

Communication Plan
Fiscal Year 2012 Final Fee Rule
June 2012

GOAL

The purpose of this communication plan is to explain the changes in the fiscal year (FY) 2012 fee rule. The FY 2012 final fees have changed as compared with the FY 2011 fees.

This plan is intended to provide assistance to the U.S. Nuclear Regulatory Commission (NRC or the Commission) management and staff in explaining these changes to internal and external stakeholders.

BACKGROUND

The NRC is required by law to recover approximately 90 percent of its budget each year through fees to licensees and applicants. To accomplish this, each year the NRC publishes a rule that establishes fees for its licensees and applicants (fee rule). The NRC establishes two types of fees: (1) licensee-specific fees based on hourly rates to recover the costs of specific services, such as reviewing applications and performing inspections (under Title 10 of the *Code of Federal Regulations* (10 CFR) part 170, and (2) annual fees to recover all other costs (under 10 CFR part 171). Each type of fee includes its share of program and agency overhead.

The NRC's FY 2012 fee rule is based on the NRC's FY 2012 appropriation as stated in the Consolidated Appropriations Act of 2012, Public Law 112-74. By law, the NRC is required to collect all fees by September 30, 2012.

SUMMARY OF CHANGES IN FEE RULE

The following summarizes the NRC's FY 2012 final changes to 10 CFR parts 170 and 171:

10 CFR Part 170 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 (FTEs).
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 action. The MML annual fee will not include the cost of providing this service.

10 CFR Part 171 Changes:

1. **Revised Annual Fees.** The NRC revised its annual fees in 10 CFR 171.15 and 171.16, using the rebaselined fee calculation method. This resulted in an increase in annual fees for most licensees compared to FY 2011. The FY 2012 rebaselined annual fees for operating reactors, fuel facilities, most material users and the U.S. Department of Energy (DOE) increased while annual fees decreased for spent fuel storage facilities, research and test reactors, and most uranium recovery facilities. Factors influencing the fee increases include changes in the allocation of budgeted costs and estimated hourly fee collections for the different classes of licensees.

Table 1 describes some of the reasons for the annual fee changes by fee class. Table 2 compares the FY 2012 final annual fees to the FY 2011 annual fees for each license fee category. The FY 2010 annual fees are also provided for comparison to the FY 2011 annual fees.

2. **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 licensees 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.

In comparison, the FY 2011 total budgeted resources for fee-relief activities were \$3.3 million less than the NRC's 10 percent fee relief. The \$3.3 million surplus also resulted in a decrease to all licensees' FY 2011 annual fees based on their percent of the budget.

3. **Small Entity Fees Unchanged.** The NRC retained the annual fees of \$2,300 and \$500 for licensees that qualify as small entities. The NRC determined the small entity fee should be adjusted each biennial year. The next biennial review will be for the FY 2013 Fee Rule.

KEY MESSAGES

The NRC changed its hourly rate and annual fees to recover the agency's FY 2012 budget.

Each year, the NRC revises its fee regulations (10 CFR parts 170 and 171) in order to recover most of its current fiscal year budget. The NRC very shortly will publish the final rule in the *Federal Register* with an effective date 60 days after publication.

The NRC increased the hourly rate to reflect the NRC's cost of providing services to licensees.

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 FTEs. (See the Questions and Answers section of this plan for additional information.)

The FY 2012 annual fees for most licenses increase as a result of decreased 10 CFR Part 170 fees for services.

The annual fees increased for operating reactors, fuel facilities, most material users, and DOE. The annual fees decreased for spent fuel storage facilities, research and test reactors, and most uranium recovery licenses.

The NRC requests from Congress only those resources necessary to conduct programs and activities which are efficient and effective to comply with the agency's mission.

AUDIENCE

Stakeholders are defined as individuals or organizations having an interest in the NRC.

Internal: Program Offices and Regions
 Commission
 Office of the Executive Director for Operations (OEDO)

External: U.S. Congress
 Office of Management and Budget (OMB)
 NRC Licensees, Unlicensed Sites, and Vendors
 Agreement States
 Nuclear Industry Interest Groups
 Public Interest Groups

COMMUNICATION TEAM

The primary responsibility of the communication team is to ensure that a consistent, accurate, and timely message is conveyed to all stakeholders. The team consists of members of the Office of the Chief Financial Officer (OCFO), OEDO, and Office of Public Affairs (OPA).

Jennifer Golder, Budget Director, OCFO/ Division of Planning and Budget (DPB)
David Pelton, Acting Deputy Budget Director, OCFO/DPB
Joel Mattingley, Branch Chief, Budget Operations Branch 2, OCFO/DPB

Arlette Howard, Fee Policy Analyst, OCFO/DPB
Lance Rakovan, Senior Communications Assistant, OEDO
Ivonne Couret, Public Affairs Officer, OPA

COMMUNICATION TOOLS

The following tools will be used to communicate with stakeholders.

