

2/19/03
Gherda's
Change

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN: 3150-AH14

Revision of Fee Schedules; Fee Recovery for FY 2003

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 94 percent of its budget authority in fiscal year (FY) 2003, less the amounts appropriated from the Nuclear Waste Fund (NWF). The amount to be recovered for FY 2003 is approximately \$526.5 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

The NRC is proposing to amend its licensing, inspection, and annual fees to recover approximately 94 percent of its FY 2003 budget authority, including the budget authority for its Office of the Inspector General, less the appropriations received from the NWF. The NRC's proposed total budget authority for FY 2003 is \$585.0 million, of which approximately \$24.9 million has been appropriated from the NWF. Based on the 94 percent fee recovery requirement, the NRC must collect approximately \$526.5 million in FY 2003 through part 170 licensing and inspection fees, part 171 annual fees, and other offsetting receipts. The amount to be recovered for FY 2003 includes \$29.3 million for homeland security. Consistent with the President's budget request, the NRC requested that the agency's homeland security expenses be excluded from the fee base. However, because both of the Congressional appropriations committees directed that these expenses be included in the fee base, the proposed fee schedules include those sums allocated for homeland security. The total amount to be recovered through fees and other offsetting receipts for FY 2003 is \$47.0 million more than the amount estimated for recovery in FY 2002.

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The NRC estimates that approximately \$124.4 million will be recovered in FY 2003 from part 170 fees and other offsetting receipts. For FY 2003, the NRC also estimates a net adjustment of approximately \$1.9 million for FY 2003 invoices that the NRC estimates will not be paid during the fiscal year, and for payments received in FY 2003 for FY 2002 invoices. The remaining \$400.2 million would be recovered through the part 171 annual fees, compared to \$345.6 million for FY 2002.

1247

✓

Table I summarizes the budget and fee recovery amounts for FY 2003. Due to rounding, adding the individual numbers in the table may result in a total that is slightly different than the one shown.

.065 → \$58,505M

TABLE I - BUDGET AND FEE RECOVERY AMOUNTS FOR FY 2003

[Dollars in Millions]

Total Budget Authority		\$584.6	
		\$585.0	585 - 3801
Less NWF		- 24.9	X .0065
Balance		\$560.1	559.7
Fee Recovery Rate for FY 2003		x 94.0%	
Total Amount to be Recovered For FY 2003		\$526.5	526.1
Less Carryover from FY 2002		- 0	
Amount to be Recovered Through Fees and Other Receipts		\$526.5	526.1
Less Estimated Part 170 Fees and Other Receipts		-124.4	124.7
Part 171 Fee Collections Required		\$402.1	401.8
Part 171 Billing Adjustments			
Unpaid FY 2002 Invoices (estimated)		2.4	
Less Payments Received in FY 2002 for Prior Year Invoices (estimated)		- 4.3	
Subtotal		- 1.9	
Adjusted Part 171 Collections Required		\$400.2	399.9

The FY 2003 final fee rule will be a "major" final action as defined by the Small Business Regulatory Enforcement Fairness Act of 1996. Therefore, the NRC's fees for FY 2003 would become effective 60 days after publication of the final rule in the Federal Register. The NRC will send an invoice for the amount of the annual fee to reactors and major fuel cycle facilities upon publication of the FY 2003 final rule. For these licensees, payment would be due on the effective date of the FY 2003 rule. Those materials licensees whose license anniversary date during FY 2003 falls before the effective date of the final FY 2003 rule would be billed for the

1990, 104 Stat. 2838). Additionally, the NRC is proposing to revise fee category 15.A. of §170.31 to cover all categories of radioactive waste import license applications and to revise category 15.B. to remove the radioactive waste import license applications.

The proposed amendments are as follows:

1. Hourly Rates

The NRC is proposing to revise the two professional hourly rates for NRC staff time established in §170.20. These proposed rates would be based on the number of FY 2003 direct program full time equivalents (FTEs) and the FY 2003 NRC budget, excluding direct program support costs and NRC's appropriations from the NWF and the General Fund. These rates are used to determine the part 170 fees. The proposed rate for the reactor program is \$156 per hour (~~\$276,668~~^{276,661} per direct FTE). This rate would be applicable to all activities for which fees are assessed under §170.21 of the fee regulations. The proposed rate for the materials program (nuclear materials and nuclear waste programs) is \$158 per hour (~~\$280,895~~^{\$280,876} per direct FTE). This rate would be applicable to all activities for which fees are assessed under §170.31 of the fee regulations. In the FY 2002 final fee rule, the reactor and materials program rates were \$156 and \$152, respectively.

The proposed increase to the materials program (nuclear materials and nuclear waste programs) rate reflects a shifting of certain direct resources away from activities that are covered by the surcharge to activities directly benefitting the materials classes of licensees *in the materials program.*

In example, budgeted resources for
~~Specifically, the NRC staff expended less resources on surcharge activities that~~
for FY 2003 there is a reduction in the the
compared from FY 2002

~~related to~~ ^{for} ~~the~~ ~~Site Decommissioning Management Plan program and~~
~~benefitted Agreement States, Federal agencies, foreign governments, etc., instead~~

~~focusing its resources on regulatory activities~~ directly affecting the materials program fee ^{general}
classes. This shift of direct resources causes a commensurate increase in the overhead costs ^{decom}
allocated to the materials program because the overhead costs are allocated in proportion to the ^{and}
direct FTE costs. ^{remediate}
^{activities;}

^{in an increase}
^{the fuel facility and rare earth}
^{classes & licenses.}
~~increase~~

The method used to determine the two professional hourly rates is as follows:

- a. Direct program FTE levels are identified for the reactor program and the materials program (nuclear materials and nuclear waste programs).
- b. Direct contract support, which is the use of contract or other services in support of the line organization's direct program, is excluded from the calculation of the hourly rates because the costs for direct contract support are charged directly through the various categories of fees.
- c. All other program costs (i.e., Salaries and Benefits, Travel) represent "in-house" costs and are to be collected by dividing them uniformly by the total number of direct FTEs for the program. In addition, salaries and benefits plus contracts for non-program direct management and support, and for the Office of the Inspector General, are allocated to each program based on that program's direct costs. This method results in the following costs which are included in the hourly rates. Due to rounding, adding the individual numbers in the table may result in a total that is slightly different than the one shown.

