

March 27, 2014

*** * * IMPORTANT NOTICE * * ***

Please read this notice carefully. It may substantially impact the fees you are assessed by the NRC. Please submit any comments on the proposed fee rule changes within the 30-day comment period.

TO: ALL 10 CFR PARTS 30, 40, 50, 52, 61, 70, 71, 72, 73, 76 AND 110
LICENSEES, APPLICANTS, REACTOR VENDORS, AND OWNERS GROUPS

SUBJECT: PROPOSED REVISIONS TO 10 CFR PARTS 170 AND 171 ON LICENSE,
INSPECTION, AND ANNUAL FEES FOR FY 2014

Shortly after the date of this letter, the U.S. Nuclear Regulatory Commission (NRC) will publish a Notice of Proposed Rulemaking in the *Federal Register* for public comment. The instructions for accessing the notice on the Internet are provided at the end of this notice.

The notice proposes revisions to the fee requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) part 170, "Fees for Facilities, Materials, Import and Export Licenses," and 10 CFR part 171, "Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses." The proposed revisions would implement the Omnibus Budget Reconciliation Act of 1990, as amended, which mandates that the NRC recover approximately 90 percent of its budget authority (not including amounts appropriated for Waste Incidental to Reprocessing and generic homeland security activities) in fiscal year (FY) 2014.

The NRC received total appropriations of \$1,055.9 million for FY 2014 based on the Consolidated Appropriations Act (Public Law 113-76), signed by President Obama on January 17, 2014. The FY 2014 proposed fee rule is based on anticipated distribution of funds for agency needs at the time of the rule development. The final rule will be adjusted to reflect any changes to the distribution of NRC's FY 2014 appropriation.

For FY 2014, the NRC's required fee recovery amount for the budget is approximately \$930.7 million. After accounting for billing adjustments, the total amount to be billed as fees is approximately \$918.9 million. The NRC estimates that approximately \$324.5 million will be billed for services assessed under 10 CFR Part 170, and \$594.4 million will be billed under 10 CFR Part 171 as annual fees.

The most significant proposed changes to 10 CFR part 170 are:

1. **Hourly Rate.** The NRC will establish a professional hourly rate of \$279 to recover the cost of activities. The FY 2014 hourly rate is higher than the FY 2013 rate of \$272, due to higher agency budgetary resources and reduced number of direct full-time equivalents (FTEs). In FY 2014, the NRC is proposing to use 1,375 hours per direct full-time equivalent (FTE), an increase of 4 hours from FY 2013, to calculate the hourly fees. The NRC's estimate of direct hours per FTE is based on hours charged to mission direct activities. 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 rates 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. 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 Office of Management and Budget (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."

2. **10 CFR Part 170 Flat Fees.** The NRC would revise the flat license application fees in 10 CFR 170.21 and 170.31 to reflect the new higher hourly rate.

The most significant proposed changes under 10 CFR Part 171 are:

1. **Policy Change.** For the spent fuel storage/reactor decommissioning annual fee, the NRC proposes to assess their annual fees based on their ability to use or derive benefit from their license. This change is consistent with the criteria for assessing annual fees for power reactors and fuel cycle facilities fee classes and ensures fair and equitable assessment of fees among all classes of licensees.
2. **Revised Annual Fees.** The NRC would revise its annual fees in 10 CFR parts 171.15 and 171.16 using the rebaselined fee calculation method. This would result in increased annual fees for most licensees compared to FY 2013. The FY 2014 proposed rebaselined annual fees for operating reactors, research and test reactors, material users' and uranium recovery facilities would increase while spent fuel storage/reactor and decommissioning, fuel facilities and the U.S. Department of Energy transportation would decrease. Some factors for fee increase included changes in the allocation of budgeted costs and estimated hourly fee collections for the different classes of licensees.
3. **Application of Fee Relief.** In FY 2014, the total budgeted resources for fee-relief activities are \$1.2 million less than the NRC's prescribed 10 percent fee relief. The NRC would distribute the \$1.2 million surplus by decreasing all licensees' annual fees based on their percent of the budget.

NOTE: Small Entity Fees.

The annual fees of \$2,800 and \$600 for licensees that qualify as small entities remain unchanged. The small entity fees are reviewed as part of the NRC's biennial review of fees. The next biennial review will be conducted for the FY 2015 fee rule. Licensees can determine if they meet the criteria for small entities by accessing "U.S. Nuclear Regulatory Commission Small Entity Compliance Guide, FY 2014," available in the NRC's Agencywide Documents Access and Management System (ADAMS) (ADAMS Accession No. ML14055A070), the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>, or the NRC Public Document Room (PDR) located at One White Flint North, Room O-1F22, 11555 Rockville Pike, Rockville, Maryland 20852.

The comment period for the proposed rule expires 30 days after the publication date in the *Federal Register*. Please include Docket ID NRC-2013-0276 in the subject line of your comments. Comments submitted in writing or in electronic form will be made publicly available. Because your comments will not be edited to remove any identifying or contact information, the

NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. You may submit comments by one of the following methods:

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID **NRC-2013-0276**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail Carol.Gallagher@nrc.gov.
- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677.
- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays.
- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

Also, please note that the NRC does not routinely mail the proposed or the final rule to licensees. However, the NRC will send a copy of the proposed or final rule to any licensee or other person upon specific request. To request a copy, contact the Division of Planning and Budget, Internal Control and Planning Branch, Office of the Chief Financial Officer, on 301-415-1481. In addition to publication in the *Federal Register*, the rule will be available online in the NRC's Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Sincerely,

/RA/

Teresa Grancorvitz, Director
Division of Planning and Budget
Office of the Chief Financial Officer

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Teresa Grancorvitz, Director
Division of Planning and Budget
Office of the Chief Financial Officer

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