Internal Stakeholders

- Program Offices and Regions

The Chief Financial Officer (CFO) will notify all Office Directors (HQ and Regions), the Executive Director for Operations (EDO), and the Deputy Executive Directors (DEDOs) of the publication of the final fee rule. The Budget Director will notify all Office Financial Directors (HQ and Regions) of the publication of the final fee rule. The communication plan will be attached. It will provide information to help the NRC staff and management answer internal and external stakeholder questions on the fee rule.

- Commission Notification

The CFO will send a summary of the FY 2012 final fee rule to the Commission, including a discussion of the hourly rate changes and a table of the FY 2012 annual fees as compared with the FY 2011 annual fees.

- EDO Daily Notes

The OCFO will notify NRC management of the publication of the final fee rule and emphasize any key messages.

External Stakeholders

- Licensees, Unlicensed Sites, Vendors, Interest Groups

The NRC can send the proposed and/or final rule to any person upon specific request to the Budget Operations Branch 2, Division of Planning and Budget, Office of the Chief Financial Officer at 301-415-1481.

- Agreement States

The Office of Federal and State Materials and Environmental Management Programs will notify the Agreement States of the final fee rule.

- External Web Site and ADAMS

The FY 2012 proposed and final fee rules will be placed on the NRC's public Web site at <http://www.nrc.gov> and in ADAMS.

- Federal Register Notice

The final fee rule will be published in the *Federal Register*, and may be accessed at their Web site at <http://www.archives.gov/federal-register/index.html>. In addition, documents related to the FY 2012 proposed and final fee rules, including comments received and work papers, may be accessed at <http://www.regulations.gov>, by searching for documents filed under Docket ID NRC-2011-0207.

- Press Release

The OPA will issue a press release regarding the FY 2012 final fee rule.

- Mailing to Selected Stakeholders

Letters from the Director, Office of Congressional Affairs, will be sent to the following congressional committees and subcommittees with copies of the FY 2012 final fee rule:

U.S. Senate:

Subcommittee on Energy and Water Development (*Committee on Appropriations*)
Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety

U.S. House of Representatives:

Subcommittee on Energy and Water Development (*Committee on Appropriations*)
Committee on Energy and Commerce
Subcommittee on Environment and the Economy
Subcommittee on Energy and Power

A letter from the Budget Director, OCFO, will be sent to OMB with a copy of the FY 2012 final fee rule.

ACTION PLAN

Activity	Estimated Date (subject to change)
OCFO provides final rule to the Commission	June 5, 2012
Final rule to Office of Administration to forward to the Office of the Federal Register	June 5, 2012
OCFO issues FY 2012 final rule and Communication Plan to Office Directors/Regional Administrators, EDO, DEDOs, Office/Regional Financial Directors, and other NRC management	June 7, 2012
FY 2012 fee rule published in <i>Federal Register</i> ; OCFO distributes rule summary to external stakeholders by mail; rule also available on NRC's public Web site; OPA issues press release (information is provided to OPA 2 weeks in advance to the press release being posted and available to the public)	June 12, 2012
FY 2012 final fee rule effective	August 13, 2012

Questions and Answers

Q1: What are the most significant changes in the FY 2012 final fee rule?

A1: The most significant changes are:

(1) Increase to Hourly Rate. The FY 2011 hourly rate is \$273. The FY 2012 fee rule uses an hourly rate of \$274 for all activities.

(2) Changes to 10 CFR part 171 Annual Fees. Annual fees increased for most classes of licensees. See Table 1 for a summary of the annual fee changes.

Q2: Why is the FY 2012 hourly rate higher than the existing hourly rate?

A2: This small increase in hourly rate is primarily due to higher agency direct budgeted resources, partially offset by a small increase in the number of direct FTEs. Given that the NRC's hourly rate is calculated by dividing the total annual budget by total direct FTE hours, the higher the annual budget used in the calculation, the higher the hourly rate.

Q3: Why does the NRC's estimate of hours per FTE (1,371) differ from the regular annual hours per FTE (2,080)?

A3: The NRC's estimate of direct hours per FTE is based on hours charged to mission direct activities in the Reactor and Materials Programs. It excludes from the total available hours per FTE (2,080) time for paid leave (Federal holidays, annual leave, and sick leave) and time spent on training and administrative activities that do not directly support the NRC's programmatic mission (referred to as indirect hours). Because the intended purpose of the NRC's hourly rate is to estimate a cost per hour of mission direct time, it is appropriate to exclude indirect time from its estimate of hours per FTE.

Q4: Is the hourly rate change justified?

A4: The NRC's new hourly rate is justified because it more accurately reflects the full cost of providing services under 10 CFR part 170. The OMB emphasizes that agency fees should reflect the full cost of providing services to identifiable beneficiaries as stated in OMB Circular A-25, "User Charges."

