

*Draft*  
*5/17/01*

*Jim Tardini*  
*Comments*  
*5/21/01*

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 150, 170 and 171

RIN: 3150-AG73

Revision of Fee Schedules; Fee Recovery for FY 2001

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, and annual fees charged to its applicants and licensees. The amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, which requires that the NRC recover approximately 98 percent of its budget authority in fiscal year (FY) 2001, less the amounts appropriated from the Nuclear Waste Fund (NWF) and the General Fund. The amount to be recovered for FY 2001 is approximately \$453.3 million.

EFFECTIVE DATE: (Insert 60 days after publication in the Federal Register).

examples of PM activities that would be included in Part 170 fees, indicated that licensees would be charged for PM activities for work on the NRC's accounting system or work for another branch/office.

*Response.* The NRC's assesses Part 170 fees for PM activities under the authority of the IOAA. In the FY 1999 fee rule the NRC stated that expanding the scope of Part 170 to include, for example, full cost recovery for PMs, is consistent with Title V of the IOAA, interpretations of that legislation by the Federal courts, and Commission guidance. These guidelines provide that Part 170 fees may be assessed to persons who are identifiable recipients of "special benefits" conferred by specifically identified activities of the NRC. Because PM activities are services which the NRC provides to specific, identifiable recipients, it is more appropriate that <sup>all</sup> ~~the~~ <sup>less generic costs, activity costs,</sup> costs be recovered through Part 170 fees assessed to the recipient of that service than through annual fees assessed to the licensees in the class subject to annual fees. ✓

Contrary to the commenter's claim, generic activities conducted by PMs are not recovered through Part 170 fees. Generic activities are those NRC activities that broadly benefit classes or subclasses of licensees. Examples of generic activities, as stated in the FY 1999 final rule and reiterated in the FY 2000 final rule (64 FR 31451; June 10, 1999, and 65 FR 36947; June 12, 2000, respectively), include rulemaking <sup>regulatory guides</sup> and development of generic guidance documents. General activities such as training, general correspondence, attending staff meetings, coordination with and support to other offices, and processing documents into the Agencywide Document Access and Management System (ADAMS) are not generic activities. In responding to uranium recovery industry comments in the FY 2000 final rule, the NRC listed

X not in the final rule

these examples of the types of PM activities that are recovered through PM Part 170 fees. The examples provided by the NRC in the FY 1999 and FY 2000 fee rules of PM activities to be billed under Part 170 and those excluded from Part 170 billing were not intended to be complete lists. For example, in addition to the listed activities excluded from Part 170 PM fees, the NRC also excludes from Part 170 fees for PM activities related to activities for which Part 170 are otherwise not assessed, such as contested hearings, responses to petitions, and responding to allegations.

The PM activities charged under Part 170 are ~~general~~<sup>indirect? start</sup> activities and activities specifically related to the site, such as licensing reviews. As the commenter indicted, the general activities billed under Part 170 include time that a PM spends in reporting to the NRC's accounting system. General activities are part of the costs to the agency of providing the PM services, and the NRC continues to believe that the costs are most appropriately recovered from the licensees benefitting from the PM services.

The concept that the assessment of Part 170 fees for PM activities increases the costs to the uranium recovery class is incorrect. PM charges might result in an increase for a particular licensee at a particular point in time; however, billing for PM time under Part 170 does not cause an increase, or a decrease, in the total fees assessed to the class. Based on the OBRA-90 fee recovery requirements, all budgeted costs allocated to a class that are not recovered through Part 170 fees paid by the class are recovered through annual fees assessed to those licensees in the class subject to the annual fees. Thus, all budgeted costs allocated to a class are paid by the class, either through Part 170 fees or Part 171 fees.

