

# **FY 2023 Proposed Fee Rule Public Meeting**

March 21, 2023  
10:00 a.m. – 12:00 p.m.

# Welcome and Logistics

**Facilitator**

## PUBLIC MEETING AGENDA

Notice of Meeting on the FY 2023 Proposed Fee Rule

March 21, 2023, 10:00 A.M. to 12:00 P.M.

Virtual Teams Meeting link: [Click here to join the meeting](#)

Call in number: 301-576-2978; Conference ID: # 979712867#

Time	Topic	Speaker
10:00 AM	Welcome	Sophie Holiday
10:10 AM	Opening Remarks	James Corbett
10:15 AM	<b>FY 2023 Proposed Fee Rule Overview:</b> <ul style="list-style-type: none"><li>FY 2023 Budgetary Considerations</li><li>FY 2023 Fees Overview</li><li>Budget Overview: Operating and New Reactors Business Lines</li><li>Budget Overview: Fuel Facilities Business Line</li><li>Budget Overview: Nuclear Materials Users Business Line</li></ul>	Jason Shay Christie Galster Brian Smith Carrie Safford Theresa Clark
11:05 AM	Proposed Policy Change – Expand 10 CFR 171.15	Anthony Rossi
11:20 AM	Q&A Session	Sophie Holiday
11:50 AM	How to Submit Public Comments	Sophie Holiday
11:55 AM	CFO Closing Remarks	James Corbett
12:00 PM	Meeting Adjourned	

# **FY 2023 Proposed Fee Rule**

**James Corbett**  
Acting Chief Financial Officer

# Fee Rule Comments

- **In scope comments:**
  - Focused on methodology for calculating fees
  - Changes to fee regulations
  - Fee schedules
- **Out of scope comments:**
  - General comments on agency efficiencies
  - Changes to regulatory process
  - Public participation in budget formulation
- **Use the appropriate venue to receive timely response**

# FY 2023 Budgetary Considerations

**Jason Shay, Director**

Division of Budget

Office of the Chief Financial Officer

# FY 2023 Enacted Budget

Major Program	FY 2022 Enacted Budget		FY 2023 Enacted Budget		Delta FY 2023 – FY 2022	
	\$M*	FTE	\$M*	FTE	\$M*	FTE
Nuclear Reactor Safety	\$477.4	1,788.1	490.7	1,753.4	\$13.3	(34.7)
Nuclear Materials and Waste Safety	132.2	453.0	135.5	464.2	3.3	11.2
Corporate Support	266.3	577.0	285.3	579.0	19.0	2.0
<b>Subtotal</b>	<b>\$875.9</b>	<b>2,818.1</b>	<b>\$911.5</b>	<b>2,796.6</b>	<b>\$35.5</b>	<b>(21.5)</b>
Office of the Inspector General	13.8	63.0	15.8	63.0	2.0	0.0
<b>Subtotal</b>	<b>\$13.8</b>	<b>63.0</b>	<b>\$15.8</b>	<b>63.0</b>	<b>\$2.0</b>	<b>0.0</b>
University Nuclear Leadership Program	16.0	0.0	16.0	0.0	0.0	0.0
Authorized Carryover	(16.0)	0.0	(16.0)	0.0	0.0	0.0
<b>Total</b>	<b>\$889.7</b>	<b>2,881.1</b>	<b>\$927.2</b>	<b>2,859.6</b>	<b>\$37.5</b>	<b>(21.5)</b>

\$M includes FTE costs as well as contract support and travel. Numbers may not add due to rounding.

Note: For FY 2022, the NRC received a \$2.0M Supplemental Appropriation to provide regulatory and technical support for Ukraine, which is not recovered by fees and not included in the fee rule due to the timing of when the Supplemental Appropriation was received.

# Net Budget Authority

	FY 2022 Enacted	FY 2023 Enacted	Delta FY 2023 – FY 2022
	\$M*	\$M*	\$M*
Budget Authority	\$889.7	\$927.2	\$37.5
Offsetting Fees	756.7	790.2	33.5
<b>Net Budget Authority</b>	<b>\$133.0</b>	<b>\$137.0</b>	<b>\$4.0</b>

\*\$M includes FTE costs as well as contract support and travel. Numbers may not add due to rounding.

