



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 10, 1996

MEMORANDUM TO: James M. Taylor
Executive Director for Operations

FROM: Ronald M. Scroggins *R M Scroggins*
Deputy Chief Financial
Officer/Controller

SUBJECT: FEE EXEMPTION REQUEST FOR LICENSEES PARTICIPATING IN
DOE/LANL PLUTONIUM BERYLLIUM NEUTRON SOURCE RECOVERY PROGRAM

During the 1960-1970 time frame, the former Atomic Energy Commission provided Plutonium Beryllium ($^{239}\text{PuBe}$) Neutron Sources to many high schools, colleges and universities, as well as to other Federal agencies for teaching purposes.

Many of these facilities no longer have any use for, and want to get rid of, the sources. However, these sources exceed Class C waste classification, are generally not acceptable for near surface disposal, and are designated as a Federal responsibility for disposal. A disposal site for greater than Class C sources of this type is currently not available and will likely not be available for some time. Therefore, these licensees are forced to continue to possess and store the material until a disposal site or other disposal options become available. The long term storage of this material poses a risk of the loss of control and release of the material into the public domain. DOE, working with NRC and DOE's contractor, Los Alamos National Laboratory (LANL), has developed a recycle program for these sources where LANL identifies and arranges for shipment of the sources. The sources are shipped to DOE/LANL using a DOT Model 6M shipping cask belonging to DOE. (All PuBe sources held at DOD facilities are owned by DOE and licensed by the NRC. Privately held sources are licensed either by NRC or an Agreement State). DOE/LANL maintains the registry of licensees with $^{239}\text{PuBe}$ sources in need of disposal and ships the DOE cask to the licensee for packaging and shipment to DOE/LANL. According to DOE/LANL there are currently approximately 250 such licensees on their registry representing about 195 non-profit educational institutions, about 40 Federal facilities (mostly DOD or DOE) and about a dozen private entities. Prior to shipment of these sources NRC regulations require that the shipper of the material, if located in a non-agreement state, obtain a Quality Assurance Program Approval (QA) in accordance with 10 CFR Part 71.

When this program first began, the majority of licensees shipping their waste to DOE/LANL were non-profit educational institutions. Most non-profit educational institutions are exempt from both 10 CFR 170 fees and 171 annual fees. With the recent closure of some DOD facilities, we now have several instances where the Department of the Navy has shipped waste to DOE/LANL. Federal agencies which are issued an NRC QA Program Approval are subject to the annual fees (currently \$950) in 10 CFR Part 171. Federal agencies are exempt from the 10 CFR Part 170 fees under IOAA.

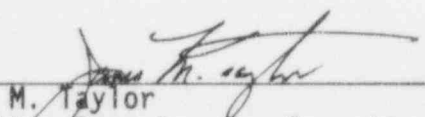
NMSS has issued 24 such QA Program Approvals thus far under this program. OC has issued annual fee bills in FY 1996 to four Navy installations: Mayport, FL, Concord, CA, Charleston, SC, and Yokosuka, Japan, for their QA Program Approvals and one private entity who was acting as a broker for DOD in arranging a shipment from the Army Research Laboratory at Watertown, MA.

NMSS believes that fees will act as a disincentive if licensees were otherwise willing to ship these sources under this program. Because of the potential health and safety implications of licensees storing 239 PuBe sources for extended periods, and that it is in the public interest to get these unwanted sources into appropriate DOE facilities, NMSS has requested that licensees who ship these sources to DOE/LANL under this program be fee exempt (both 10 CFR Part 170 and 10 CFR Part 171).

These shipments are one-time shipments using DOT approved packages owned by DOE. The QA Program Approvals are being issued for short-term only (usually a six-month period) to cover these one-time shipments. But for the necessity to ship this waste to DOE/LANL, the licensee would not otherwise require an NRC QA Program Approval under 10 CFR Part 71, Subpart H. Many of the licensees on the DOE/LANL registry are in Agreement States and therefore, may not require a QA Program Approval for using a DOT approved shipping cask.

Based on the above, I recommend that an exemption from 10 CFR Part 171 annual fees be granted for this program. The total amount of the annual fee exemption is estimated over a five-year period to be between \$25,000-\$50,000 (based on the DOE/LANL registry; further, since the QA's are issued for six-month periods, many are subject to the 50 percent proration of the annual fee). Upon your approval, we will notify the current licensees who have received invoices under this program that they have been exempted from the annual fee requirements of 10 CFR Part 171 and we will identify future licensees receiving QA Program Approvals under this program as fee-exempt. It is also recommended that an exemption be granted from 10 CFR Part 170 fees to the one private company who is acting as a broker for DOD in arranging for shipment for some of the sources.

Approved:


James M. Taylor
Executive Director for Operations

12/13/96
Date

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Approved: Original signed by
James M. Taylor

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Executive Director for Operations

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