Although on the surface it may appear to be more fair to recover the PM costs through annual fees, the end result would not necessarily be equitable to those licensees paying the annual fees. If, for example, the NRC were to discontinue assessing Part 170 fees to uranium recovery licensees for PM activities, and <sup>all other conditions</sup> ~~everything else~~ remained the same, uranium recovery licensees subject to annual fees would pay more in total costs because those licensees in decommissioning would no longer pay for the PMs assigned to their site. Instead, the licensees authorized to operate or in a standby status would pay those PM costs through annual fees. To illustrate this point, the estimated average total PM Part 170 fees paid per year by uranium recovery licensees in decommissioning or possession only status is \$322,000. If the NRC eliminated PM activities from Part 170 fees for the uranium recovery class, the 11 licensees authorized to operate would be assessed an additional \$322,000 in annual fees. ✓

\$322 annual  
cost or 6 mos?

at this time ✓

The NRC finds no basis to change its policy of recovering the costs for PMs through Part 170 fees, to change the manner in which the costs are spread among those licensees assigned to one PM, or to change the policy with regard to assessing one licensee for all of the PM's activities when the PM is assigned to that one site only. The NRC believes this is a fair and equitable method of recovering these costs. However, the Office of Nuclear Materials Safety and Safeguards has recently determined that PMs will no longer be required for certain uranium recovery licenses unless there is a major action ongoing with that license. While this revised policy may, at times, reduce the Part 170 fees for some individual licensees, the costs for these staff members previously recovered through Part 170 fees will, of necessity, be recovered through annual fees. The impact of this revised policy for assigning PMs on the FY 2001 annual fees for the uranium recovery class is minimal because it occurred late in the fiscal year. ✓

To minimize the impacts of the annual fees, the NRC has established a maximum annual fee for licensees who qualify as a small entity under NRC's size standards. In 1992, the NRC established a lower tier small entity fee to further reduce the impact of the annual fees for those licensees with relatively low gross annual receipts of less than \$250,000 and for small governmental jurisdictions with a relatively low population of less than 20,000 (57 FR 13625; April 17, 1992). In establishing this lower tier, the NRC stated that the additional tier would substantially reduce the impact of the annual fees for those licensees with relatively low gross annual receipts, while at the same time it would not substantially increase the amount of fees that other licensees would be required to pay to subsidize the small entities.

In 1995, the NRC published a final rule amending its size standards (60 FR 18344; April 11, 1995). One aspect of the amendment was to add a size standard of 500 or fewer employees for business concerns that are manufacturing entities. In the final FY 1995 fee rule, the gross-receipts level for the lower-tier small entity fees was increased to the current level of \$350,000, and a lower tier of less than 35 employees was established for manufacturing entities.

→ See



For FY 2000, approximately 35 percent of the small entities qualifying for reduced annual fees qualified for the lower tier small entity fee. The NRC believes that maintaining a single lower tier annual fee for small entities with relatively low gross annual receipts of less than \$350,000, for small governmental jurisdictions with a population of less than 20,000, and for manufacturing entities that have an average of less than 35 employees continues to provide a further reduction to the impact of the annual fees to a significant number of small entities.

the Certification block, which is to be signed by the owner of the small entity or an official empowered to act on behalf of that entity, states "I certify that the above named NRC licensee qualifies as a small entity under the size standards established by the NRC for its licensees in 10 CFR 2.810 (60 CFR 18344). The licensee qualifies as a small entity under the specific size standard indicated above." Thus, the NRC believes the Form and the accompanying instructions are clear that the Form should be completed only by those licensees that qualify as a small entity under NRC's size standards.

*are not required or eligible to complete the form.  
not eligible for small entity status.*

However, as indicated in the proposed rule, the NRC continues to receive Forms completed by licensees who ~~do not qualify as a small entity~~. When contacted about improperly filed Forms, many of these licensees indicate they thought they had to complete the Form because it was enclosed with the annual fee invoice. It is for this reason that the NRC proposed to discontinue including NRC Form 526 with each annual fee invoice.

Licensees who file an improperly completed NRC Form 526 do so under penalty of perjury, and could become the subject of an NRC investigation. This could lead to fines, imprisonment, or both, and the revocation or suspension of the license. The NRC believes that there is merit to trying to minimize the number of improperly filed forms, the resulting risk to the licensees, and the associated NRC resources. ~~The NRC acknowledges, however, that not mailing NRC Form 526 with each annual fee invoice may place additional burdens on those licensees who do qualify as a small entity, as well as the NRC staff.~~

guidance and rules applicable to the uranium recovery class of licensees and therefore should continue to pay annual fees.