Note: For FY 2022, the NRC received a \$2.0M Supplemental Appropriation to provide regulatory and technical support for Ukraine, which is not recovered by fees and not included in the fee rule due to the timing of when the Supplemental Appropriation was received.



# **FY 2023 Fee Overview**

**Christine Galster, Senior Accountant**

License Fee Policy Team

Division of Budget

Office of the Chief Financial Officer

# Statutory and Regulatory Framework

- **Independent Offices Appropriation Act (IOAA), 1952**
- **Nuclear Energy Innovation and Modernization Act (NEIMA) of 2018:**
  - Regulations promulgated under 10 CFR Part 171
  - Limits power reactor annual fees at the FY 2015 annual fee amount as adjusted each year thereafter for inflation
  - Recover, to the maximum extent practicable, 100% of budget authority:
    - LESS activities NEIMA designated as **excluded** from recovery
    - LESS any fee-relief activities identified by the Commission
- **Annual Appropriation**

# Budget and Fee Recovery Amounts for FY 2023 Proposed Rule

[Dollars in Millions]

Total Budget Authority	\$ 927.2
Less Budget Authority for Excluded Activities: <i>GHLS, WIR, DNFSB, ARRI and FEE-RELIEF</i>	<u>- 137.0</u>
Balance	\$ 790.2
Fee Recovery Rate for FY 2023	<u>x 100.0%</u>
Total Amount to be Recovered For FY 2023	\$ 790.2
Adjustments (Part 171 Collections)	<u>+ 1.2</u>
Adjusted Recovery Amount	\$ 791.4
Less Estimated Part 170 Billings	<u>- 195.4</u>
Part 171 Fee Collections Required	\$ 596.0

Fee-Relief Activities:	\$ 97.1M
Statutory Activities:	<u>39.9M</u>
Total Budget Authority Excluded Activities (credit) to reduce fee recovery amount	<u>\$ 137.0M</u>

# Hourly Rate Methodology

Mission Direct Program Salaries and Benefits	Mission	\$359.2M
Indirect Program Support		118.8M
Agency Support: Corporate Support and IG		<u>299.5M</u>
Subtotal:		\$777.5M
Less: Offsetting Receipts		<u>- 0.0M</u>
Total Budgeted Resources Included in Professional Hourly Rate		\$777.5M
Mission Direct FTEs:	1,672 FTEs	
Mission Direct FTEs Productive Hours:	1,551 Hours	
Professional Hourly Rate		\$300
Full Cost FTE Rate = Subtotal divided by Mission Direct FTE		\$ 464,926

\*Methodology based on OMB Circular A-25, "User Charges"

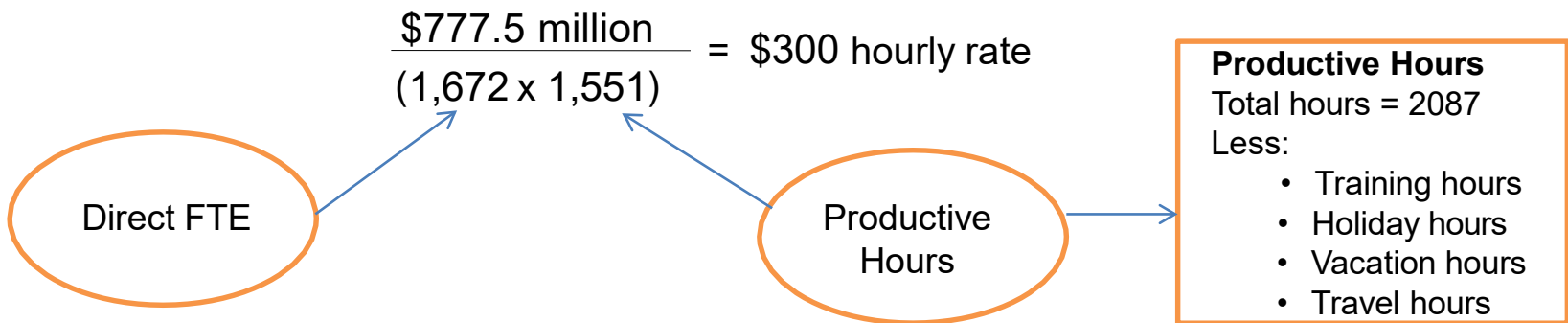
\*\*Budget included in Hourly Rate calculation excludes Direct Program Contract Costs generally billed to licensees separately