TABLE II - FY 2003 BUDGET AUTHORITY TO BE INCLUDED IN HOURLY RATES

	Reactor <u>Program</u>	Materials <u>Program</u>
Direct Program Salaries & Benefits	\$134.1M ✓	\$34.4M ✓
Overhead Salaries & Benefits,		
Program Travel and Other Support	62.3M ✓	17.1M ✓
Allocated Agency Management and Support	<u>118.5M</u> ✓	<u>31.1M</u> ✓
Subtotal	\$314.9M ✓	\$82.6M ✓
Less offsetting receipts	<u>-0.1M</u> ✓	<u>-0.00M</u> ✓
Total Budget Included in Hourly Rate	\$314.8M ✓	\$82.6M ✓
Program Direct FTEs	1138.0 ✓	294.0 ✓
Rate per Direct FTE	\$276,668 \$276,661	\$280,924 \$280,896
Professional Hourly Rate (Rate per direct FTE divided by 1,776 hours)	\$156	\$158

As shown in Table II, dividing the \$314.9 million budgeted amount (rounded) included in the hourly rate for the reactor program by the reactor program direct FTEs (1138.0) results in a rate for the reactor program of ~~\$276,668~~^{276,661} per FTE for FY 2003. The Direct FTE Hourly Rate for the reactor program would be \$156 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE (~~\$276,668~~^{\$276,661}) by the number of productive hours in one year (1,776 hours) as set forth in the revised OMB Circular A-76, "Performance of Commercial Activities." Similarly, dividing the \$82.6 million budgeted amount (rounded) included in the hourly rate for the materials program by the program direct FTEs (294.0) results in a rate

~~\$280,924~~^{4280,876} per FTE for FY 2003. The Direct FTE Hourly Rate for the materials program would be \$158 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE (\$280,924) by the number of productive hours in one year (1,776 hours). ✓

2. Fee Adjustments

The NRC is proposing to adjust the current part 170 fees in §§170.21 and 170.31 to reflect both the changes in the revised hourly rates and the results of the biennial review of part 170 fees required by the CFO Act. To comply with the requirements of the CFO Act, the NRC has evaluated historical professional staff hours used to process a new license application for those materials licensees whose fees are based on the average cost method, or “flat” fees. This review also included new license and amendment applications for import and export licenses.

Evaluation of the historical data shows that fees based on the average number of professional staff hours required to complete materials licensing actions should be increased in some categories and decreased in others to more accurately reflect current costs incurred in completing these licensing actions. The data for the average number of professional staff hours needed to complete new licensing actions was last updated in FY 2001 (66 FR 32452; June 14, 2001). Thus, the revised average professional staff hours in this proposed fee rule reflect the changes in the NRC licensing review program that have occurred since FY 2001.

As a result of the biennial review, the proposed licensing fees that are based on the average professional staff hours reflect an increase in average time for new license applications for six of the 33 materials fee categories, a decrease in average time for eight fee categories, and the same average time for the remaining 19 fee categories. Similarly, the average time for

applications for new export and import licenses and for amendments to export and import licenses remained the same for eight fee categories in §§170.21 and 170.31, and decreased for two other fee categories.

The proposed licensing fees for fee categories K.1 through K.5 of §170.21, and fee categories 1C, 1D, 2B, 2C, 3A through 3P, 4B through 9D, 10B, 15A through 15E, and 16 of §170.31 are based on the revised average professional staff hours needed to process the licensing actions multiplied by the proposed ^{materials program} professional hourly rate for FY 2003. ✓

The biennial review also included the "flat" fee for the general license registrations covered by fee Category 3.Q. As a result of this review, the proposed fee per registration is \$620, compared to the current fee of \$450. The proposed fee is based on the estimated number of registrants, current resource estimates, and the FY 2003 ^{materials program} FTE rate. This increase to the current fee of \$450 is primarily due to a decrease in the expected number of registrations. When the current \$450 registration fee was established in the FY 2001 final fee rule (66 FR 32461; June 14, 2001), the NRC estimated that there would be 4300 registrations. The number of registrations is now expected to be 3000. The next biennial review of the registration fee will be included in the FY 2005 fee rule; however, the registration fee may change in the FY 2004 fee rule if ^{materials program} the FTE rate ~~changes~~ for FY 2004. ✓

There is a change to the

The amounts of the materials licensing "flat" fees are rounded as follows: fees under \$1,000 are rounded to the nearest \$10, fees that are greater than \$1,000 but less than \$100,000 are rounded to the nearest \$100, and fees that are greater than \$100,000 are rounded to the nearest \$1,000. Applications filed on or after the effective date of the final rule would be subject to the revised fees in this proposed rule. ✓

1. Annual Fees

The NRC is proposing to establish rebaselined annual fees for FY 2003. The Commission's policy commitment, made in the statement of considerations accompanying the FY 1995 fee rule (60 FR 32225; June 20, 1995), and further explained in the statement of considerations accompanying the FY 1999 fee rule (64 FR 31448; June 10, 1999), determined that base annual fees will be re-established (rebaselined) at least every third year, and more frequently if there is a substantial change in the total NRC budget or in the magnitude of the budget allocated to a specific class of licenses. The fees were last rebaselined in FY 2002. Based on the change in the magnitude of the budget to be recovered through fees, the Commission has determined that it is appropriate to rebaseline the annual fees again this year.