Although the comments indicate that annual fees are assessed to certain licensees because of a failure on NRC's part to approve their reclamation plans, this is not the case. The NRC waives the annual fee for those licensees who have relinquished their authority to operate and have permanently ceased operations, as long as the notifications of such actions are filed by the dates provided in the fee regulations. The reclamation plans do not have to be approved by the NRC for the fee waiver to apply.

4. Quarterly Billing Schedule For Class I And Class II Licenses.

*Comment.* Two commenters supported the NRC's proposal to establish a quarterly annual fee billing schedule for Class I and Class II uranium recovery licensees, regardless of the annual fee amounts.

*Response.* The NRC is modifying §171.19 in this final rule to establish a quarterly annual fee billing schedule for uranium mill licensees (Class I) and solution mining licensees (Class II). Because the annual fees for these licensees have been close to the \$100,000 threshold for quarterly billing, slight changes in the annual fees have resulted in frequent changes in their billing schedules. This change will provide these licensees with a consistent, predictable schedule for paying their annual fees.

5. Annual Fees for Power Reactors in Decommissioning.

*Comment.* One fuel facility licensee referenced its March 13, 2001, request for a license amendment to delete certain commitments related to discontinued operations for purposes of downgrading the license. The commenter stated that as a result of their request, the fee rule should reflect the downgrade of the license from Category 1.A(1)(b) to Category 1.A.(2)(a) and the FY 2001 annual fee should be prorated accordingly.

*Response.* The NRC's Office of Nuclear Materials Safety and Safeguards (NMSS) has confirmed that the commenter's subject application will result in the removal of certain authorizations from the license. The matrix used for purposes of determining annual fees for the fuel facility class has been modified to reflect the licensee's reduced activities. However, the reduced licensed activities do not result in a decrease in the FY 2001 annual fee for this licensee. The resulting safety and safeguards effort factors, although lower than before, are not low enough to place the license in the next lower fee category. In the matrix for the proposed fee rule, which is available in the work papers supporting the proposed rule, the total safety and safeguards effort factors for individual licensees in category 1.A.(1)(b), the higher fee category, is 28, while the total for the individual licensee in category 1.A.(2)(b), the lower fee category, is 11. The licensee's reduced activities result in a total effort factor of 22, which does not place the license in the lower category. Accordingly, this final rule does not reflect a change of fee category for the commenter's license. However, as noted in the section III. Final Action, the matrix has also been changed to reflect decreased activities for another fuel facility, which results in that licensee moving from fee category 1.A.(2)(1) to fee category 1.A.(2)(b) and therefore paying a lower fee for FY 2001 than what was reflected in the proposed rule. As a result, the annual fee for each of the remaining fuel facility licensees has increased from the proposed rule.

concerning NRC's budget and use of NRC resources. The NRC's budgets are submitted to the Office of Management and Budget and then to Congress for review and approval. The Congressionally-approved budget resulting from this process reflects the resources necessary for NRC to carry out its statutory obligations. In compliance with OBRA-90, the fees are established to recover the required percentage of the approved budget.

487.3  
 - 21.6  
 - 3.2  
 - 9.3  
 -----  
 453.2

### III. Final Action

The NRC is amending its licensing, inspection, and annual fees to recover approximately 98 percent of its FY 2001 budget authority, including the budget authority for its Office of the Inspector General, less the appropriations received from the NWF and the General Fund. The NRC's total budget authority for FY 2001 is \$487.3 million, of which \$21.6 million has been appropriated from the NWF. In addition, \$3.2 million has been appropriated from the General Fund for activities related to regulatory reviews and assistance provided to other Federal agencies and States. In the proposed rule, the total budget was shown as \$487.4 million; however, a rescission reduced the total budget authority by approximately \$75.0 thousand. However, the rescission did not affect the fee recovery portion of the budget, and therefore, the fee recovery amounts have not changed from the proposed rule. Based on the 98 percent fee recovery requirement, the NRC must collect approximately \$453.3 million in FY 2001 through Part 170 licensing and inspection fees, Part 171 annual fees, and other offsetting receipts. The total amount to be recovered through fees and other offsetting receipts for FY 2001 is \$6.3 million more than the amount estimated for recovery in FY 2000; however, the FY 2001 fee recovery amount is further reduced by a \$3.1 million carryover from additional collections in FY 2000 that were unanticipated at the time the final FY 2000 fee rule was published. This leaves

approximately \$450.2 million to be recovered in FY 2001 through Part 170 licensing and inspection fees, Part 171 annual fees, and other offsetting receipts.