# Hourly Rate Comparison

## 10 CFR Part 170 Professional Hourly Rate Formula

$$\frac{\text{Budget Resources}}{\text{Mission Direct FTE Converted to Hours}} = \text{Professional Hourly Rate}$$

**FY 2023 Proposed Rule:**

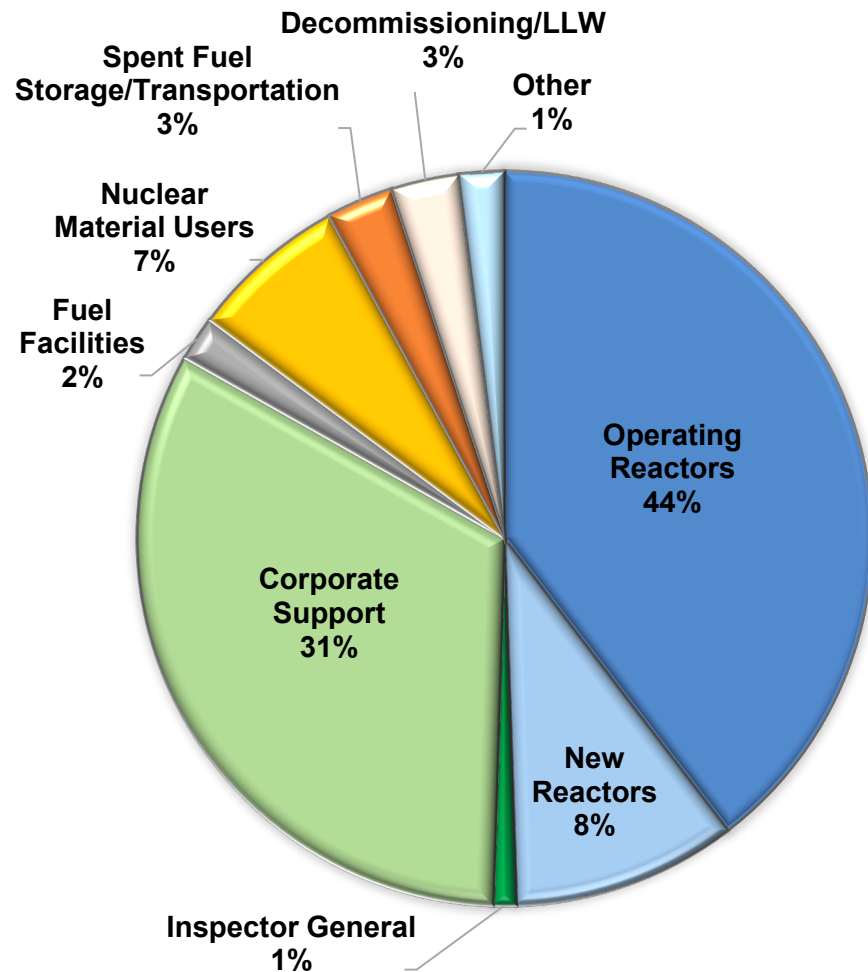


**FY 2022 Final Rule:**

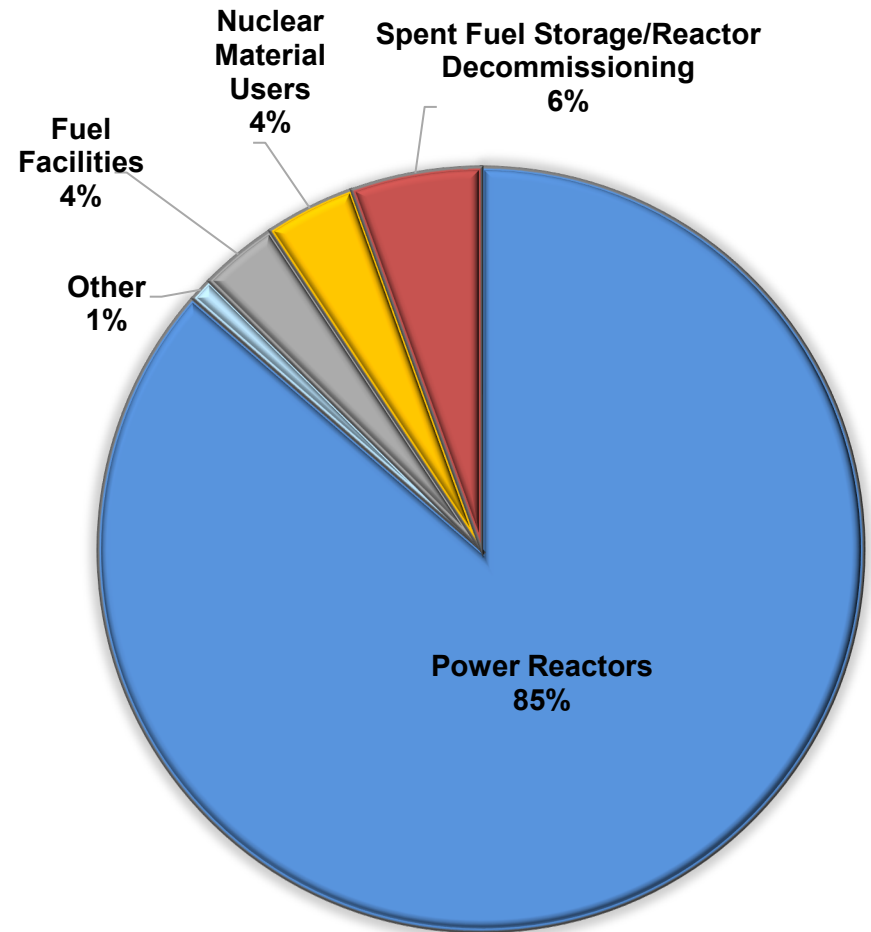
$$\frac{\$743.3 \text{ million}}{(1,696 \times 1,510)} = \$290 \text{ hourly rate}$$

# Business Lines vs. Fee Classes

Percentage of Appropriated Budgeted Resources for FY 2023



**BUSINESS LINE BUDGETS  
TOTAL \$927.2M**



**FEE CLASS BUDGETS  
TOTAL \$790.2M**

**Excluded  
Budget  
Total  
\$137.0M**

# 10 CFR Part 171 Annual Fee Calculation: Operating Power Reactors Fee Class

[Dollars in Millions]

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023P
<b>Budgeted Resources</b>	\$670.2	\$623.9	\$611.8	\$645.4	\$665.3
<b>Part 170 Estimated Billings</b>	(217.7)	(186.7)	(161.6)	(165.8)	(160.2)
<b>Adjustments</b>	5.1	1.8	(8.6)	0.8	5.1
<b>Part 171 Annual Fee Resources</b>	457.6	439.0	441.7	480.3	510.2

<b>Operating Reactors</b>	<b>98</b>	<b>95</b>	<b>93</b>	<b>93</b>	<b>93*</b>