Rebaselining fees would result in increased annual fees ^{compared to FY 2002} for four classes of licenses (power reactors, spent fuel storage/reactor decommissioning, fuel ^{is} facility, and rare earth facilities), decreased annual fees for ~~three~~ ^{two} classes (non-power reactors, ^{and} uranium recovery) ~~and import/export ~~activities~~~~), and ⁱⁿ two classes would have both increased and decreased annual fees for various inclusive categories of licenses (materials users and transportation), ^{some} ~~other~~ ^{out} of licenses would have increased annual fees and others would have decreased annual fees. ~~compared to FY 2002~~

The annual fees in §§171.15 and 171.16 would be revised for FY 2003 to recover approximately 94 percent of the NRC's FY 2003 budget authority, less the estimated amount to be recovered through part 170 fees and the amounts appropriated from the NWF. The total amount to be recovered through annual fees for FY 2003 is \$400.2 million, compared to \$345.6 million for FY 2002.

Within the fee classes,

The proposed FY 2003 annual fees would increase for most categories of licenses, decrease for some, and for ^{one} ~~two~~ ⁱⁿ categories remain the same from the previous year. The two

largest categories of materials licensees (which together include 3,500 of NRC's 4,900 materials ^{licensees} licenses) show fee decreases of 7.4 percent and 9.8 percent respectively. The increases in annual fees range from approximately 4.5 percent for materials licenses authorizing possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials, to approximately 175 percent for rare earth facilities. The decreases in annual fees range from approximately 2.2 percent for materials licenses of broad scope for possession and use of byproduct material for processing or manufacturing items containing byproduct material for commercial distribution, to approximately 53 percent for materials licenses authorizing possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies (other than field flooding). The fees remain the same for materials licenses authorizing possession and use of byproduct material in sealed sources for irradiation of materials where the source is not removed from its shield, and licenses authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purposes of packaging or repackaging the material.

Directive

reduces

approximately

compared to FY 2002

1.0

receipt of

~~waste for packaging and disposal transfer to others for disposal~~

1.0

DOE's transportation activities

53

Factors affecting the changes to the annual fee amounts include adjustments in budgeted costs for the different classes of licenses (including the ^{addition of} homeland security costs), the reduction in the fee recovery rate from 96 percent for FY 2002 to 94 percent for FY 2003, the estimated part 170 collections for the various classes of licenses, the increased hourly rate for the materials and waste program, and decreases in the numbers of licensees for certain categories of licenses. In addition, there is no carryover from FY 2002 to reduce the FY 2003 fees. The FY 2002 fees were reduced by a \$1.7 million carryover from FY 2001.

Table IV below shows the proposed rebaselined annual fees for FY 2003 for representative categories of licenses.

TABLE IV - REBASELINED ANNUAL FEES FOR FY 2003

<u>Class/Category of Licenses</u>	<u>Proposed FY 2003</u> <u>Annual Fee</u>	
Operating Power Reactors (including Spent Fuel Storage/Reactor Decommissioning annual fee)	\$ 3,280 \$3,236,000	✓
Spent Fuel Storage/Reactor Decommissioning	309,000 265,000	
Nonpower Reactors	55,800 68,300	
High Enriched Uranium Fuel Facility	5,871,000 5,838,000	
Low Enriched Uranium Fuel Facility	1,969,000 1,958,000	
UF ₆ Conversion Facility	844,000 839,000	
Uranium Mills	64,900 ✓	
Transportation:		
Users/Fabricators	154,200 75,000	
Users Only	14,400 7,000	
Typical Materials Users:		
Most Industrial/Commercial Users	2,500	
Radiographers	12,200 ✓	
Well Loggers	4,700 ✓	
Gauge Users	2,500	
Broad Scope Medical	24,700 24,900	
Most Medical Users	4,600	
other		

"most" ind users or most medical are not classes or categories!

The annual fees assessed to each class of licenses include a surcharge to recover those NRC budgeted costs that are not directly or solely attributable to the classes of licenses, but must be recovered from licensees to comply with the requirements of OBRA-90, as amended. Based on the FY 2001 Energy and Water Appropriations Act which amended OBRA-90 to decrease the NRC's fee recovery amount by 2 percent per year beginning in FY 2001, until the fee recovery amount is 90 percent in FY 2005, the total surcharge costs for FY 2003 will be reduced by about \$33.6 million. The total FY 2003 budgeted costs for these activities and the reduction to these ^{total surcharge} amounts for fee recovery purposes are shown in Table V. Due to rounding, adding the individual numbers in the table may result in a total that is slightly different than the one shown. ✓

TABLE V - SURCHARGE COSTS

[Dollars in Millions]

<u>Category of Costs</u>	<u>FY 2003 Budgeted Costs</u>
1. Activities not attributable to an existing NRC licensee or class of licensee:	
a. International activities	\$10.3 ✓
b. Agreement State oversight	8.8 ✓
c. Low-level waste disposal generic activities	2.7 ✓
d. Site decommissioning management plan activities not recovered under part 170	3.6 ✓
2. Activities not assessed part 170 licensing and inspection fees or part 171 annual fees based on existing law or Commission policy:	

