

October 21, 2002

Professor Wayne C. Wolsey
Department of Chemistry
Macalester College
1600 Grand Avenue
St. Paul, MN 55105-1899

Dear Professor Wolsey:

I am responding to your October 1, 2002, e-mail note to Chairman Richard Meserve regarding the U.S. Nuclear Regulatory Commission's (NRC's) license fees. Specifically, you indicate that the "[surcharge] paid by the nuclear power industry to cover the estimated cost of continuing the fee-exempt status for those in academia" should be proportionately transferred to the appropriate State agency as Agreement State status is achieved. You further state that the imposition of fees by a State agency creates a financial hardship for previously fee-exempt academia licensees, potentially resulting in some of these institutions terminating their licenses.

I am sympathetic to your concern regarding the impact that Agreement State fees could have on nonprofit academic institutions such as Macalester College. However, as explained below, the NRC is unable to transfer the fees it collects from NRC licensees to the Agreement States as you request.

As you are aware, the NRC is required by the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, to recover most of its budget authority through the assessment of fees. To meet this requirement, the NRC assesses fees under 10 CFR 170 for the specific licensing and inspection services the agency performs for individual applicants and licensees, and the remainder of the agency's budget is recovered through annual fees assessed to NRC licensees under 10 CFR 171. The NRC's annual fees currently include a surcharge to recover, among other costs, the budgeted costs for NRC activities for which Part 170 or Part 171 fees are not assessed based on law or Commission policy -- such as activities covered by the fee exemption for nonprofit educational institutions. Consequently, the agency's cost of regulating nonprofit educational institutions is currently borne by those NRC licensees subject to annual fees, with power reactors paying most of those costs.

The NRC's annual budgets are based on the resources required to execute its regulatory oversight mission in a given year. When a State becomes an Agreement State, the NRC adjusts its resources as appropriate to account for the transfer of regulatory jurisdiction over the licensees to the State. Therefore, the NRC does not budget for or receive funds covering institutions that are no longer directly under its jurisdiction. In addition, the NRC's budgets do not include funding for the Agreement States to carry out their regulatory responsibilities. Accordingly, the agency has no authority to assess fees to NRC licensees for the costs incurred by the Agreement States in regulating their licensees, including nonprofit educational institutions. Therefore, we cannot transfer a portion of our fees to Agreement States to offset

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their cost of regulating non-profit educational institutions. Agreement States are not bound by the NRC's fee policies, and can assess fees however they deem appropriate to support their regulatory program in accordance with State laws and policies.

Thank you for your inquiry. If you have further questions on this matter, please contact Mr. Robert Carlson, Office of the Chief Financial Officer, at 301-415-8165.

Sincerely,

Charlotte L. Turner, Director **IRA**
Division of Accounting and Finance
Office of the Chief Financial Officer

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Sincerely,

Charlotte L. Turner, Director \RAI
Division of Accounting and Finance
Office of the Chief Financial Officer

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