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<b>Annual Fee per Reactor</b>	<b>\$4,669,000</b>	<b>\$4,621,000</b>	<b>\$4,749,000</b>	<b>\$5,165,000</b>	<b>\$5,486,000</b>
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\*Proposed Vogtle Unit 3 addition to the assessment of annual fee fleet

# 10 CFR Part 171 Annual Fee Calculation: Non-Power Production or Utilization Facilities Fee Class

[Dollars in Millions]

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023P
<b>Budgeted Resources</b>	\$0.834	\$3.318	\$2.897	\$6.072	\$5.999
<b>Part 170 Estimated Billings</b>	(0.538)	(3.030)	(2.576)	(5.804)	(5.751)
<b>Adjustments</b>	0.033	0.037	(0.001)	0.002	0.049
<b>Part 171 Annual Fee Resources</b>	0.329	0.325	0.320	0.270	0.297

<b>Facilities</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>3*</b>	<b>3</b>
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<b>Annual Fee per Facility</b>	<b>\$82,400</b>	<b>\$81,300</b>	<b>\$80,000</b>	<b>\$90,100</b>	<b>\$98,900</b>
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\*Shutdown of Aerotest



# 10 CFR Part 171 Annual Fee Calculation:

## Fuel Facilities Fee Class

[Dollars in Millions]