449.8  
112.1  
337.7

The NRC estimates that approximately \$112.1 million will be recovered in FY 2001 from Part 170 fees and other offsetting receipts. The NRC also estimates a net adjustment for FY 2001 of approximately \$0.4 million for payments received in FY 2001 for FY 2000 invoices. The remaining \$337.7 million is to be recovered through the Part 171 annual fees, compared to \$341.0 million for FY 2000.

Table I summarizes the budget and fee recovery amounts for FY 2001.

TABLE I - Budget and Fee Recovery Amounts for FY 2001

[Dollars in Millions]

Total Budget Authority	\$487.3
Less NWF	- 21.6
Less General Fund	- 3.2
Balance	\$462.5
Fee Recovery Rate for FY 2001	x 98.0%
Total Amount to be Recovered For FY 2001	\$453.3
Less Carryover from FY 2000	- 3.1
Amount to be Recovered Through Fees and Other Receipts	\$450.2
Less Estimated Part 170 Fees and Other Receipts	-112.1
Part 171 Fee Collections Required	\$338.1

## Part 171 Billing Adjustments

Unpaid FY 2001 Invoices (estimated)	3.2
Less Payments Received in FY 2001 for Prior Year Invoices (estimated)	- 3.6
Subtotal	- 0.4
Adjusted Part 171 Collections Required	\$337.7

The final FY 2001 fee rule is a "major" final action as defined by the Small Business Regulatory Enforcement Fairness Act of 1996. Therefore, the NRC's fees for FY 2001 will become effective 60 days after publication of the final rule in the Federal Register. The NRC will send an invoice for the amount of the annual fee to reactors and major fuel cycle facilities upon publication of the FY 2001 final rule. For these licensees, payment will be due on the effective date of the FY 2001 rule. Those materials licensees whose license anniversary date during FY 2001 falls before the effective date of the final FY 2001 rule will be billed for the annual fee during the anniversary month of the license at the FY 2000 annual fee rate. Those materials licensees whose license anniversary date falls on or after the effective date of the final FY 2001 rule will be billed for the annual fee at the FY 2001 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

In accordance with its FY 1998 announcement, the NRC has discontinued mailing the final rule to all licensees as a cost-saving measure. Accordingly, the NRC does not plan to routinely mail the FY 2001 final rule or future final rules to licensees. However, the NRC will send the final rule to any licensee or other person upon request. To request a copy, contact the License Fee and Accounts Receivable Branch, Division of Accounting and Finance, Office of the Chief Financial Officer, at 301-415-7554, or e-mail us at [fees@nrc.gov](mailto:fees@nrc.gov). It is our intent to

publish the final rule in ~~late May~~ or early June of 2001. In addition to publication in the Federal Register, the final rule will be available on the Internet at <http://ruleforum.llnl.gov>. ✓

The NRC is amending 10 CFR Parts 170 and 171 as discussed in Sections A and B below.

**A. Amendments to 10 CFR Part 170: Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, As Amended.**

The NRC is revising the hourly rates used to calculate fees and is adjusting the 10 CFR Part 170 fees based on the revised hourly rates and the results of the NRC's biennial review of fees required by the Chief Financial Officer (CFO) Act of 1990 (Pub. L. 101-578, Nov. 15, 1990, 104 Stat 2838) (CFO Act). Additionally, the NRC is eliminating the fees currently assessed to Agreement State licensees who file revisions to the information submitted on their initial filing of NRC Form 241, "Report of Proposed Activities in Non-Agreement States," and including the costs for these revisions in the application fees assessed for the initial Form 241. The NRC is also establishing an annual registration fee of \$450 to be assessed for Part 31 general licensees required to register certain types of generally licensed devices. These final revisions are further discussed below.