TABLE VI - ALLOCATION OF SURCHARGE

	LLW Surcharge		Non-LLW Surcharge		Total Surcharge
	Percent	\$M	Percent	\$M	\$M
Operating Power	74 ✓	2.0 ✓	79.3 ✓	17.1 ✓	19.1 ✓
Reactors					
Spent Fuel Storage/ Reactor Decomm.	---	---	7.2 ^{8.2}	1.6 1.8	1.6 1.8 ✓
Nonpower Reactors	---	---	0.1 ✓	0.0 ✓	0.0 ✓
Fuel Facilities	8 ✓	0.2 ✓	6.7 ✓	1.4 ✓	1.7 1.6 ✓
Materials Users	18 ✓	0.5 ✓	3.7 3.8	0.8 ✓	1.3 ✓
Transportation	---	---	2.2 1.2	0.5 0.3	0.5 0.3 ✓
Rare Earth Facilities	---	---	0.2 ✓	0.0 ✓	0.0 ✓
Uranium Recovery	---	---	0.7 ✓	0.1 ✓	0.1 ✓
TOTAL SURCHARGE	100 ✓	2.7 ✓	100.0 ✓	21.5 ✓	24.2

The budgeted costs allocated to each class of licenses and the calculations of the rebaselined fees are described in A. through H. below. The workpapers which support this proposed rule show in detail the allocation of NRC's budgeted resources for each class of licenses and how the fees are calculated. The workpapers are available electronically at the NRC's Electronic Reading Room on the Internet at Website address <http://www.gov/reading-room/adams.html>. During the 30-day public comment period, the workpapers may also be

examined at the NRC Public Document Room located at One White Flint North, Room O-1F22, 11555 Rockville Pike, Rockville, MD 20852-2738.

A. Fuel Facilities

The proposed annual fees for the fuel facility class reflect increased budgeted costs for activities that are not subject to cost recovery under Part 170, primarily homeland security activities related to fuel facilities. Such activities include the issuance of orders directing the fuel facility licensees to take interim compensatory measures to increase security. Also included is a series of risk-informed vulnerability assessments the NRC is conducting on fuel facilities. Vulnerabilities of structures, process and protective systems, security operations and physical protection systems, information systems, material control and accountability systems, and access control systems vulnerabilities will be assessed, as applicable. The results of individual assessments then will be integrated into one comprehensive risk-informed assessment for fuel cycle, from which the NRC can make decisions about protective strategies for each type of facility.

The FY 2003 budgeted costs of approximately ~~\$27.1~~ ^{\$27.0} million to be recovered in annual fees assessed to the fuel facility class is allocated to the individual fuel facility licensees based on the effort/fee determination matrix established in the FY 1999 final fee rule (64 FR 31448; June 10, 1999). In the matrix (which is included in the NRC workpapers that are publicly



Applying these factors to the safety, safeguards, and surcharge components of the \$27.⁰ million total annual fee amount for the fuel facility class results in the proposed annual fees for each licensee within the subcategories of this class summarized in the table below. ✓

TABLE VIII - PROPOSED ANNUAL FEES FOR FUEL FACILITIES

<u>Facility Type</u>	<u>Proposed FY 2003 Annual Fee</u>	
High Enriched Uranium Fuel	\$6,871,000	\$5,838,000
Uranium Enrichment	3,656,000	3,636,000
Low Enriched Uranium	1,969,000	1,958,000
UF ₆ Conversion	844,000	839,000
Limited Operations Facility	773,000	769,000
Others	562,000	559,000

B. Uranium Recovery Facilities

The FY 2003 budgeted costs, including surcharge costs, to be recovered through annual fees assessed to the uranium recovery class is approximately \$1.5 million. ✓ Approximately \$1.0 million of this amount would be assessed to DOE. ✓ The remaining \$0.5 million would be recovered through annual fees assessed to conventional mills, in-situ leach solution mining facilities, and 11e.(2) mill tailings disposal facilities. ✓

In recognizing that the uranium recovery class is comprised of two types of licensees falling under either the NRC's Title I or Title II program, the Commission determined in FY 2002 that it was appropriate to divide the generic and other costs included in the uranium recovery annual fee evenly among the two programs. Furthermore, DOE stands to gain from NRC's generic regulatory efforts because DOE eventually will also accept the Title II specifically licensed sites under a general license from the NRC for long term surveillance and care. This change in methodology was adopted in the FY 2002 final fee rule (67 FR 42612; June 24, 2002).

As a result of the change adopted in the FY 2002 final fee rule, the total annual fee amount, less the amounts specifically budgeted for Title I activities, is allocated equally between Title I and Title II licensees. This would result in an annual fee being assessed to DOE to recover the costs specifically budgeted for NRC's Title I activities plus 50 percent of the remaining annual fee amount, including the surcharge, for the uranium recovery class. The remaining surcharge, generic, and other costs would be assessed to the NRC Title II program licensees that are subject to annual fees. The costs to be recovered through annual fees assessed to the uranium recovery class are shown below. Due to rounding, adding the individual numbers in the table may result in a total that is slightly different than the one shown.

DOE Annual Fee Amount (UMTRCA Title I and Title II general licenses):

UMTRCA Title I budgeted costs	\$ 393,243	393,227
50% of generic/other uranium recovery budgeted costs	496,392	496,188
50% of uranium recovery surcharge	70,785	70,750

Total Annual Fee Amount for DOE	960,172 \$ 960,471
Annual Fee Amount for UMTRCA Title II Specific Licenses:	
50% of generic/other uranium recovery budgeted costs	\$ 496,892 496,188
50% of uranium recovery surcharge	70,785 70,758
Total Annual Fee Amount for Title II Specific Licenses	\$ 567,178 566,945

The costs allocated to the various categories of Title II specific licensees are based on the uranium recovery matrix established in the FY 1999 final fee rule (64 FR 31448; June 10, 1999). The methodology for establishing part 171 annual fees for Title II uranium recovery licensees has not changed and is as follows:

