



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

November 17, 1992

The Honorable Robert W. Kasten, Jr.  
United States Senate  
Washington, D.C. 20510

Dear Senator Kasten:

I am responding to your October 7, 1992, letter submitted on behalf of your constituent, Mr. William A. Torrance of Torrance Casting, Incorporated, regarding his concerns about the Nuclear Regulatory Commission's (NRC) license, inspection and annual fees.

The NRC fees are to implement Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990. The Act requires that the Commission recover 100 percent of its budget authority, less appropriations from the Department of Energy (DOE) administered Nuclear Waste Fund, for Fiscal Years (FY) 1991 through 1995 by assessing fees. To accomplish this, the NRC assesses two types of fees. License and inspection fees are assessed under 10 CFR Part 170 for identifiable services to specific applicants and licensees. The fees for the license issued to Mr. Torrance and the inspection are these types of fees. To recover 100% of the budget, the NRC also assesses annual fees under 10 CFR Part 171. The annual fees recover the cost of the Commission's generic and other regulatory activities not recoverable under Part 170 that are attributable to a class of licensees.

For FY 1991, the Commission established a maximum annual fee of \$1,800 for small entities. Since the FY 1991 annual fee (\$1500) for the type of license held by Mr. Torrance was less than the maximum small entity fee, he paid the normal annual fee less a \$100 surcharge that is assessed to licensees that are not small entities.

After closely monitoring the new rule during its first five months of implementation, the Commission took further action to reduce the impact of the annual fees for FY 1992 on small entities. On April 17, 1992, a rule was published establishing a lower tier small entity fee limit of \$400 for small businesses and non-profit organizations with gross annual receipts of less than \$250,000 and small governmental jurisdictions with populations of less than 20,000. The Commission continued the \$1800 small entity fee for licensees with gross annual receipts between \$250,000 and \$3,500,000. Since the FY 1992 annual fee (\$2,250) for the type of license held by Mr. Torrance was greater than the \$1800 small entity fee, his FY 1992 payment was reduced to the small entity amount.

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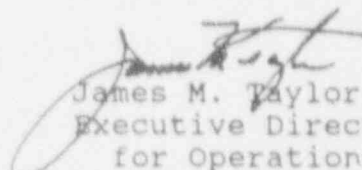
The Commission recognizes that its approach for small entity fees does not eliminate all economic impacts. However, it strikes a balance between the requirements of the Public Law to collect 100 percent of the budget by recovering costs and the Regulatory Flexibility Act to consider the impact on small entities.

You also noted that you expect a reduction in the number of NRC licensees would result in a corresponding reduction in NRC annual fees. The need for generic and other regulatory activities (e.g., research and rulemaking) and the associated budget that is recovered by annual fees are generally not affected by the withdrawal or addition of any particular licensee. So long as there is a need to regulate a subclass or category of licensees, the NRC must perform generic and other regulatory activities necessary to assure safety, independent of the number of licensees in the subclass or category. Thus, unlike the budget associated with license and inspection fees which are licensee specific, the budget associated with annual fees is relatively independent of the number of licensees in a subclass or category. Therefore, as the number of licenses in a class decreases, the amount of the annual fee per licensee will tend to increase to recover the relatively fixed cost of generic and other regulatory activities.

We realize, of course, that fees do have a financial impact on NRC licensees. Accordingly, in developing the NRC's fee schedules, every effort was made to establish fees that are fair and equitable. In addition, the NRC's budget is developed so as to include the minimum resources necessary to provide adequate protection of the public health and safety, the NRC mission.

If I can be of further assistance, please let me know.

Sincerely,



James M. Taylor  
Executive Director  
for Operations