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023P
<b>Budgeted Resources</b>	\$30.0	\$23.2	\$23.3	\$22.4	\$26.6
<b>Part 170 Estimated Billings</b>	(7.3)	(6.8)	(7.3)	(8.0)	(9.0)
<b>Adjustments</b>	1.8	1.7	1.5	2.0	2.3
<b>Part 171 Annual Fee Resources</b>	24.5	18.1	17.5	16.4	19.9
<b>Licensees</b>	7	7	8	8	8
<b>Average Percentage Change</b>	(12.4%)	(24.1%)	(8.4%)	(6.6%)	+18.5%

# 10 CFR Part 171 Annual Fee Calculation: Material Users Fee Class

[Dollars in Millions]

	FY 2019*	FY 2020	FY 2021*	FY 2022	FY 2023P*
<b>Budgeted Resources</b>	\$36.0	\$33.7	\$35.1	\$34.1	\$38.7
<b>Part 170 Estimated Billings</b>	(1.1)	(1.0)	(1.0)	(0.9)	(1.2)
<b>Adjustments</b>	1.5	1.4	1.2	1.6	2.1
<b>Part 171 Annual Fee Resources</b>	36.4	34.1	35.3	34.8	39.6
<b>Licensees</b>	<b>2,594</b>	<b>2,519</b>	<b>2,528</b>	<b>2,408</b>	<b>2,423</b>

\*Biennial Review Year

# **Budget Overview: Operating and New Reactors Business Lines**

**Brian Smith, Director**

Division of New and Renewed Licenses  
Office of Nuclear Reactor Regulation

# Operating and New Reactors Business Lines Activities

Licensing	Oversight
<ul style="list-style-type: none"><li>• License Amendments (including risk-informed)</li></ul>	<ul style="list-style-type: none"><li>• Inspections</li></ul>
<ul style="list-style-type: none"><li>• License Renewals and Subsequent License Renewals</li></ul>	<ul style="list-style-type: none"><li>• Security</li></ul>
<ul style="list-style-type: none"><li>• Design Certifications and Standard Design Approvals</li></ul>	<ul style="list-style-type: none"><li>• Allegations &amp; Investigations</li></ul>
<ul style="list-style-type: none"><li>• Combined Operating Licenses</li></ul>	<ul style="list-style-type: none"><li>• Event Evaluation</li></ul>
<ul style="list-style-type: none"><li>• Environmental Reviews</li></ul>	<ul style="list-style-type: none"><li>• Construction Oversight</li></ul>
<ul style="list-style-type: none"><li>• Topical Reports</li></ul>	<ul style="list-style-type: none"><li>• Vendor Oversight</li></ul>
<ul style="list-style-type: none"><li>• Digital I&amp;C Modifications</li></ul>	<ul style="list-style-type: none"><li>• Vogtle Units 3 and 4 ITAAC closeout</li></ul>
<ul style="list-style-type: none"><li>• Vogtle Units 3 and 4 License Amendments</li></ul>	

# How are the Operating and New Reactors Business Lines Budgets Developed?

## 1. Workload Forecasting:

- Identification of significant workload drivers
- Analysis of historical data and trending
- Communications with stakeholders

## 2. Estimate Level of Effort:

- Estimate level of effort for major projects
- Yearly recurring activities

# **Budget Development and 10 CFR Part 170 Fee Estimates**

- NRC Budget and 10 CFR Part 170 Fee Estimates are developed on different timelines
- 10 CFR Part 170 Fee Estimates will vary from the budgeted level of effort due to fact of life changes

# Operating Reactors Business Line – Changing Workload

- **FY 2023 Budget:**
  - (-) Plant closures
  - (-) Licensing action infrastructure
- **FY 2023 10 CFR Part 170 Fee Estimates:**
  - (-) COVID-19 impacts on oversight programs

# New Reactors Business Line – Changing Workload

- **FY 2023 Budget:**
  - (+) Part 50 construction permit reviews
  - (+) Design Certification reviews
  - (-) Vogtle 3 and 4 construction oversight
- **FY 2023 10 CFR Part 170 Fee Estimates:**
  - (+) Vogtle 3 and 4 delayed transition to operation
  - (-) Delayed licensing submittals