The final amendments are as follows:

**1. Hourly Rates**

rate for the reactor program of \$266,997 per FTE for FY 2001. The Direct FTE Hourly Rate for the reactor program is \$150 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE (\$266,997) by the number of productive hours in one year (1,776 hours) as set forth in the revised OMB Circular A-76, "Performance of Commercial Activities." Similarly, dividing the \$74.8 million (rounded) budgeted amount included in the hourly rate for the nuclear materials and nuclear waste program by the program direct FTEs (292.7) results in a rate of \$255,563 per FTE for FY 2001. The Direct FTE Hourly Rate for the materials program is \$144 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE (\$255,563) by the number of productive hours in one year (1,776 hours).

## 2. Fee Adjustments

The NRC is adjusting the current Part 170 fees in §§170.21 and 170.31 to reflect both the changes in the revised hourly rates and the results of the biennial review of Part 170 fees required by the CFO Act. To comply with the requirements of the CFO Act, the NRC has evaluated historical professional staff hours used to process a new license application for those materials licensees whose fees are based on the average cost method, or "flat" fees. This review also included new license and amendment applications for import and export licenses.

*1 vs 2*  
*oh here ✓*

Evaluation of the historical data shows that fees based on the average number of professional staff hours required to complete materials licensing actions should be increased in some categories and decreased in others, as described below, to more accurately reflect current costs incurred in completing these licensing actions. The data for the average number of

professional staff hours needed to complete new licensing actions was last updated in FY 1999 (64 FR 31448; June 10, 1999). Thus, the revised average professional staff hours reflect the changes in the NRC licensing review program that have occurred since FY 1999.

In summary, the final licensing fees reflect an increase in average time for new license applications for seven of 33 materials fee categories included in the biennial review, a decrease in average time for five fee categories, and the same average time for the remaining 21 fee categories. Similarly, the average time for applications for new export and import licenses and for amendments to export and import licenses remained the same for eight fee categories in §§170.21 and 170.31, and decreased for two other fee categories.

The revised licensing fees are based on the new average professional staff hours needed to process the licensing actions multiplied by the proposed professional hourly rate for FY 2001. The amounts of the materials licensing "flat" fees are rounded as follows: fees under \$1,000 are rounded to the nearest \$10, fees that are greater than \$1,000 but less than \$100,000 are rounded to the nearest \$100, and fees that are greater than \$100,000 are rounded to the nearest \$1,000.

The licensing "flat" fees are applicable to fee categories K.1 through K.5 of §170.21, and fee categories 1C, 1D, 2B, 2C, 3A through 3P, 4B through 9D, 10B, 15A through 15E, and 16 of §170.31. An additional change to Category 16 is discussed in item 3. below. Applications filed on or after the effective date of the final rule will be subject to the revised fees in this final rule.

### 3. Fees for Revisions to Initial Reciprocity Applications

As shown in Table IV, the total surcharge cost allocated to the various classes of licensees for FY 2001 is \$48.3 million. The NRC has continued to allocate the surcharge costs, except Low-Level Waste (LLW) surcharge costs, to each class of licensees based on the percent of budget for that class. The NRC has continued to allocate the LLW surcharge costs based on the volume of LLW disposed of by certain classes of licensees. The surcharge costs allocated to each class are included in the annual fee assessed to each licensee. The FY 2001 surcharge costs allocated to each class of licensees are shown in Table V.

