	\$3,403,000	4.0%	\$3,288,000	3.5%
	2.A.(1) UF6 Conversion	1	1	\$1,111,000	\$1,243,000	11.9%	\$1,293,000	4.0%	\$1,250,000	3.4%
URANIUM RECOVERY										
	2.A.(2)(a) Conventional & Heap Leach Mills	1	1	\$38,300	\$32,300	-15.7%	\$23,600	-26.9%	\$23,600	0.0%
	2.A.(2)(b) Basic In-situ Recovery Facilities	4	5	\$36,300	\$30,700	-15.4%	\$29,900	-2.6%	\$29,900	0.0%
	2.A.(2)(c) Expanded In-situ Recovery Facilities	1	1	\$41,100	\$34,800	-15.3%	\$33,800	-2.9%	\$33,800	0.0%
	2.A.(2)(d) In-situ Recovery Resin Facilities	1	1	\$34,400	\$29,100	-15.4%	\$28,300	-2.7%	\$28,300	0.0%
	2.A.(2)(e) Resin Toll Milling	0	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	2.A.(3) Disposal of 11e(2) Materials	0	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	2.A.(4) 11e(2) Disposal Incidental to Open.	1	1	\$12,400	\$10,500	-15.3%	\$10,200	-2.9%	\$10,200	0.0%
	2.A.(5) Uranium Water Treatment Facility	1	1	\$8,600	\$7,300	-15.1%	\$7,100	-2.7%	\$7,100	0.0%
	18.B. DOE UMTRCA Activities	1	1	\$590,000	\$772,000	30.8%	\$779,000	0.9%	\$779,000	0.0%
MATERIALS USERS										
	1C. Industrial Gauges	5	4	\$3,300	\$3,600	9.1%	\$3,600	0.0%	\$3,600	0.0%
	1D. All Other SNM	60	44	\$9,300	\$6,900	-25.8%	\$7,300	5.8%	\$7,300	0.0%
	2B. Shielding	15	39	\$1,600	\$1,700	6.3%	\$1,800	5.9%	\$1,800	0.0%
	2C. Other Source Materials	60	47	\$21,100	\$11,800	-44.1%	\$12,400	5.1%	\$12,400	0.0%
	3A. Manufacturing - Broad	5	5	\$49,100	\$42,500	-13.4%	\$43,500	2.4%	\$43,500	0.0%
	3B. Manufacturing - Other	33	39	\$12,700	\$11,800	-7.1%	\$12,400	5.1%	\$12,400	0.0%
	3C. Radiopharmaceuticals - Manuf./Process	30	42	\$16,600	\$16,200	-2.4%	\$16,900	4.3%	\$16,900	0.0%
	3D. Radiopharmaceuticals - No Manuf./Process	0	0	\$10,600	\$0	-100.0%	\$0	N/A	\$0	N/A
	3E. Irradiators - Self-Shield	75	66	\$8,200	\$8,700	6.1%	\$9,100	4.6%	\$9,100	0.0%
	3F. Irradiators - < 10,000 Ci	4	3	\$15,500	\$15,200	-1.9%	\$15,500	2.0%	\$15,500	0.0%
	3G. Irradiators - > 10,000 Ci	5	6	\$76,800	\$137,500	79.0%	\$140,900	2.5%	\$140,900	0.0%
	3H. Exempt Distribution - Device Review	34	38	\$9,900	\$8,100	-18.2%	\$8,300	2.5%	\$8,300	0.0%
	3I. Exempt Distribution - No Device Review	77	84	\$18,000	\$19,600	8.9%	\$20,200	3.1%	\$20,200	0.0%
	3J. Gen. License - Device Review	7	8	\$4,200	\$4,700	11.9%	\$4,800	2.1%	\$4,800	0.0%
	3K. Gen. License - No Device Review	2	4	\$3,000	\$3,100	3.3%	\$3,200	3.2%	\$3,200	0.0%
	3L. R&D - Broad	48	52	\$24,200	\$14,100	-41.7%	\$14,700	4.3%	\$14,700	0.0%
	3M. R&D - Other	104	105	\$9,100	\$8,100	-11.0%	\$8,700	7.4%	\$8,700	0.0%
	3N. Service License	59	74	\$13,800	\$14,300	3.6%	\$14,900	4.2%	\$14,900	0.0%
	3O. Radiography	88	83	\$28,200	\$25,700	-8.9%	\$25,900	0.8%	\$25,900	0.0%
	3P. All Other Byproduct Materials	1197	1164	\$4,500	\$4,800	6.7%	\$4,900	2.1%	\$4,900	0.0%
	3R1. Radium-226 (less than or equal to 10x limits in 31.12)	20	20	\$4,100	\$8,900	117.1%	\$9,000	1.1%	\$9,000	0.0%
	3R2. Radium-226 (more than 10x limits in 31.12)	1	1	\$4,500	\$4,800	6.7%	\$4,900	2.1%	\$4,900	0.0%
	3S. Accelerator Produced Radionuclides	5	17	\$15,000	\$15,200	1.3%	\$15,500	2.0%	\$15,500	0.0%
	4A. Waste Disposal	0	3	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	4B. Waste Receipt/Packaging	16	13	\$23,100	\$31,200	35.1%	\$32,000	2.6%	\$32,000	0.0%
	4C. Waste Receipt - Prepackaged	2	1	\$14,500	\$14,400	-0.7%	\$14,900	3.5%	\$14,900	0.0%
	5A. Well Logging	34	33	\$11,900	\$10,000	-16.0%	\$10,200	2.0%	\$10,200	0.0%
	5B. Field Flooding Tracers Studies	0	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	6A. Nuclear Laundry	0	0	\$42,900	\$44,800	4.4%	\$46,100	2.9%	\$46,100	0.0%
	7A. Teletherapy	11	12	\$21,300	\$17,500	-17.8%	\$17,900	2.3%	\$17,900	0.0%
	7B. Medical - Broad	24	23	\$45,100	\$45,400	0.7%	\$46,100	1.5%	\$46,100	0.0%
	7C. Medical Other	979	958	\$7,600	\$8,400	10.5%	\$8,600	2.4%	\$8,600	0.0%
	8A. Civil Defense	5	7	\$4,100	\$8,900	117.1%	\$9,000	1.1%	\$9,000	0.0%
	9A. Device/Product Safety Evaluation - Broad	73	73	\$12,600	\$11,500	-8.7%	\$12,000	4.3%	\$12,000	0.0%
	9B. Device/Product Safety Evaluation - Other	9	13	\$12,600	\$13,500	7.1%	\$13,900	3.0%	\$13,900	0.0%
	9C. Sealed Sources Safety Evaluation - Broad	32	32	\$8,800	\$15,600	77.3%	\$16,200	3.8%	\$16,200	0.0%
	9D. Sealed Sources Safety Evaluation - Other	20	13	\$1,500	\$1,600	6.7%	\$1,600	0.0%	\$1,600	0.0%
	17. Master Material License	3	3	\$234,000	\$476,000	103.4%	\$485,000	1.9%	\$485,000	0.0%
TRANSPORTATION										
	18.A. DOE Transportation Activities	1	1	\$1,030,000	\$1,030,000	0.0%	\$1,309,000	27.1%	\$1,309,000	0.0%