# **Budget Overview: Fuel Facilities Business Line**

**Carrie Safford, Deputy Director**  
Division of Fuel Management  
Office of Nuclear Material Safety  
and Safeguards

# Fuel Facilities Business Line Activities

Licensing	Oversight	Rulemaking
Development and maintenance of the Program	Development and maintenance of the Oversight Program	Rulemaking activities and associated guidance development
License Amendments	Inspections	
Decommissioning funding Plans	Security	
Emergency Plans		
Security Plans		
License Renewals		
Environmental Reviews		

# How is the Fuel Facilities Business Line Budget Developed?

## 1. Workload Forecast:

- Number of licensed facilities, letters of intent, communications with stakeholders and external awareness
- Analysis of historical data

## 2. Type of Work:

- Security, Environmental and Safety
- Type of Licensing Action
- Complexity

## 3. Inspection Work:

- Scope of frequency of inspections
- Number and type of operating facilities

## 4. Historical Resource Utilization

# Fuel Facilities Business Line – Changing Workload

- **FY 2023 Budget:**

- (+) Additional HALEU fuel and ATF licensing actions

- (+) Restart date for two facilities

- **2023 Part 170 Fee Estimate:**

- (+) Shifts in licensing action schedules

- (+) Implementation of information security standards

# **Budget Overview: Nuclear Materials Users Business Line**

**Theresa Clark, Deputy Director**

**Division of Materials Safety, Security, State, and  
Tribal Programs  
Office of Nuclear Material Safety  
and Safeguards**

# Nuclear Materials Users Business Line Activities

Licensing	State, Tribal, and Federal Programs
<ul style="list-style-type: none"><li>• New applications</li></ul>	<ul style="list-style-type: none"><li>• Agreement States applications/assistance</li></ul>
<ul style="list-style-type: none"><li>• License amendments</li></ul>	<ul style="list-style-type: none"><li>• IMPEP</li></ul>
<ul style="list-style-type: none"><li>• License renewals</li></ul>	<ul style="list-style-type: none"><li>• Implement the Tribal Policy Statement</li></ul>

# Nuclear Materials Users Business Line Activities (Continued)

Oversight	Generic Homeland Security
<ul style="list-style-type: none"><li>• Inspections – Headquarters and Regions</li></ul>	<ul style="list-style-type: none"><li>• ISMP</li></ul>
<ul style="list-style-type: none"><li>• Enforcement activities</li></ul>	<ul style="list-style-type: none"><li>• Radioactive source security</li></ul>

# Nuclear Materials Users Business Line Activities (continued)

Rulemaking	Research
<ul style="list-style-type: none"><li>• Medical and industrial rulemakings</li></ul>	<ul style="list-style-type: none"><li>• Support to high-priority rulemakings and guidance</li></ul>
<ul style="list-style-type: none"><li>• Rulemaking support, including petition reviews</li></ul>	<ul style="list-style-type: none"><li>• Maintenance of health physics codes</li></ul>



# How is the Nuclear Materials Users Business Line Budget Developed?

## 1. Data-Driven Workload Forecast:

- Historical data on licensing and oversight—types of activities and staff charges
- Projected number of licensing actions and inspections
- Licensing and oversight related activities, including staff qualifications, guidance updates, and knowledge management

## 2. Data-Driven Project Estimates:

- Informed by budget execution data for prior years
- Provides resources for specific rulemaking and guidance projects, research supporting near-term regulatory action, and other mission-critical work

# Nuclear Materials Users Business Line – Changing Workload

- **FY 2023 Budget:**

(+) Projected workload for inspections, as well as training and qualification of inspectors, determined by a new data-driven resource-estimation tool

(+) Rulemaking activities including decommissioning financial assurance and medical-related requirements, as well as veterinary guidance

(+) Increased Tribal outreach and consultation

# Nuclear Materials Users Business Line – Changing Fees

- Fees increase for FY 2023 based on increases to the fully-costed FTE, which includes salaries and benefits, indirect resources, and agency support
  - Small changes in the number of licensees and in the fraction of work on the fee base were not significant drivers
- Within the materials fee class, fees are fairly distributed to various categories of licensees, including both annual and application fees
  - Fee calculations are updated every 2 years using a rolling 5-year average of licensing and inspection costs
  - In the 2022 assessment, additional data for FY 2020 and FY 2021 increased average hours in certain categories, which are reflected in fees

