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O'MALLEY ENGINEERING & MAPPING, P.C.

Licensed Civil Engineers
Wyoming and Idaho

April 17, 2000

Secretary of the U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attention: Docketing and Services Branch

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DOCKET NUMBER
PROPOSED RULE **PR 170 & 171**
(65FR16250)

Re: Proposed Revisions to 10 CRF Parts 170 and 171 on License, Inspection, and Annual Fees for FY 2000.
3P -Gauges

I have reviewed the March 16, 2000 information booklet that addresses proposed fee changes for NRC Licenses. While I understand the need to increase the licensing fees, I feel the annual fee schedule for nuclear testing gauges is not equitable. I am concerned the licensing fee structure will unfairly impact our business.

I recommend establishing a fee for nuclear gages based on the number of gauges owned or leased, instead of an entity's gross revenue. This method would be fair and would acknowledge the increased licensing and inspection costs that are associated with larger numbers of gages. The number of gages would reflect nuclear gage use, which is not directly associated with the business gross revenue. A gage inventory is required for the nuclear license and therefore there would be no addition expense to provide this information.

Our firm is a small business entity, which provides professional civil engineering services. Nuclear testing services comprise a very small portion (less than 5%) of our revenue. Presently, we only own one nuclear density-testing gage. The cost to license the gage is a significant expense considering the small amount of revenue generated from the gage operation.

The nuclear testing gage is required to perform quality control work on a number of our projects. Because of the small volume of testing work, we are not able to recoup the nuclear equipment, licensing, and administrative expenses associated with the nuclear gage from our testing fees. We are forced to allocate the costs to our general overhead expenses that are recouped from all of our clients, whether the gage is used on their project or not.

In the past, we have qualified for the small business entity rate of \$400/yr, based on our gross revenue being less than \$350,000 per year. This year our gross revenue was around \$500,000 and we will likely move into the \$350,000 to \$5 million small business range in the near future, considering revenue is averaged over three years. The fee for this range is presently \$1,800, but will increase to \$2,300 per year under this proposal. It appears the FY 2000 rate for businesses exceeding \$5 million will remain the same at \$2,600/year (no increase?).

The gap between \$350,000 and \$5,000,000 in revenue is huge. With the proposed rate schedule our annual licensing fees could increase from \$400 to \$2,300 (a 575% increase). However, we will continue to own only one nuclear testing gage. As a small firm at the low end of the range, the annual license fee is certainly a greater burden than for entities near the top of the range. The \$350,000 lower limit should be adjusted to \$1 million or more to equitably correspond with Year 2000 small business revenues, if the gross revenue rate basis is to remain.

In summary, a rate schedule based on the number of gages possessed would be fair and would better represent the nuclear testing activity actually performed. Otherwise the gross revenue limits need to be adjusted to reflect the Year 2000 equivalent dollars. Thank you for the opportunity to comment on this proposal. Please contact me if you have any questions.

Sincerely,

Matthew F. Ostdiek, P.E.
Vice President

NRC Fax: (301) 415-1101