

Jesse Funches changed to
final fee rule package
4-9-04

Fourteen
~~Five~~ comments that were received on the proposed rule.
Our evaluation of these comments did not lead to any changes.

IOAA, and consistent with Office of Management and Budget (OMB) Circular A-25, to recover the costs incurred from each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public. Further, the NRC notes that, as required by OBRA-90, the part 171 annual fee recovery amounts are offset by the estimated part 170 fee collections. The NRC is not at liberty to allocate fees indiscriminately between parts 170 and 171, because fee allocation is controlled by statute. Generic costs that do not provide special benefits to identifiable recipients cannot be recovered under part 170. The NRC's workpapers clearly set forth the components of these generic costs and how those costs are recovered through annual fees. Additionally, the NRC notes that it has taken action to maximize the amount recovered under part 170, consistent with existing Federal law and policy. For example, in FY 1998 the NRC began charging part 170 fees for ^{all} resident inspectors ^{time} and in FY 1999 the NRC started charging part 170 fees for ^{all} project manager activities associated with oversight of the assigned license or plant. In FY 2003, the NRC also amended its regulations to allow the NRC to recover costs associated with contested hearings on licensing actions involving U.S. Government national security initiatives through part 170 fees assessed to the affected applicant or licensee (67 FR 64033; October 17, 2002). Included under this provision are activities involving the fabrication and use of mixed oxide fuel. Thus, contrary to one commenter's assertion, rather than assuming that "a large majority of budget increases are not directly related to licensees and should therefore only be recovered through general annual fees," the NRC seeks whenever possible, consistent with applicable law, to align its fee billing with the identifiable recipient of the benefit provided.

B. Specific Part 170 Issues.

Reciprocity Fees.

and that, in general, any difference in generic costs attributable to one power reactor as compared to another power reactor is not significant. Hence, the NRC does not believe that a change to its power reactor annual fee calculation methodology is justified. ~~However, in accordance with §171.11(c), the Commission may grant an annual fee exemption for reactors licensed to operate, taking into consideration factors such as size.~~

D. Other Issues.

1. Recovery of Security Costs.

Comment. Several commenters strongly objected to the NRC collecting security-related costs from licensees. These commenters stated that homeland security issues related to nuclear power plants are part of the U.S. government's overall responsibility to protect its critical infrastructure, and hence these costs should be excluded from the fee structure and funded through the general treasury. These commenters noted that the nuclear industry has already incurred significant security costs, and that these costs have not been reimbursed by the Federal government, unlike what has occurred for other industries. While the commenters stated that they recognized the public benefit of enhancing the already strong security at nuclear facilities, they thought it fundamentally unfair to require licensees to pay for the NRC's additional security-related oversight.

Some commenters noted that power reactor licensees would face an increase in annual fees in FY 2004, mostly due to homeland security. These commenters noted that while the NRC has received relief under the FY 2001 Energy and Water Development Appropriations Act to address concerns regarding the recovery of costs not directly attributable to a class of licensees,