(1) The methodology identifies three categories of licenses: conventional uranium mills (Class I facilities), uranium solution mining facilities (Class II facilities), and mill tailings disposal facilities (11e.(2) disposal facilities). Each of these categories benefits from the generic uranium recovery program efforts (e.g., rulemakings, staff guidance documents);

(2) The matrix relates the category and the level of benefit by program element and subelement;

(3) The two major program elements of the generic uranium recovery program are activities related to facility operations and those related to facility closure;

(4) Each of the major program elements was further divided into three subelements;

TABLE X - ANNUAL FEES FOR TITLE II SPECIFIC LICENSES

<u>Facility Type</u>	<u>Proposed FY 2003 Annual Fee</u>
Class I (conventional mills)	\$ 64,900 ✓
Class II (solution mining)	54,400 54,300 ✓
11e.(2) disposal	40,000 ✓
11e.(2) disposal incidental to existing tailings sites	6,300 ✓

In the FY 2001 final rule (66 FR 32478), the NRC revised §171.19 to establish a quarterly billing schedule for the Class I and Class II licensees, regardless of the annual fee amount. Therefore, as provided in §171.19(b), if the amounts collected in the first three quarters of FY 2003 exceed the amount of the revised annual fee, the overpayment will be refunded; if the amounts collected in the first three quarters are less than the final revised annual fee, the remainder will be billed after the FY 2003 final fee rule is published. The remaining categories of Title II facilities are subject to billing based on the anniversary date of the license as provided in §171.19(c).

C. Power Reactors

The approximately \$309.0 million in budgeted costs to be recovered through FY 2003 annual fees assessed to the power reactor class, which includes homeland security costs, would be divided equally among the 104 power reactors licensed to operate. This results in a proposed FY 2003 annual fee of \$2,971,000 per reactor. Additionally, each power reactor

licensed to operate would be assessed the proposed FY 2003 spent fuel storage/reactor decommissioning annual fee of ~~\$265,000~~^{\$309,000}. This would result in a total FY 2003 annual fee of ~~\$3,236,000~~^{\$3,280,000} for each power reactor licensed to operate. ✓

D. Spent Fuel Storage/Reactor Decommissioning

For FY 2003, budgeted costs of approximately ~~\$32.1~~^{\$37.3} million for spent fuel storage/reactor decommissioning are to be recovered through annual fees assessed to part 50 power reactors, and to part 72 licensees who do not hold a part 50 license. Those reactor licensees that have ceased operations and have no fuel onsite are not subject to these annual fees. The costs would be divided equally among the 121 licensees, resulting in a proposed FY 2003 annual fee of ~~\$265,000~~^{\$309,000} per licensee. ✓

E. Non-power Reactors

Approximately ~~\$223,000~~^{\$273,000} in budgeted costs is to be recovered through annual fees assessed to the non-power reactor class of licenses for FY 2003. This amount would be divided equally among the four non-power reactors subject to annual fees. This results in a proposed FY 2003 annual fee of ~~\$55,800~~^{\$68,300} for each licensee. ✓

F. Rare Earth Facilities

The FY 2003 budgeted costs of approximately \$378,000 for rare earth facilities to be recovered through annual fees would be divided equally among the two licensees who have a specific license for receipt and processing of source material. Prior to the beginning of FY 2003, ✓

one rare earth facility permanently ceased operations and requested that its license be amended to authorize decommissioning activities only. Consequently, this license is no longer subject to annual fees. The result is a proposed FY 2003 annual fee of \$189,000 for each of the two remaining rare earth facilities.

G. Materials Users

To equitably and fairly allocate the \$~~23.7~~^{23.9} million in FY 2003 budgeted costs to be recovered in annual fees assessed to the approximately 5,000 diverse materials users and registrants, the NRC has continued to use the FY 1999 methodology to establish baseline annual fees for this class. The annual fees are based on the part 170 application fees and an estimated cost for inspections. Because the application fees and inspection costs are indicative of the complexity of the license, this approach continues to provide a proxy for allocating the generic and other regulatory costs to the diverse categories of licenses based on how much it costs the NRC to regulate each category. The fee calculation also continues to consider the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses. The annual fee for these categories of licenses is developed as follows:

Annual fee = Constant x [Application Fee + (Average Inspection Cost divided by Inspection Priority)] + Inspection Multiplier x (Average Inspection Cost divided by Inspection Priority) + Unique Category Costs.

The constant is the multiple necessary to recover approximately \$17.8 million in general costs and is ~~1.17~~^{1.18} for FY 2003. The inspection multiplier is the multiple necessary to recover

approximately \$4.5 million in inspection costs for FY 2003, and is 0.9 for FY 2003. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses.

unique costs

in budget of the costs for the implementation of part 35

For FY 2003, approximately \$65,300 has been allocated to NRC medical licenses holders of NRC human use licenses

of part 35

medical

of byproduct material,

The annual fee assessed to each licensee also includes a share of the \$800,000 in surcharge costs allocated to the materials user class of licenses and, for certain categories of these licenses, a share of the approximately \$500,000 in LLW surcharge costs allocated to the class. The proposed annual fee for each fee category is shown in §171.16(d).

H. Transportation

\$5.0

Of the approximately \$10.3 million in FY 2003 budgeted costs to be recovered through annual fees assessed to the transportation class of licenses (including homeland security costs), approximately \$2.8 million would be recovered from annual fees assessed to DOE based on the number of part 71 Certificates of Compliance that it holds. Of the remaining \$7.5 million, approximately 25 percent would be allocated to the 89 quality assurance plans authorizing use only and the 40 quality assurance plans authorizing use and design/fabrication. The remaining 75 percent would be allocated only to the 40 quality assurance plans authorizing use and design/fabrication. This results in a proposed annual fee of \$14,400 for each of the holders of quality assurance plans that authorize use only, and a proposed annual fee of \$154,000 for each of the holders of quality assurance plans that authorize use and design/fabrication.