Q5: Why did annual fees for some licensees increase if the NRC budget authority decreased in FY 2012?

A5: Each year, the NRC must recover most of its current fiscal year budget through fees for services specified in 10 CFR part 170 and annual fees specified in 10 CFR part 171. Fees fluctuate based on the agency appropriation and appropriation language identifying funding for specific programs, and changes in workload priorities for programs which ultimately impact the allocation of budgeted resources to fee classes and fee-relief activities for licensees. Because annual fees recover the portion of the budget not recovered through fees for services, annual fees may also increase or decrease based on the NRC's estimate of how much of the agency's total budget will be recovered from 10 CFR part 170 fees for services.

Q6: Why are the FY 2012 annual fees different from FY 2011 fees?

A6: The NRC uses the rebaselining method of calculating fees each year. Under this method, the NRC's budget is analyzed in detail and budgeted resources are allocated to fee classes, categories of licensees, and fee-relief activities. Another factor affecting the amount of annual fees for each fee class is the estimated collections under 10 CFR part 170 fees-for-services which are based on the latest invoice data available and adjusted for budget changes.

Table 1 describes some of the reasons for annual fee changes (by fee class). The FY 2012 annual fees for each fee category are found in Table 2.

Q7: Were there changes in fees between the FY 2012 proposed fee rule and final fee rule?

A7: In the final fee rule, the NRC will collect \$345.2 million for 10 CFR part 170, a decrease of by \$26.2 million from the proposed rule estimate of \$371.4 primarily due to a reduction in licensing actions. As a result of the decrease in 10 CFR part 170, the 10 CFR part 171 collection will be \$555.8 million, an increase of \$26.2 million from the proposed rule estimate of \$529.6 million. Power reactor 10 CFR part 170 hourly fees are expected to be 8 percent less than projected due to reduced licensing action billings because of increased Fukushima Lessons Learned Activities (not hourly billable this year). This will cause annual fees to increase from \$4.3 million to \$4.6 million per reactor from the proposed fee rule estimate to fully recover the shortfall. This surplus will be applied to licensees 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.

Q8: When will the NRC issue the FY 2012 final fee rule?

A8: After evaluating the public comments on the proposed fee rule, the NRC will publish the final rule in the *Federal Register* in June 2012. The timing of the final fee rule each year is governed by when Congress determines the NRC's budget authority and by the fact that the NRC must establish its fees through public notice and comment rulemaking.

Q9: When will the new fees take effect?

A9: Based on the estimated publication date for the final rule of June 12, 2012, the new fees will take effect on August 10, 2012. (By law, the new fees in the FY 2012 final fee rule may not take effect until 60 days after the final rule is published.) Hours charged to activities beginning the following pay period will be assessed the new hourly rates. Based on the estimated effective date of August 10, 2012, time charged to 10 CFR part 170 activities beginning on August 13, 2012, will be assessed the new hourly rates.

Q10: Why must the NRC charge licensees and applicants fees?

A10: The Omnibus Budget Reconciliation Act of 1990, as amended, requires that the NRC assess fees and recover approximately 90 percent of its budget authority in FY 2012, less (a) appropriations for waste incidental to reprocessing activities, and (b) appropriations for generic homeland security activities. On December 23, 2011, the President signed the Consolidated Appropriations Act of 2012 giving the NRC a total

appropriation of \$1,038.1 million for 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 continues to request from Congress only those resources necessary to conduct programs and activities which are efficient and effective to comply with the agency's mission.

Table 1. Reasons for Changes in Annual (10 CFR Part 171) Fees by License Fee Class

Note: For each fee class, annual fees equal total budgeted resources less the estimated fee collections specified in 10 CFR part 170 (fee-for-service). Therefore, lower estimates for 10 CFR part 170 fee collections results in higher annual fees.

Fee Class	Change From FY 2011	Reason for the Change
Operating Reactors	Increase 3%	Decrease in 10 CFR part 170 hourly fees for power reactors due to reduced licensing actions resulting in an increase in 10 CFR part 171 fees.
Spent Fuel/Reactor Decommissioning	Decrease 12%	Decrease in budgeted resources for licensing and certification with a higher FY 2012 fee-relief surplus adjustment.
Research and Test Reactors	Decrease 60%	Decrease in budgeted resources for billable operating reactors.
Fuel Facilities	Increase 4%	Decrease in 10 CFR part 170 estimate for FY 2012 licensing actions.
Materials	Increase 1-7%	Increase in budget resources in FY 2012 because of oversight activities which are partially offset by the fee-relief surplus adjustment.
Uranium Recovery	Decrease 2-27%; Increase DOE 1%	Higher estimated 10 CFR part 170 fee revenues for environmental and licensing reviews and higher fee-relief surplus adjustment.
Transportation (DOE)	Increase 27%	Increase in budgeted resources in FY 2012 for transportation regulatory programs partially offset by the fee-relief surplus adjustment.