TABLE V - Allocation of Surcharge

	LLW Surcharge		Non-LLW Surcharge		Total Surcharge	
	<u>Percent</u>	<u>\$,M</u>	<u>Percent</u>	<u>\$,M</u>	<u>\$,M</u>	
Operating Power Reactors	74	1.3	79.1	36.9	38.2	
Spent Fuel Storage/Reactor Decomm.	---	---	9.2	4.3	4.3	
Nonpower Reactors	---	---	0.1	0.0	0.0	
Fuel Facilities	8	0.1	5.3	2.5	2.6	
Materials Users	18	0.3	3.9	1.8	2.1	
Transportation	---		---		1.2	0.5
Rare Earth Facilities	---		---		0.2	0.1
Uranium Recovery	---		---		1.0	0.4
<b>TOTAL SURCHARGE</b>		<b>1.7</b>		<b>46.6</b>	<b>48.3</b>	

*Amended  
Nov 15*

46.6

48.2

(5) The three major subelements of generic activities associated with uranium facility operations are regulatory efforts related to the operation of mills, handling and disposal of waste, and prevention of groundwater contamination. The three major subelements of generic activities associated with uranium facility closure are regulatory efforts related to decommissioning of facilities and land clean-up, reclamation and closure of tailings impoundments, and groundwater clean-up. Weighted values were assigned to each program element and subelement considering health and safety implications and the associated effort to regulate these activities. The applicability of the generic program in each subelement to each uranium recovery category was qualitatively estimated as either significant, some, minor, or none.

The relative weighted factors per facility type for the various subclasses of uranium recovery licensees are as follows.

TABLE VIII - Weighted Factors for Uranium Recovery Licenses

*Bo Hoch g28* →

<u>Facility Type</u>	<u>Number of Facilities</u>	<u>Level of Benefit</u>		<u>Total Weight</u>
		<u>Category</u>	<u>Weight</u>	
Class I (conventional mills)	3		770	2310
Class II (in-situ mills)	6.5 <sup>1</sup>		645	4193
11e(2) disposal	1		475	475
11e(2) disposal incident to existing tailings sites)	1		75	75
				Percent

✓

close to the \$100,000 threshold, small changes to the annual fee amounts have resulted in frequent changes to their annual fee billing schedule. To provide stability in the billing schedule, the NRC is revising §171.19 to establish a quarterly billing schedule for the Class I and Class II licensees, regardless of the annual fee amount. This will provide these licensees with a consistent, predictable schedule for paying their annual fees. As provided in §171.19(b), if the amounts collected in the first three quarters of FY 2001 exceed the amount of the revised annual fee, the overpayment will be refunded.

c. Power Reactors

The approximately \$263.5 million in budgeted costs to be recovered through FY 2001 annual fees assessed to operating power reactors are allocated uniformly to the 104 operating power reactors. This results in a FY 2001 annual fee of \$2,534,000 per reactor. Additionally, each operating reactor will be assessed the spent fuel storage/reactor decommissioning annual fee, which for FY 2001 is \$275,000. This results in a total FY 2001 <sup>combined</sup> annual fee of \$2,809,000 for each operating power reactor. ✓ +

d. Spent Fuel Storage/Reactor Decommissioning

For FY 2001, budgeted costs of approximately \$33.3 million for spent fuel storage/reactor decommissioning are to be recovered through annual fees assessed to Part 50 power reactors, except those reactors in decommissioning who do not have spent fuel on site, and to Part 72 licensees who do not hold a Part 50 license. The costs are divided equally among the 121 licensees, resulting in an FY 2001 annual fee of \$275,000 per licensee.

designed to provide some fee relief for qualifying small entity licensees while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them. The costs not recovered from small entities must be recovered from other licensees. The current small entity fees of \$500 and \$2,300 provide considerable relief to many small entities.

In the future the NRC plans to re-examine small entity fees every two years, in the same years in which it conducts the biennial review of fees as required by the CFO Act, instead of each year that annual fees are rebaselined as indicated in the FY 2000 fee rule. The annual fees for materials users now include the cost of amendments, renewals, and inspections. However, at a maximum, annual fees are rebaselined every three years, but may be rebaselined earlier if warranted. Therefore, reviewing the small entity fees only when the annual fees are rebaselined results in a variable schedule for the re-examinations and any potential changes to the fees. Re-examining the small entity annual fees every two years, on the same schedule as the biennial review under the CFO Act, provides a routine, predictable schedule and allows licensees to anticipate when potential changes to these fees might occur.