\$1.4

\$3.6

\$7,000

\$75,000

2. Small Entity Annual Fees

The NRC stated in the FY 2001 fee rule (66 FR 32452; June 14, 2001), that it would re-examine the small entity fees every two years, in the same years in which it conducts the biennial review of fees as required by the CFO Act. Accordingly, the NRC has re-examined the small entity fees, and does not believe that a change to the small entity fees is warranted for FY 2003. The revision to the small entity fees in FY 2000 (65 FR 36946; June 12, 2000) was based on the 25 percent increase in average total fees assessed to other materials licensees in selected categories since the small entity fees were first established and changes that had occurred in the fee structure for materials licensees over time. The NRC compared the FY 2003 annual fees for the selected license categories to the FY 2000 (base year) annual fees for the same license categories, and the result was an average decrease of 21 percent for these categories. The NRC does not consider the approximately 21 percent decrease in the average FY 2003 fees for other materials licensees to be significant enough to warrant a change to the small entity fees this year. There have been no changes to the fee structure for the materials user class of licensees since FY 2000. Therefore, the FY 2003 small entity annual fee would remain at \$2,300, and the lower tier small entity annual fee would remain at \$500.

Unlike the annual fees assessed to other licensees, the small entity fees are not designed to recover the agency costs associated with particular licensees. Rather, they are designed to provide some fee relief for qualifying small entity licensees while at the same time recovering from these licensees some of the NRC's costs for activities that benefit them. The costs not recovered from small entities must be recovered from other licensees. The current small entity fees of \$500 and \$2,300 provide considerable relief to many small entities.

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⁴ Licensees paying fees under Categories 1A, 1B, and 1E are not subject to fees under Categories 1C and 1D for sealed sources authorized in the same license except for an application that deals only with the sealed sources authorized by the license.

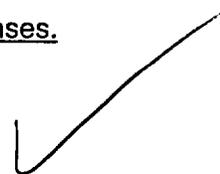
PART 171 -- ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIAL LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC.

7. The authority citation for part 171 continues to read as follows:

Authority: sec. 7601, Pub. L. 99-272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100-203, 101 Stat. 1330, as amended by sec. 3201, Pub. L. 101-239, 103 Stat. 2132, as amended by sec. 6101, Pub. L. 101-508, 104 Stat. 1388, as amended by sec. 2903a, Pub. L. 102-486, 106 Stat. 3125 (42 U.S.C. 2213, 2214); sec. 301, Pub. L. 92-314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93-438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

8. Section 171.15 is revised to read as follows:

§171.15 Annual Fees: Reactor licenses and independent spent fuel storage licenses.



(b)(1) The FY 2003 annual fee for each operating power reactor which must be collected by September 30, 2003, is ~~\$3,236,000.~~ *\$3,280,000*

(2) The FY 2003 annual fee is comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (surcharges). The activities comprising the FY 2003 spent storage/reactor decommissioning base annual fee are shown in paragraph (c)(2)(i) and (ii) of

(ii) Other safety, environmental, and safeguards activities related to reactor decommissioning and spent fuel storage, except costs for licensing and inspection activities that are recovered under part 170 of this chapter.

(d)(1) The activities comprising the FY 2003 surcharge are as follows:

(i) Low level waste disposal generic activities;

(ii) Activities not attributable to an existing NRC licensee or class of licenses (e.g., international cooperative safety program and international safeguards activities, support for the Agreement State program, and site decommissioning management plan (SDMP) activities); and

(iii) Activities not currently subject to 10 CFR part 170 licensing and inspection fees based on existing law or Commission policy, e.g., reviews and inspections conducted of nonprofit educational institutions, licensing actions for Federal agencies, and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

(2) The total FY 2003 surcharge allocated to the operating power reactor class of licenses is \$19.1 million, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2003 operating power reactor surcharge to be assessed to each operating power reactor is approximately \$183,300. This amount is calculated by dividing the total operating power reactor surcharge (\$19.1 million) by the number of operating power reactors (104).

(3) The FY 2003 surcharge allocated to the spent fuel storage/reactor decommissioning class of licenses is \$1.6 million. The FY 2003 spent fuel storage/reactor decommissioning surcharge to be assessed to each operating power reactor, each power reactor in decommissioning or possession only status that has spent fuel onsite, and to each independent spent fuel storage part 72 licensee who does not hold a part 50 license is approximately \$12,900. This amount is calculated by dividing the total surcharge costs allocated to this class

\$14,900

by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel on site, and part 72 licensees who do not hold a part 50 license.

(e) The FY 2003 annual fees for licensees authorized to operate a non-power (test and research) reactor licensed under part 50 of this chapter, unless the reactor is exempted from fees under §171.11(a), are as follows:

Research reactor	\$55,800 \$68,300	✓
Test reactor	\$55,800 \$68,300	

12. In §171.16, paragraphs (c), (d), and (e) are revised to read as follows:

§171.16 Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals and Government Agencies Licensed by the NRC.

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in the following table. Failure to file a small entity certification in a timely manner could result in the denial of any refund that might otherwise be due. The small entity fees are as follows:

	<u>Maximum Annual Fee</u>
	<u>Per Licensed Category</u>
<u>Small Businesses Not Engaged</u>	
<u>in Manufacturing and Small</u>	
<u>Not-For-Profit Organizations</u>	
<u>(Gross Annual Receipts)</u>	

1. Special nuclear material:

A.(1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities.

