

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).

ADDRESSES: The comments received and the agency work papers that support these final changes to 10 CFR Parts 170 and 171 are available electronically at the NRC's Public Electronic

and explanations of how the fees were calculated to recover the budgeted costs for those activities, the proposed rule also announced that the work papers supporting the proposed rule were available for public examination. As the proposed rule stated, the work papers were available in the NRC's Agencywide Documents Access and Management System (ADAMS) for public examination (Accession No. ML010860287). During the 30-day comment period the work papers were also available in the NRC Public Document Room at One White Flint North, 11555 Rockville Pike, Rockville, MD for the public's use. The work papers include extensive information detailing the activities and the associated budgeted resources allocated to the various classes of licensees. The work papers show, by strategic arena, the allocation of budgeted costs for each planned accomplishment within each program of each strategic arena. In addition to the detailed budget information contained in the work papers, the NRC has made available in the Public Document Room NUREG-1100, Volume 16, "Budget Estimates and Performance Plan, Fiscal Year 2001 (February 2000)," which discusses the NRC's budget for FY 2001, including the activities to be performed in each strategic arena. The extensive information available to the public meets all legal requirements and the NRC believes it provides the public with sufficient information on which to base their comments on the proposed fee rule.

The NRC's budgets and the manner in which the NRC carries out its activities are outside the scope of this rulemaking. The purpose of this rulemaking is to establish the fee to recover approximately 98 percent of the NRC's FY 2001 budget authority, less t  
appropriated from the NWF and the General Fund, as required by OBRA-90, as an  
Therefore the commenter's suggestion that more detailed information would allow t  
provide more effective comments concerning the efficiencies of NRC's regulatory a  
the manner in which NRC carries out its fiscal responsibilities are not addressed in this final rule.



Government services, provides that new cost accounting systems do not need to be established solely for the purpose of determining or estimating full cost.

C. Specific Part 171 Issues.

1. Fee Exemption for Educational Institutions.

*Comment.* One college holding an NRC materials license commented that the proposed fee rule would represent a major financial burden to the college and they would have to consider terminating their license. The commenter requested that NRC provide a fee exemption for small colleges and universities.

*Response.* The NRC has not changed the existing fee exemptions for nonprofit educational institutions. The Part 170 and Part 171 fee exemptions for nonprofit educational institutions were not shown in the proposed rule for public comment because only sections of a regulation that are being considered for change in a proposed rulemaking are published in the Federal Register as part of the rulemaking process.

As provided in 10 CFR 170.11(a)(4) and 10 CFR 171.11(a)(1), fees are not required for a license applied for by, or issued to, a nonprofit educational institution. Therefore, most colleges and universities will continue to be exempt from Part 170 and Part 171 fees. However, the fee exemptions do not apply to those licenses that authorize human use; remunerated services to other persons; distribution of byproduct, source, or special nuclear materials or products

Some commenters referred to the April 10, 2001, Commissioners' Briefing provided by the National Mining Association, where the status of the uranium recovery industry, the impacts of NRC's fees on the industry, and the potential for seeking fee relief were discussed. Several commenters supported an industry-wide effort to seek relief from NRC's fees through a petition for rulemaking or by pursuing legislative relief. Commenters claim that the fees NRC charges uranium recovery licensees threaten the viability of the industry, which is vital to the nation's long-term energy security.

Response. ~~Discussions between the uranium recovery industry and the NRC continue, as of the date of this document.~~ The industry has indicated they may file a rulemaking petition or seek some other form of relief from NRC fees. The NRC will consider fully and carefully, and with an open mind, any petition the industry may choose to file. For now, however, for the reasons given in the remainder of this response, the NRC will pursue its existing policies on the fees to be charged to uranium recovery licensees.

The NRC has responded to similar comments concerning the impact of its fees on the uranium recovery industry in several prior fee rulemakings. Most recently, the NRC responded to these concerns in the FY 2000 final rule (65 FR 36950, 36951; June 12, 2000). As explained there, the NRC recognizes that fees may result in a substantial financial hardship for the uranium recovery industry, particularly in light of the industry's economic status and the potential for a decreasing number of uranium recovery licensees. However, consistent with the OBRA-90 requirement that the annual fees must, to the maximum extent practicable, have a reasonable

*Comment.* One commenter offered several suggestions for reducing NRC's budget and for more efficient use of NRC resources. The commenter indicates that the proposed rule does not account for a reduced number of regional initiative inspections. The commenter suggested that further improvements in inspection and assessment efficiency could be realized by NRC's participation and oversight of licensee self-assessments, rather than NRC conducting independent inspections. The commenter also suggested that the NRC review the scope and content of inspection procedures to make them further risk-informed, that the NRC eliminate resources oriented to minimally safety-significant areas, and that the NRC consider consolidating the regional offices in the near-term and eliminating them in the longer term.

*Response.* As stated in the response to the comment concerning information the NRC provided in support of the proposed and in response to similar comments on previous fee rules, the NRC's budgets and the manner in which the NRC carries out its activities are not within the scope of this rulemaking. Therefore, this final rule does not address the commenter's suggestions concerning NRC's budget and the 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.

*INSERT*

### 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

UNITED STATES  
 NUCLEAR REGULATORY COMMISSION  
 WASHINGTON, D.C. 20555-0001

February 6, 2001



CHAIRMAN

The Honorable Mitchell E. Daniels, Jr.  
 Director, Office of Management and Budget  
 Washington, D.C. 20503

Dear Mr. Daniels:

I am writing in response to the FY 2002 budget passback for the U.S. Nuclear Regulatory Commission (NRC), which we received from the Office of Management and Budget (OMB) on February 1, 2001. The OMB passback provides gross budget authority of \$498 million for FY 2002. We request that the passback be increased by \$15.1 million to the \$513.1 million for FY 2002 we initially requested so that we can continue to meet our mission. This level of funding can be provided within OMB's overall framework for the passback.

As shown in the table below, our budget request can be provided without an increase in the net budget authority of \$44 million identified in the passback, since most of NRC's budget is offset by fees. Thus, granting our request would not increase Federal discretionary spending. Additionally, no Presidential initiatives would be adversely affected, nor would funding at other Federal agencies be affected.

	FY 2002	
	OMB Passback	NRC Request
Gross Budget Authority	\$498.0	\$513.1
Offsetting Fees	\$454.0	\$469.2
Net Budget Authority	\$44.0	\$43.9

*reflects it's effort to be*

*However, it should be noted that the NRC's budget*

The Commission supports the President's commitment to maintain fiscal discipline across the Federal government. We were mindful of the need to be more effective and efficient when developing the agency's FY 2002 budget request. Since FY 1993, the NRC budget has been reduced by more than \$25 million in current year dollars and by more than \$140 million or 25 percent in constant dollars. Over this same timeframe the staffing of the NRC has been reduced by approximately 600 FTE or 18 percent. To achieve these reductions, we have eliminated programs, improved our processes, reduced our overhead requirements, and implemented efficiencies and cost savings. The Commission continues to search vigorously for additional opportunities to streamline its operations and to achieve efficiencies. However, any reductions must not adversely affect our ability to protect health and safety, the environment, and the common defense and security. The Commission will continue to reinforce its strong

*the NRC has*