**Proposed Policy Change:  
Small Modular Reactor (SMR)  
Annual Fees to  
Amend 10 CFR 171.15**

**Anthony Rossi, Team Lead**  
License Fee Policy Team  
Division of Budget  
Office of the Chief Financial Officer

# Policy Change Process

- NRC staff engaged with stakeholders in a multi-year effort to develop a fair and equitable annual fee policy for advanced and very small SMRs
- Developed various alternatives to the calculation of SMR annual fees and discussed alternatives with stakeholders in multiple public meetings
- Proposed policy change reflects a consensus approach

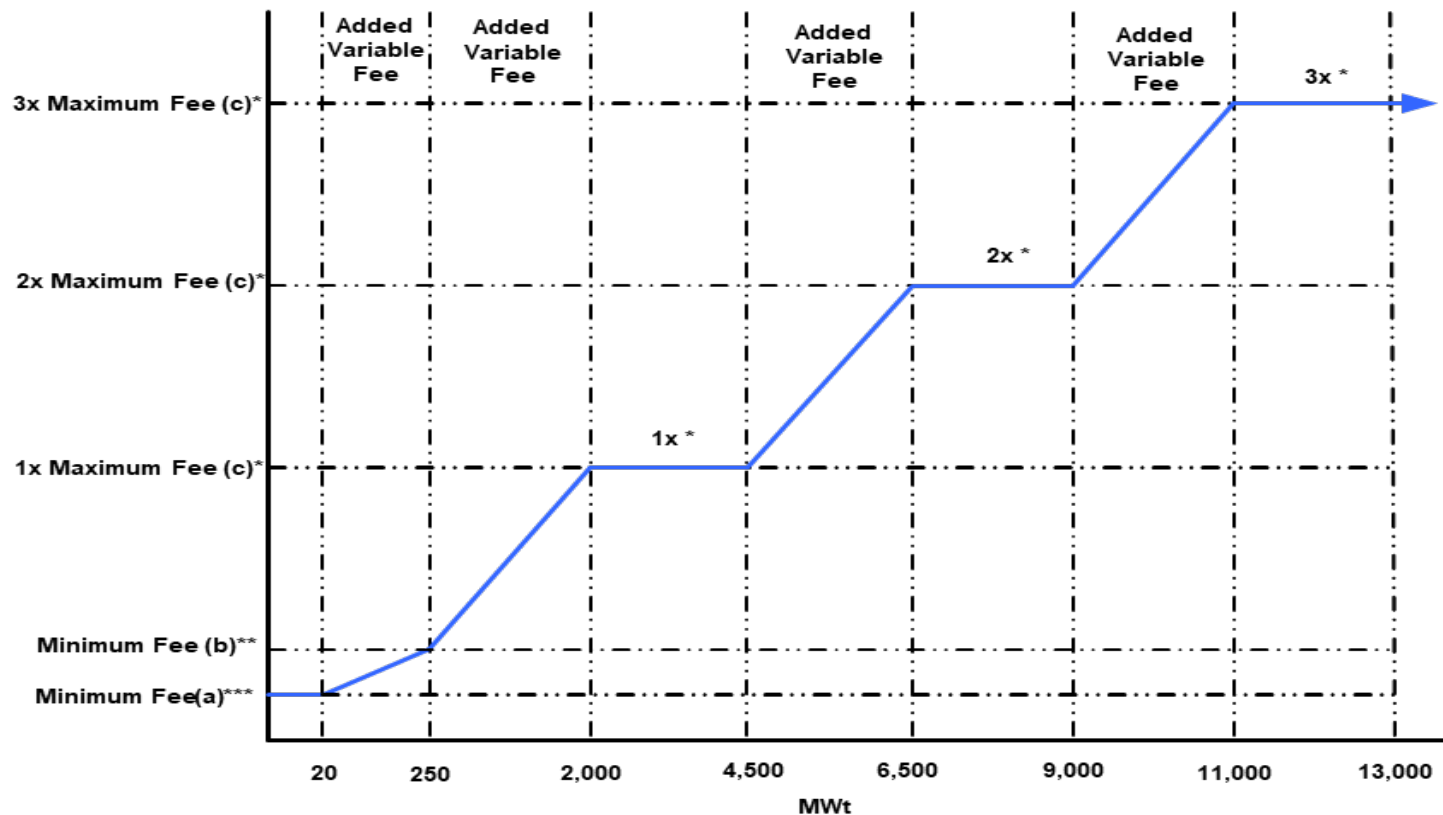
# Current SMR Rule

- Established in 2016 for light-water SMR Annual Fees
- Under fee regulations in existence at the time, SMRs would have been required to pay the same annual fees as the current operating reactor fleet for each licensed module
- Defined SMRs as light-water power reactors that have a licensed thermal power rating of less than or equal to 1,000 MWt (300 MWe)
- Scaled annual fees to the size of the reactor based upon its licensed thermal power rating
- Established the bundled unit concept – based upon the cumulative thermal power rating per site instead of charging an annual fee for each reactor unit on site

# Proposed Revisions to the SMR Annual Fee Rule

- Proposes revision to the 2016 SMR Rule definition to be technology inclusive rather than limited to light-water SMRs
- Proposes a new minimum annual fee for SMRs or bundled units on a single site with a cumulative thermal power rating of less than or equal to 20 MWt
- Proposes a new variable rate that gradually raises the annual fee for SMRs or bundled units on a single site with a cumulative thermal power rating greater than 20 MWt but less than or equal to 250 MWt
- Retains all other components of the 2016 SMR annual fee rule

# Illustration: Proposed Policy Change



\* Maximum Fee (c) = Operating Power Reactors fee class annual fee (e.g., FY 2022 = \$5,165,000)