(a) Strategic Special Nuclear Material:

BWX Technologies		\$ 5,838,000
SNM-42.....	\$5,871,000	
Nuclear Fuel Services		5,838,000
SNM-124.....	\$5,871,000	

(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel:

Global Nuclear Fuel		\$ 1,958,000
SNM-1097	\$1,969,000	
Framatome ANP Richland		\$ 1,958,000
SNM-1227.....	\$1,969,000	
Westinghouse Electric Company		\$ 1,958,000
SNM-1107.....	\$1,969,000	

(2) All other special nuclear materials licenses not included in Category 1.A.(1)

which are licensed for fuel cycle activities.

(a) Facilities with limited operations:

Framatome ANP SNM-1168.....~~\$773,000~~ \$769,000

(b) All Others:

General Electric SNM-960.....~~\$562,000~~ \$559,000

B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI)..... N/A¹¹

C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.....\$1,900 ✓

D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in §150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1.A.(2).....~~\$4,500~~ \$4,600 ✓

E. Licenses or certificates for the operation of a uranium enrichment facility.....~~\$3,656,000~~ ^{\$ 3,636,000}

2. Source material:

A.(1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride.....~~\$844,000~~ ^{839,000} ✓

(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.

Class I facilities⁴.....\$64,900 ✓

Class II facilities⁴.....~~\$54,400~~ ^{54,300}

Other facilities⁴.....\$189,000 ✓

(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2A(2) or Category 2A(4).....\$40,000 ✓

(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2A(2).....\$6,300 ✓

B. Licenses that authorize only the possession, use and/or installation of source material for shielding.....\$730 ✓

C. All other source material licenses.....~~\$11,400~~ \$11,500 ✓

3. Byproduct material:

A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this

chapter for processing or manufacturing
of items containing byproduct material
for commercial distribution.....~~\$21,900~~ ^{\$}22,000 ✓

B. Other licenses for possession and use of
byproduct material issued under
part 30 of this chapter for processing or
manufacturing of items containing
byproduct material for commercial
distribution.....\$6,600 ✓

C. Licenses issued under §§32.72,
32.73, and/or 32.74 of this chapter
authorizing the processing or
manufacturing and distribution or
redistribution of radiopharmaceuticals,
generators, reagent kits and/or sources
and devices containing byproduct
material. This category also includes the
possession and use of source material
for shielding authorized under part
40 of this chapter when included on the
same license. This category does not
apply to licenses issued to nonprofit
educational institutions whose
processing or manufacturing is exempt
under §171.11(a)(1). These
licenses are covered by fee
Category 3D.....~~\$10,900~~ ^{\$}11,000 ✓

D. Licenses and approvals issued under §§32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category includes licenses issued under §§32.72, 32.73 and 32.74 of this chapter to nonprofit educational institutions whose processing or manufacturing is exempt under §171.11(a)(1). This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license.....

~~\$4,700~~

4,800 ✓

E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).....

\$3,600 ✓

F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category

also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.....\$6,600 \$ 6,700

G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.....~~\$24,100~~ \$ 24,300 ✓

H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.....\$6,000 \$ 6,100 ✓

I. Licenses issued under Subpart A of part 32 of this chapter to distribute

items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.....

\$6,100

6,200 ✓

J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.....

\$2,200 ✓

K. Licenses issued under Subpart B of part 31 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed

under part 31 of this chapter, except
specific licenses authorizing
redistribution of items that have been
authorized for distribution to persons
generally licensed under part 31 of this
chapter.....\$1,400 ✓

L. Licenses of broad scope for possession
and use of byproduct material issued
under parts 30 and 33 of this
chapter for research and development
that do not authorize commercial
distribution.....\$11,800 ✓
11,900

M. Other licenses for possession and use of
byproduct material issued under
part 30 of this chapter for research and
development that do not authorize
commercial distribution.....\$5,600 ✓

N. Licenses that authorize services for
other licensees, except:
(1) Licenses that authorize only
calibration and/or leak testing
services are subject to the fees
specified in fee Category 3P; and
(2) Licenses that authorize waste
disposal services are subject to the

fees specified in fee Categories

4A, 4B, and 4C.....~~\$6,100~~ \$16,200 ✓

O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license.....

~~\$12,200~~ \$12,300 ✓

P. All other specific byproduct material licenses, except those in Categories 4A through 9D.....

\$2,500 ✓

Q. Registration of devices generally licensed pursuant to part 31 of this chapter.....

N/A¹³

4. Waste disposal and processing:

A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level

radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material.....N/A⁵

B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.....

~~\$10,300~~ \$ 10,400 ✓

C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.....

~~\$7,400~~ \$ 7,500 ✓

5. Well logging:

A. Licenses for possession and use of

byproduct material, source material,
and/or special nuclear material for well
logging, well surveys, and tracer studies
other than field flooding tracer studies.....\$4,700 ✓

B. Licenses for possession and use of
byproduct material for field flooding
tracer studies.....N/A⁵

6. Nuclear laundries:

A. Licenses for commercial collection and
laundry of items contaminated with
byproduct material, source material,
or special nuclear material.....~~\$23,100~~ ^{\$}23,300 ✓

7. Medical licenses:

A. Licenses issued under parts 30,
35, 40, and 70 of this chapter for human
use of byproduct material, source
material, or special nuclear material in
sealed sources contained in teletherapy
devices. This category also includes the
possession and use of source material
for shielding when authorized on the
same license.....~~\$11,100~~ ^{\$}11,200 ✓

B. Licenses of broad scope issued to

medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.⁹.....~~\$24,700~~ 24,900 ✓

C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.⁹.....\$4,600 ✓

8. Civil defense:

A. Licenses for possession and use of byproduct material, source material, or

special nuclear material for civil defense
activities.....

