

*Josse changes to
proposed rule to
CFO 3/15/02*

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN: 3150-AG95

Revision of Fee Schedules; Fee Recovery for FY 2002

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, which requires that the NRC recover approximately 96 percent of its budget authority in fiscal year (FY) 2002, less the amounts appropriated from the Nuclear Waste Fund (NWF) and the General Fund. The amount to be recovered for FY 2002 is approximately \$479.5 million.

DATES: The comment period expires (Insert date 30 days after publication). Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered. Because OBRA-90

time of the submission, plans to use the submission for that purpose. The proposed 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 the 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 the industry, vendors, or specific licensees. These criteria will allow the NRC to make waiver determinations soon after the documents are submitted. As provided in §170.5, fee exemption requests should be made to the NRC's Chief Financial Officer ~~who will make the determinations in consultation with the appropriate program office~~. To further assist applicants in determining in advance whether their submittals meet the fee waiver criteria, 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).

In summary, the NRC is proposing to amend 10 CFR Part 170 to --

1. Revise the materials and reactor program FTE hourly rates;
2. Revise the licensing fees to be assessed to reflect the revised hourly rates;
3. Revise fee category 1.B. of § 170.31 to clarify that full cost fees would be assessed for amendments and inspections related to the storage of GTCC Waste under part 72; and
4. Add to §170.11, Exemptions, the fee waiver provisions that are currently in Footnote 4 to §170.21 and Footnote 5 to §170.31, and clarify the fee waiver provisions currently in criterion (c) of these Footnotes. These footnotes, as well as

change to the methodology for allocating the annual fee amount for the uranium recovery class among Title I and Title II licenses. This proposed change is described in detail in B. below.

In addition, for some classes of materials licenses, a change in policy for assigning Project Managers (PMs) has contributed to the annual fee increases. In the last few years, part 170 fees have increased for certain classes of licenses due to initiatives to recover costs for additional activities through fees for services rather than annual fees. One such initiative was the policy for full cost recovery under part 170 for PMs, which became effective with the FY 1999 final fee rule (64 FR 31448; June 10, 1999). However, in response to concerns expressed by materials licensees, the Office of Nuclear Material Safety and Safeguards (NMSS) in July 2001 changed its policy for assigning PMs. The revised NMSS policy has ~~reduced the total number of NMSS PMs from approximately 97 in FY 2000 to approximately four at this time.~~ Under NMSS's revised policy, if project management duties to support a licensee/facility do not exceed 75 percent of the assigned person's time for any given two week period, then the staff member will be considered a "Point of Contact." As a result, that person's time which is not specifically associated with a licensing action or inspection is now recovered under part 171.

resulted in classification of approx. majority
four staff members as PMs activities
compared to

Although the change in policy for assigning PMs causes a decrease in estimated part 170 collections for some classes, ^{it results in} which means that more of the budgeted costs for that class must be recovered through annual fees, ^{thus, the change} it does not result in an increase in total fees paid by these classes. Licensees in the rare earth facility class, for example, would have an annual fee increase of approximately 129 percent, although the total budgeted costs for the class actually decreased from FY 2001. The increase in annual fees is primarily the result of the change in PM policy which caused a shift in cost recovery from part 170 to part 171. The effect of this change

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on the part 170 fees, part 171 fees, and the total fees for the class compared to FY 2001 is illustrated in Table III below.

TABLE III - Fees for the Rare Earth Class for FY 2001 and FY 2002

	<u>FY 2001</u>	<u>FY 2002</u>	<u>Difference</u>
Estimated part 170 fees	\$.81 million	\$.50 million	-\$.31 million
Total annual fee amount	<u>.09 million</u>	<u>.21 million</u>	<u>+.12 million</u>
Total	\$.90 million	\$.71 million	\$-.19 million

Table IV below shows the proposed rebaselined annual fees for FY 2002 for representative categories of licenses.

TABLE IV - Rebaselined Annual Fees for FY 2002

<u>CLASS/CATEGORY OF LICENSES</u>	<u>PROPOSED FY 2002 ANNUAL FEE</u>
Operating Power Reactors (including Spent Fuel Storage/Reactor Decommissioning annual fee)	\$2,869,000
Spent Fuel Storage/Reactor Decommissioning	239,000
Nonpower Reactors	71,300
High Enriched Uranium Fuel Facility	4,073,000
Low Enriched Uranium Fuel Facility	1,366,000
UF ₆ Conversion Facility	585,000