

October 11, 2001

MEMORANDUM TO: Michael J. Case, Director
Program Management, Policy Development
and Analysis Staff
Office of Nuclear Reactor Regulation

FROM: Charlotte L. Turner, Acting Director R/A
Division of Accounting and Finance
Office of the Chief Financial Officer

SUBJECT: REQUESTS FOR EXEMPTION FROM 10 CFR PART 170 FEES

I am requesting your assistance in obtaining information from the staff about pending 10 CFR Part 170 exemption requests and providing information to the staff on fee exemption criteria. We have noticed a recent increase in requests for exemptions from Part 170 fees, especially for topical reports. In addition, we receive requests for exemptions citing Footnote 4 to 10 CFR 170.21 for license or renewal applications.

Many of these requests are being denied because they do not meet the intent of the fee exemption provided in Footnote 4 to 10 CFR 170.21. Footnote 4 only applies to Special Projects, such as topical reports. It does not apply to applications for license renewals or amendments. Footnote 4 to 10 CFR 170.21 provides that fees will not be assessed for requests/reports submitted to the NRC: (a) in response to a Generic Letter or NRC Bulletin that does not result in an amendment to the license, does not result in the review of an alternate method or reanalysis to meet the requirements of the Generic Letter, or does not involve an unreviewed safety issue; (b) in response to an NRC request (at the Associate Office Director level or above) to resolve an identified safety, safeguards, or environmental issue, or to assist NRC in developing a rule, regulatory guide, policy statement, generic letter, or bulletin; or (c) as a means of exchanging information between industry organizations and the NRC for the purpose of supporting NRC's generic regulatory improvements or efforts.

We are hopeful that the clarification to the fee waiver criteria that was made in the FY 2001 final fee rule (66 FR 32452) will minimize the number of such requests. In the FY 2001 final fee rule, NRC clarified, consistent with the statements of consideration for the FY 1994 rule (59 FR 36895), that the intent of the fee waiver provisions was that the requests/reports must be submitted for the purpose of supporting NRC's [emphasis added] generic regulatory improvements or efforts for the fees to be waived.

Contact: Glenda C. Jackson, OCFO/DAF
415-6057

This office recently commented on SECY-01-0060, "The Safeguards Performance Assessment Pilot Program," dated April 5, 2001. Performance assessments or evaluations for which the licensee volunteers at NRC's request and which are selected by the NRC are exempted from Part 170 fees as provided in 10 CFR 170.11(a)(12). Therefore, there is no need for specific requests for those licensees who meet the provisions of this fee exemption. However, please provide the Chief, License Fee and Accounts Receivable Branch (LFARB), with the names of the sites and licensees that volunteer and are accepted into a pilot program in order for us to track those review activities exempted from Part 170 fees. Please note that this exemption applies only to performance assessments. It does not apply to pilot plants under any other program.

We are also requesting information from your staff regarding any anticipated requests for exemptions from Part 170 fees, e.g., first-of-a-kind and one-of-a-kind projects or pilot plant licensing actions or inspections. Please provide your best estimate of anticipated exemption requests for the next year to the Chief, LFARB.

Finally, as indicated in Jesse L. Funches' September 6, 2001, memorandum to Samuel J. Collins, (copy attached), please forward all future fee exemption requests NRR receives to the Chief, LFARB for an assessment of the applicability of fee waiver provisions. My staff will then contact your staff for any technical information that is needed to respond to the fee exemption requests.

Please provide your response to the above requests by November 9, 2001. This information is important for the initial planning stages for developing the FY 2002 fee rule. In addition, please pass on this fee exemption criteria to all appropriate NRR staff who would be in a position of receiving such exemption requests from industry or be coding staff effort for fee billing purposes. Thank you for your assistance.

Attachment: September 6, 2001, Memo from Jesse L. Funches
to Samuel J. Collins, w/o attachments

cc: Samuel J. Collins, NRR

This office recently commented on SECY-01-0060, "The Safeguards Performance Assessment Pilot Program," dated April 5, 2001. Performance assessments or evaluations for which the licensee volunteers at NRC's request and which are selected by the NRC are exempted from Part 170 fees as provided in 10 CFR 170.11(a)(12). Therefore, there is no need for specific requests for those licensees who meet the provisions of this fee exemption. However, please provide the Chief, License Fee and Accounts Receivable Branch (LFARB), with the names of the sites and licensees that volunteer and are accepted into a pilot program in order for us to track those review activities exempted from Part 170 fees. Please note that this exemption applies only to performance assessments. It does not apply to pilot plants under any other program.

We are also requesting information from your staff regarding any anticipated requests for exemptions from Part 170 fees, e.g., first-of-a-kind and one-of-a-kind projects or pilot plant licensing actions or inspections. Please provide your best estimate of anticipated exemption requests for the next year to the Chief, LFARB.

Finally, as indicated in Jesse L. Funches' September 6, 2001, memorandum to Samuel J. Collins, (copy attached), please forward all future fee exemption requests NRR receives to the Chief, LFARB for an assessment of the applicability of fee waiver provisions. My staff will then contact your staff for any technical information that is needed to respond to the fee exemption requests.

Please provide your response to the above requests by November 9, 2001. This information is important for the initial planning stages for developing the FY 2002 fee rule. In addition, please pass on this fee exemption criteria to all appropriate NRR staff who would be in a position of receiving such exemption requests from industry or be coding staff effort for fee billing purposes. Thank you for your assistance.

cc: Samuel J. Collins, NRR

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NAME	EPoteat/DWeiss	DBDandois	GCJackson	CLTurner (Acting)
DATE	10/9 /01	10/ 10 /01	10/ 9 /01 (Ann Norris)	10/ 11 /01

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