~~\$1,300~~

\$ 400 ✓

9. Device, product, or sealed source safety
evaluation:

A. Registrations issued for the safety
evaluation of devices or products
containing byproduct material, source
material, or special nuclear material,
except reactor fuel devices, for
commercial distribution.....\$7,000 ✓

B. Registrations issued for the safety
evaluation of devices or products
containing byproduct material, source
material, or special nuclear material
manufactured in accordance with the
unique specifications of, and for use
by, a single applicant, except reactor
fuel devices.....\$7,000 ✓

C. Registrations issued for the safety
evaluation of sealed sources containing
byproduct material, source material,
or special nuclear material, except
reactor fuel, for commercial distribution.....\$2,200 ✓

D. Registrations issued for the safety

evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.....

~~\$730~~ \$740 ✓

10. Transportation of radioactive material:

A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.

Spent Fuel, High-Level Waste, and plutonium air packages.....N/A⁶

Other Casks.....N/A⁶

B. Quality assurance program approvals issued under part 71 of this chapter.

Users and Fabricators.....~~\$154,000~~ \$75,000 ✓

Users.....~~\$14,400~~ \$7,000 ✓

11. Standardized spent fuel facilities.....N/A⁶

12. Special Projects.....N/A⁶

- 13. A. Spent fuel storage cask Certificate of Compliance.....N/A⁶
- B. General licenses for storage of spent fuel under 10 CFR 72.210.....N/A¹²
- 14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter.....N/A⁷
- 15. Import and Export licenses.....N/A⁸
- 16. Reciprocity.....N/A⁸
- 17. Master materials licenses of broad scope issued to Government agencies.....~~\$228,000~~ \$230,000 ✓
- 18. Department of Energy:
 - A. Certificates of Compliance.....\$2,805,000¹⁰ \$1,360,000 ✓
 - B. Uranium Mill Tailing Radiation Control Act (UMTRCA) activities.....\$960,000 ✓

¹ Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current fiscal year. However, the annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed

¹⁰ This includes Certificates of Compliance issued to DOE that are not under the Nuclear Waste Fund.

¹¹ See §171.15(c).

¹² See §171.15(c).

¹³ No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR Part 170 fees.

(e) The activities comprising the surcharge are as follows:

(1) LLW disposal generic activities;

(2) Activities not directly attributable to an existing NRC licensee or class(es) of licenses; e.g., international cooperative safety program and international safeguards activities; support for the Agreement State program; Site Decommissioning Management Plan (SDMP) activities; and

(3) Activities not currently assessed licensing and inspection fees under 10 CFR Part 170 based on existing law or Commission policy (e.g., reviews and inspections of nonprofit educational institutions and reviews for Federal agencies; activities related to decommissioning and reclamation; and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.)

Dated at Rockville, Maryland, this _____ day of _____, 2003. .

For the Nuclear Regulatory Commission.

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Accordingly, the NRC has re-examined the small entity fees for FY 2003, and does not believe that a change to the small entity fees is warranted this year. Unlike the annual fees assessed to other licensees, the small entity fees are not designed to recover the agency costs associated with particular licensees. Instead, the reduced fees for small entities are designed to provide some fee relief for qualifying small entity licensees while at the same time recovering from them some of the agency's costs for activities that benefit them. While there is a ~~18~~ 17 ✓ percent decrease in the average fees assessed to other materials licensees since FY 2002, and a 21 percent decrease since FY 2000, the NRC has determined that the current small entity fees of \$500 and \$2,300 continue to provide considerable relief to many small entities. The costs not recovered from small entities for activities that benefit them must be recovered from other licensees.

Therefore, the NRC is proposing to retain the \$2,300 small entity annual fee and the \$500 lower tier small entity annual fee for FY 2003. The NRC plans to re-examine the small entity fees again in FY 2005.

IV. Summary.

The NRC has determined that the 10 CFR Part 171 annual fees significantly impact a substantial number of small entities. A maximum fee for small entities strikes a balance between the requirement to recover 94 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. On the basis of its regulatory flexibility analysis, the NRC concludes that a maximum annual fee of \$2,300 for small entities and a lower-tier small entity annual fee of \$500 for small businesses and not-for-profit organizations with gross annual receipts of less than \$350,000, small governmental jurisdictions with a population of less than 20,000, small manufacturing entities that have less than 35

Introduction

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires all Federal agencies to prepare a written guide for each "major" final rule as defined by the Act. The NRC's fee rule, published annually to comply with the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, is considered a "major" rule under SBREFA. Therefore, in compliance with the law, this guide has been prepared to assist NRC material licensees in complying with the FY 2003 fee rule.

Licensees may use this guide to determine whether they qualify as a small entity under NRC regulations and are eligible to pay reduced FY 2003 annual fees assessed under 10 CFR Part 171. The NRC has established two tiers of separate annual fees for those materials licensees who qualify as small entities under NRC's size standards.

Licensees who meet NRC's size standards for a small entity must submit a completed NRC Form 526 "Certification of Small Entity Status for the Purposes of Annual Fees Imposed Under 10 CFR Part 171" to qualify for the reduced annual fee. This form can be accessed on the NRC's external web site at <http://www.nrc.gov>. The form can then be accessed by selecting "License Fees" and under "Forms" selecting NRC Form 526. For licensees who cannot access the NRC's external web site, NRC Form 526 may be obtained through the local point of contact listed in the NRC's "Materials Annual Fee Billing Handbook," NUREG/BR-0238, which is enclosed with each annual fee billing. Alternatively, the form may be obtained by calling the fee staff at 301-415-7554, or by e-mailing the fee staff at fees@nrc.gov. The completed form, the appropriate small entity fee, and the payment copy of the invoice should be mailed to the U.S. Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch, to the address