DELETE THE FOLLOWING?????

yes

#### 4. Other Amendments

The NRC currently sends an NRC Form 526, "Certification of Small Entity Status for the Purposes of Annual Fees Imposed Under 10 CFR Part 171," with each annual fee invoice issued to materials licensees. Although the instructions on the form state that it is to be filed only by those licensees who qualify as a small entity under NRC's size standards, the NRC has received

many improperly filed forms. When contacted, many of these licensees have indicated they completed the form because it was enclosed with the annual fee invoice. In an effort to minimize the number of improperly filed forms, the NRC will phase out mailing the Form with each annual fee invoice. Instead, licensees will be able to access NRC Form 526 on the NRC's external web site at <http://www.nrc.gov>. Those licensees that qualify as a "small entity" under the NRC size standards at 10 CFR Part 2.810 will be able to complete the form in accordance with the instructions provided, and submit the completed form and the appropriate payment to the address provided on the invoice. For licensees who cannot access the NRC's external web site, NRC Form 526 can be obtained either through the local point of contact listed in the NRC's "Materials Annual Fee Billing Handbook," NUREG/BR-0238, which is enclosed with each annual fee invoice, by calling the NRC's fee staff at 301-415-7554, or by e-mailing the fee staff at [fees@nrc.gov](mailto:fees@nrc.gov).

In summary, the NRC has --

1. Established new rebaselined annual fees for FY 2001;
2. Revised §171.16(c) to delete the sentence indicating that NRC will mail NRC Form 526 with each annual fee invoice.
- ✓ 4. Determined that the small entity fees will be re-examined every two years, on the same schedule as the biennial review of fees required by the CFO's Act.

#### IV. Voluntary Consensus Standards

not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

Same with apply \$50M. in  
- 9.3 Surcharge  
\$40 million  
↑ left  
- 85  
= \$34 ??

(2) The total FY 2001 surcharge allocated to the operating power reactor class of licensees is \$38.2 million, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2001 operating power reactor surcharge to be assessed to each operating power reactor is approximately \$367,000. This amount is calculated by dividing the total operating power reactor surcharge (\$38.2 million) by the number of operating power reactors (104).

(3) The FY 2001 surcharge allocated to the spent fuel storage/reactor decommissioning class of licensees is \$4.3 million. The FY 2001 spent fuel storage/reactor decommissioning surcharge to be assessed to each operating power reactor, each power reactor in decommissioning or possession only status that has spent fuel onsite, and to each independent spent fuel storage Part 72 licensee who does not hold a Part 50 license is approximately \$35,600. This amount is calculated by dividing the total surcharge costs allocated to this class by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel on site, and Part 72 licensees who do not hold a Part 50 license.

(e) The FY 2001 annual fees for licensees authorized to operate a non-power (test and research) reactor licensed under Part 50 of this chapter, unless the reactor is exempted from fees under §171.11(a), are as follows:

Research reactor	\$74,000
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(1) A licensee qualifies as a small entity if it meets the size standards established by the NRC (See 10 CFR 2.810).

**FOR THE FOLLOWING, IS IT OK TO LEAVE OFF THAT WE WILL SEND THE FORM???** *I think ok as is.*

(2) A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under this section must file a certification statement with the NRC. The licensee must file the required certification on NRC Form 526 for each license under which it is billed. **The NRC will include a copy of NRC Form 526 with each annual fee invoice sent to a licensee. NRC Form 526 can also** be accessed through the NRC's external web site at <http://www.nrc.gov>. **For licensees who cannot access the NRC's external web site,** NRC Form 526 may **also** be obtained through the local point of contact listed in the NRC's "Materials Annual Fee Billing Handbook," NUREG/BR-0238, which is enclosed with each annual fee billing, by ~~The Form can also be obtained by~~ calling the fee staff at 301-415-7554, or by e-mailing the fee staff at <fees@nrc.gov.>

(3) For purposes of this section, the licensee must submit a new certification with its annual fee payment each year.

(4) The maximum annual fee a small entity is required to pay is \$2,300 for each category applicable to the license(s).

(d) The FY 2001 annual fees for materials licensees and holders of certificates, registrations or approvals subject to fees under this section are shown below. The FY 2001