

10/13/02
Charlotte's
Changes

[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: 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 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.

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

reduction in the fees assessed to one class or category of licensees would require a corresponding increase in the fees assessed to other licensees. Consequently, the NRC has not based its fees on licensees' economic status, market conditions, or the ability of licensees to pass through the costs to its customers.

✓ The final annual fees this year for the fuel facility class, including the uranium hexafluoride conversion category of licensees, have been adjusted to reflect the Commission's decision with respect to recovering FY 2002 costs for the MOX contested hearing. Specifically, the FY 2002 budgeted costs for the MOX contested hearing will be assessed to all classes of licensees in their annual fees. In the proposed fee rule, 100 percent of these costs were included in the annual fees for the fuel facility class alone. As a result of this change, the final FY 2002 annual fees for the fuel facility licensees are less than the proposed annual fees.

C. Other Issues.

1. NRC Budget

Comment. One commenter stated that the NRC's overall budget should be reduced by more efficient use of resources resulting from the agency's revised regulatory approach. Specifically, under the NRC's reactor oversight program, there has been a reduction in the number of regional initiative inspections, yet these reductions are not accounted for in the proposed fees. Moreover, according to the commenter, successful implementation of the reactor oversight program provides the NRC an opportunity to reallocate existing resources to

decreased by approximately \$408,000, while the total amount assessed to most of the other classes of licensees has increased correspondingly. Thus, the amounts assessed to each of the affected classes for the FY 2002 MOX contested hearing costs are as follows: operating reactors - \$345,000; spent fuel storage/reactor decommissioning - \$33,000; non-power reactors - \$400; fuel facility - \$25,000; materials users - \$19,000; transportation - \$5,000; rare earth facilities - \$1,000; and uranium recovery - \$4,000. Due to rounding, the annual fees for certain individual licensees in some of the affected classes did not change.

Factors affecting the changes to the annual fee amounts from FY 2001 include changes in budgeted costs for the different classes of licenses, the reduction in the fee recovery rate from 98 percent for FY 2001 to 96 percent for FY 2002, the estimated part 170 collections for the various classes of licenses, a \$1.7 million carryover from additional collections in FY 2001 that were unanticipated at the time the final FY 2001 fee rule was published (compared to a \$3.1 million carryover from FY 2000 which reduced FY 2001 annual fees), the increased hourly rates, and decreases in the numbers of licensees for certain categories of licenses. In addition, the decreases for the Title II uranium recovery specific licenses are based on a change to the methodology for allocating the annual fee amount for the uranium recovery class among Title I and Title II licenses. This change is described in detail in section 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