

April 26, 2005

Mr. Don Arbuckle
Deputy Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Arbuckle:

In response to Executive Order 12866, "Regulatory Planning and Review," I am enclosing the Nuclear Regulatory Commission's FY 2005 Regulatory Plan. Our plan includes a description of one significant regulatory action that NRC expects to issue in final form in FY 2005.

Questions regarding NRC's Regulatory Plan may be directed to Michael T. Lesar, Chief of the Rules and Directives Branch, Division of Administrative Services, Office of Administration, 301-415-7163.

Sincerely,

/RA/

Nils J. Diaz

Enclosure:
NRC FY 2005 Regulatory Plan

U.S. NUCLEAR REGULATORY COMMISSION FY 2005 REGULATORY PLAN

A. Statement of Regulatory Priorities.

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) regulates the possession and use of source, byproduct, and special nuclear material. The NRC's regulatory mission is to ensure that civilian uses of nuclear materials and facilities are carried out in a manner that will protect public health and safety and the environment and that will not be inimical to the common defense and security of the United States. NRC regulates the operation of nuclear power plants and fuel cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transportation of nuclear materials; the decommissioning and return to safe use of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material.

NRC's regulatory priority for the next fiscal year is to continue to ensure that nuclear power plants and other licensed facilities are operated safely and that nuclear materials are possessed and used in a manner that will adequately protect public health and safety. NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations as part of its regulatory process. NRC has developed internal procedures and programs to ensure that only necessary requirements are imposed on its licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

NRC will update its requirement to recover approximately 90 percent of its budget authority, less the amount appropriated from the Nuclear Waste Fund, as required by the Omnibus Budget Reconciliation Act of 1990, as amended.

B. Description of the Significant Regulatory Action.

TITLE. Revision of Fee Schedules; Fee Recovery, FY 2005.

Legal Authority. 31 U.S.C. 9701; 42 U.S.C. 2201(w), 2213, 2214, 5841.

Legal Deadline. The Omnibus Budget Reconciliation Act of 1990, as amended (OBRA-90), requires that NRC recover approximately 90 percent of its budget authority, less the amount appropriated from the Nuclear Waste Fund, for FY 2005. The act requires that the fees for FY 2005 must be collected by September 30, 2005. Therefore, the final rule is to become effective by July 24, 2005.

Enclosure

Need. This rulemaking would amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 90 percent of the NRC budget authority for FY 2005, less the amount appropriated from the Nuclear Waste Fund. OBRA-90, as amended, requires that NRC accomplish the 90 percent recovery through the assessment of fees. NRC assesses two types of fees to recover its budget authority. License and inspection fees are assessed under the authority of the Independent Offices Appropriation Act to recover the costs of providing individually identifiable services to specific applicants and licensees (10 CFR Part 170). OBRA-90 requires that NRC recover the full cost to NRC of all identifiable regulatory services that each applicant or licensee receives. NRC recovers generic and other regulatory costs not recovered from fees imposed under 10 CFR Part 170 through the assessment of annual fees under the authority of OBRA-90 (10 CFR Part 171). Annual fee charges are consistent with the guidance in the Conference Committee Report on OBRA-90 that NRC assess the annual charge under the principle that licensees who require the greatest expenditure of the agency's resources should pay the greatest annual fee.

Alternatives. Because this action is mandated by statute and the fees must be assessed through rulemaking, NRC did not consider alternatives to this action.

Anticipated Costs and Benefits. The cost to NRC licensees is approximately 90 percent of the NRC FY 2005 budget authority, less the amount appropriated from the Nuclear Waste Fund. The dollar amount to be recovered from NRC applicants and licensees for FY 2005 is approximately \$540.7 million.

Risks. Not applicable.

Timetable. Proposed rule published February 22, 2005 (70 FR 8678).
Final rule published May 2005.
Final rule effective July 2005.

Additional Information. Tammy Croote, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, 301-415-6041.

RIN 3150-AH61.