\*\* Minimum Fee (b) = Average of the Spent Fuel Storage/Reactor Decommissioning (SPRD) and Non-Power Production or Utilization Facilities (NPUF) fee classes annual fees (e.g., FY 2022 = \$158,550)

\*\*\* Minimum Fee (a) = NPUF fee class annual fee (e.g., FY 2022 = \$90,100)



# QUESTIONS AND ANSWERS

# Public Comments Submission

End of Comment Period: April 3, 2023

## Federal Rulemaking Website

- <https://www.regulations.gov>;
- Docket ID NRC-2021-0024
- Address questions to Dawn Forder; telephone: 301-415-3407; e-mail: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov)

## E-mail Comments

- [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov)

## Fax Comments

- Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101

# Public Comments Submission (Continued)

## Mail Comments

- Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff

## Hand Deliver

- 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (ET) Federal workdays; telephone: 301-415-1677

## Further Information

- Anthony Rossi, License Fee Policy Team Lead, Office of the Chief Financial Officer; telephone: 301-415-7341, e-mail: [Anthony.Rossi@nrc.gov](mailto:Anthony.Rossi@nrc.gov)

# CFO Closing Remarks

# Glossary

<b>ARRI</b>	Advanced Reactor Regulatory Infrastructure
<b>ATF</b>	Accident Tolerant Fuel
<b>CFR</b>	Code of Federal Regulations
<b>Digital I&amp;C</b>	Digital Instrumentation and Control
<b>DNFSB</b>	Defense Nuclear Facilities Safety Board
<b>FTE</b>	Full-Time Equivalent
<b>GHLS</b>	Generic Homeland Security
<b>HALEU</b>	High Assay Low-Enrichment Uranium
<b>IMPEP</b>	Integrated Materials Performance Evaluation Program
<b>IOAA</b>	Independent Offices Appropriation Act, 1952
<b>ISMP</b>	Integrated Source Management Portfolio
<b>ITAAC</b>	Inspections, Tests, Analyses, and Acceptance Criteria
<b>LLW</b>	Low-Level Waste
<b>Mwe</b>	Megawatt Electric
<b>MWt</b>	Megawatts Thermal
<b>NEIMA</b>	Nuclear Energy Innovation and Modernization Act
<b>NPUF</b>	Non-Power Production or Utilization Facilities
<b>SMR</b>	Small Modular Reactor
<b>SPRD</b>	Spent Fuel Storage/Reactor Decommissioning
<b>WIR</b>	Waste Incidental to Reprocessing