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NRC REVISES FEE SCHEDULES; RESPONDS TO COURT DECISION

The Nuclear Regulatory Commission is revising its licensing, inspection and annual fees to recover approximately 100 percent of its fiscal year 1993 budget and, at the same time, is responding to a March 16 ruling by the U.S. Court of Appeals for the District of Columbia circuit remanding issues related to the fiscal year 1991 fee schedule.

The revisions implement requirements of the Omnibus Budget Reconciliation Act of 1990 which dictate that the Commission recover approximately 100 percent of its budget authority, less appropriations from the Nuclear Waste Fund, for fiscal years 1991 through 1995 by assessing license and annual fees. The amount to be recovered in fiscal year 1993 is \$540 million, less approximately \$21.1 million appropriated from the Nuclear Waste Fund.

Since the NRC's fiscal year 1993 budget has increased compared to fiscal years 1991 and 1992, the fees for most licensees represent increases over previous years. The revised fees include an increase in the amount of annual fees assessed licensees operating nuclear power plants from about \$3.1 million to about \$3.2 million. For some fee categories, the revised fees also increase because there are now fewer licensees from whom to recover relatively fixed generic costs.

In addition, the revisions include:

- an increase in the agency-wide professional hourly rate, which is used to determine Part 170 licensing and inspection fees, from \$123 to \$132 per hour;
- a change in the flat license and inspection fees to reflect the most recent average number of professional staff hours per licensing action or inspection;
- an exemption from fiscal year 1993 annual fees for those licensees and holders of certificates, registration and

approvals who either filed for termination of their
license or approval, or for a possession
only/storage license before October 1, 1992, and were
capable of permanently ceasing licensed activities
before October 1, 1992; and

-- continuation of a maximum annual fee of \$1,800 per
licensed category for those licensees who qualify as
a small entity under the NRC's size standards and a
lower tier small entity fee of \$400 for licensees
that fall within certain gross receipts or
population ranges.

In its March 16 decision, the Court of Appeals remanded to
the Commission, for further consideration, its decision to exempt
nonprofit educational institutions from the fee schedule on the
grounds, in part, that they are unable to pass through the costs
of the fees to their customers.

The Court also remanded the Commission's earlier decision to
allocate the generic costs associated with low-level radioactive
waste management activities by groups of licensees rather than by
individual licensees.

In response, the Commission is, retroactive to fiscal year
1991, revoking the generic exemption from annual fees for
nonprofit educational institutions and is changing the method of
allocating the budgeted cost for low-level radioactive waste
management activities.

Under the revised method, the Commission is dividing all
licensees into two classes--those which generate large amounts of
low-level radioactive wastes (power reactors and large fuel cycle
facilities) and those which generate smaller amounts of low-level
radioactive wastes (all other licensees generating low-level
radioactive wastes). For licensees in the large generator group,
the fiscal year 1993 fee will be \$61,100. The equivalent fees for
licensees in the small generator group will be \$1,100 for fiscal
year 1993.

In the near future, the NRC will separately publish final
fiscal year 1991 and 1992 fee schedules revising the surcharges
assessed to certain licensees. These revisions result from the
elimination of the nonprofit educational exemption and from
changing the the method of allocating NRC low-level radioactive
waste management budgeted generic costs. Requests for refunds as
a result of these changes should not be filed with the NRC prior
to publication of the revised schedules.

The final amendments to Parts 170 and 171 of the Commission's regulations will become effective on August 19.