

\* \* \* IMPORTANT \* \* \*

## NRC'S PROPOSED FY 2002 FEE RULE

**Please read the enclosed document carefully. It may substantially impact the fees you are assessed by the NRC.** Please submit any comments on the proposed fee rule changes within the 30-day comment period. To ensure that comments are received within the 30-day comment period, you may fax your comments to 301-415-1101 in addition to mailing them. The proposed changes are summarized in the cover memorandum.

March 21, 2002

IMPORTANT NOTICE

TO: ALL PARTS 30, 40, 50, 52, 61, 70, 71, 72, 73, 76 AND 110 LICENSEES,  
APPLICANTS, REACTOR VENDORS, AND OWNERS' GROUPS

SUBJECT: PROPOSED REVISIONS TO 10 CFR PARTS 170 AND 171 ON LICENSE,  
INSPECTION, AND ANNUAL FEES FOR FY 2002

Shortly after the date of this letter, the U.S. Nuclear Regulatory Commission (NRC) will publish the enclosed Proposed Notice of Rulemaking in the Federal Register for public comment. This notice proposes revisions to the fee requirements of 10 CFR Part 170, "Fees for Facilities and Material Licenses and Other Regulatory Services ..." and Part 171, "Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses ...." These proposed revisions would implement the Omnibus Budget Reconciliation Act of 1990, as amended, which mandates that the NRC recover approximately 96 percent of its budget authority, less the appropriation from the Nuclear Waste Fund, in FY 2002. The FY 2002 Defense Appropriations Act also provides that \$36 million appropriated from the General Fund for homeland security shall be excluded from license fee revenues.

The total amount to be recovered for FY 2002 is \$479.5 million, which is further reduced by a \$1.7 million carryover from FY 2001, leaving \$477.8 to be recovered through fees. The NRC estimates that approximately \$120.7 million will be recovered from fees for services assessed under 10 CFR Part 170 and other receipts, and estimates a net adjustment of \$8.2 million for payments received in FY 2002 for FY 2001 invoices. The remaining \$348.9 million would be recovered through 10 CFR Part 171 annual fees.

Based on the change in the magnitude of the budget to be recovered through fees, the Commission has determined that it is appropriate to establish new baseline annual fees (rebaseline) under Part 171 this year. Rebaselining fees would result in increased annual fees for most categories of licensees and decreased annual fees for other categories. The proposed changes are described in detail in the enclosed notice. The most significant changes to Parts 170 and 171 are summarized below.

The most significant proposed changes to Part 170 are:

1. The professional hourly rates for the reactor and materials programs established in §170.20 would be revised. The FY 2002 proposed hourly rate for the reactor program is \$156 per hour compared to \$150 per hour in FY 2001. The FY 2002 proposed hourly rate for the materials program is \$152 per hour compared to \$144 per hour in FY 2001. The increased hourly rates are primarily due to the Government-wide pay increase for FY 2002.

2. The fees in §§170.21 and 170.31 for export and import licenses and materials licenses would be revised to reflect the change in hourly rates.
3. Category 1.B. of §170.31 would be amended to clarify that full cost fees will be assessed for amendments and inspections related to the storage of Greater than Class C waste under Part 72. Category 1.B. of §170.31 currently refers only to specific licenses for receipts and storage of spent fuel at an independent storage installation.
4. The fee waiver provisions that are currently in Footnote 4 to §170.21 and Footnote 5 to §170.31 for certain reports/requests submitted to the NRC for review would be added to the Exemption section of Part 170 as §170.11(a)(1), and the current Footnotes would be deleted. In addition, the fee waiver provisions that are currently in criteria (c) of these Footnotes would be revised to specifically state that the fee waiver criteria apply only when it has been demonstrated that the report or request has been submitted to the NRC for the specific purpose of supporting the generic regulatory improvements or efforts of the NRC, rather than the industry, and that the NRC, at the time of submission, plans to use the submission for that purpose. The modification would also clarify that the waiver provisions do not apply to reports or documents submitted for the NRC's review, that the NRC, at the time of submission, does not plan to use to improve its regulatory program, and that therefore, will primarily provide only a special benefit to identifiable recipients, such as industry, vendors, or specific licensees. Specific examples of the types of submissions that meet the fee waiver criteria and those that do not would be provided in §170.11(a)(1).

The most significant proposed changes to Part 171 are:

1. Revised annual fees would be established in §§171.15 and 171.16. The proposed annual fees would increase for most categories of licensees and decrease for others from the previous year. The factors affecting the annual fee amounts include changes in budgeted costs for the different classes of licensees, the reduction in the NRC's fee recovery requirement from 98 percent in FY 2001 to 96 percent in FY 2002, estimated Part 170 collections for the various classes of licensees, increased hourly rates, decreases in the number of licensees for certain categories of licenses, and, for certain classes of licenses, the Office of Nuclear Material Safety and Safeguards' policy change for assigning Project Managers. In addition, the proposed decreases for the Title II uranium recovery specific licenses is based on a proposed change to the methodology for allocating the annual fee amount for the uranium recovery class among the Title I and Title II licenses.
2. Section 171.3, 'Scope', would be revised to specify that the annual fee regulations also apply to any person holding a combined license under Part 52. The annual fee for a Part 52 combined license would be assessed only after construction has been completed, all regulatory requirements have been met, and the Commission has authorized operation of the reactor(s).
3. Section 171.15 would be revised to clarify that the annual fees are assessed for each license, and not for each unit. Section 171.15 currently provides that reactor licensees shall pay an annual fee "...for each unit for each license held...."

4. Section 171.11(c) would be modified to clarify that the annual fee exemption provision applies only to 'operating' reactors.

**All parties desiring to submit written comments for consideration on this proposed fee rule should send them to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff, within 30 days from publication in the Federal Register. To ensure that comments are received on time, comments may also be faxed to 301-415-1101.** Comments may also be hand delivered to: 11555 Rockville Pike, Rockville, MD 20852, Monday through Friday between the hours of 7:30 a.m. and 4:15 p.m. (Telephone: 301-415-1678). Additionally, comments may be submitted via the NRC's interactive rulemaking Website (<http://ruleforum.llnl.gov>). This site provides the ability to upload comments as files (any format), if your Web browser supports that function. For information about the NRC's interactive rulemaking site, contact Ms. Carol Gallagher, 301-415-5905; or e-mail [cag@nrc.gov](mailto:cag@nrc.gov).

Please note that the NRC does not plan to routinely mail the final rule to licensees. However, copies will be sent upon specific request. To request a copy, contact us at 301-415-7554, or e-mail us at [fees@nrc.gov](mailto:fees@nrc.gov). In addition to publication in the Federal Register, the final rule will be available electronically on the Internet at <http://ruleforum.llnl.gov>.

Sincerely,

*/RA/*

Glenda Jackson  
Assistant for Fee Policy and Rules  
License Fee and Accounts Receivable Branch  
Division of Accounting and Finance  
Office of the Chief Financial Officer

Enclosure: As stated

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- 4. Section 171.11(c) would be modified to clarify that the annual fee exemption provision applies only to 'operating' reactors.

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Sincerely,

**/RA/**

Glenda Jackson  
 Assistant for Fee Policy and Rules  
 License Fee and Accounts Receivable Branch  
 Division of Accounting and Finance  
 Office of the Chief Financial Officer

Enclosure: As stated

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