



37
C/12

PRESENTATION TO COMMISSIONER ASSISTANTS
COMMENTS ON FY 1999 PROPOSED FEE RULE

- SRM by 5/21
- FR. by 6/01

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GENERAL COMMENTS

- 31 comments received (26 comments summarized)
 - Reactor 10
 - Uranium Recovery (UR) 7
 - Materials 6
 - Medical 1
 - GDP 1
 - Source Material 1
- Table 1 - Responses to specific areas that we directly or indirectly solicited comments
- Table 2 - Additional areas that should be addressed based on comments
- Do not plan to defend budget process as part of fee rule comments
- Uranium Recovery comments very similar
- Handle USEC comments as part of their exemption request

**COMMENTS ON PROPOSED FEE RULE
FY 1999**

TABLE I - Comments on Specific Proposed Changes

COMMENT NUMBER	ORG.	TYPE OF LICENSEE	PART 171			PART 170				H OTHER
			A 50% CAP?	B REBASELINE YEARLY?	C SUPPORT SPENT FUEL STORAGE/ RX DECOMM. ANNUAL FEE?	D EXPAND PART 170	E ELIMINATE FLAT AMENDMENT FEES?	F HOURLY RATE	G INCLUDE ORDERS, ESCALATED ENFORCEMENT IN PART 170 FOR FY2000?	
1	CPN	Materials								✓
2	MPU	Materials								✓
3	Aguirre Engineers, Inc	Materials								✓
4	Colter Corp.	UR						Opposes		✓
5	Kennecott Uranium Co.	UR	Yes	No		Oppose PM		Opposes		✓
6	Spicer Group	Materials								✓
7	Dakota Coal Co.	Materials								✓
8	PECO Nuclear	Reactor			Opposes - No fuel on site	Supports PM & Inspection Opposes Remainder				✓
9	Wyoming Mining Assoc.	UR	Yes	No		Oppose PM		Opposes		✓
10	Nycomed Amersham	Materials	No	Yes		Opposes				✓
11	GE Nuclear Energy	Reactor			Opposes - No fuel on site					✓
12	University of Cincinnati	Medical	Yes ¹				Yes			✓

¹ Fee cap should be commensurate with inflation rate

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COMMENT NUMBER	ORG.	TYPE OF LICENSEE	PART 171			PART 170				
			A 50% CAP?	B REBASELINE YEARLY?	C SUPPORT SPENT FUEL STORAGE/ RX DECOMM. ANNUAL FEE?	D EXPAND PART 170	E ELIMINATE FLAT AMENDMENT FEES?	F HOURLY RATE	G INCLUDE ORDERS, ESCALATED ENFORCEMENT IN PART 170 FOR FY2000?	H OTHER
13	Power Resources	UR				Opposes PM		Opposes		✓
14	Duke Energy	Reactor	No	Yes	Supports	Supports			Opposes	✓
15	AlliedSignal	Source Material								✓
16	Shaw Pittman Potts & Trowbridge	Reactor								✓
17	USEC	GDP		No						✓
18	Alliant Utilities Duane Arnold Energy Center	Reactor							Opposes	✓
19	Niagara Mohawk	Reactor							Oppose	
20	International Uranium (USA) Corp.	UR	Yes	No		Oppose PM		Opposes		✓
21	Consumers Energy	Reactor				Oppose				✓
22	NEI	Reactor	No	Yes		Support & Expand			Support	✓
23	National Mining Association	UR	Yes	No		Oppose PM		Oppose		✓
24	Rio Algom Mining Corp.	UR	Yes			Oppose PM		Oppose		✓
25	US Dept of Commerce NIST	Reactor								✓
26	South Carolina Electric & Gas (SCE&G)	Reactor			Oppose	Oppose		Oppose		✓

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ISSUE 'A' 50% CAP

Comment:

- Nine commentors; six in favor of cap
- Five of six commentors that want cap are UR
- One commentor agreed with the cap as long as the cap was linked to inflation
- Those supporting a cap indicated fee increases would not have as dramatic an impact on this year's budget
- Those opposing commented the cap would result in a subsidy for other licensees in a competitive environment

Response:

- Some commentors were reluctant to support either option
- Major purpose of cap was to achieve fee stability; provide notice to individual licensees for budget planning purposes
- There was a lack of overwhelming support for the cap
- A cap has the potential to increase fairness and equity issues in future years
- Subsidy created by a cap could be exacerbated under percent change

Additional Notes:

- Rebaselining with a cap may increase litigative risks compared to straight rebaselining
- No express legal authority—would have to be consistent with statutory requirements that charges:
 - ▶ be fairly and equitably allocated among licensees;
 - ▶ bear reasonable relationship to cost of providing regulatory services
 - ▶ be based on allocation of Commission resources among licensees or classes

Agency Position:

- Rebaseline without a cap

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ISSUE 'B' REBASELINE YEARLY

Comment:

- Eight commentors; five in favor of rebaselining every several years, three in favor of rebaselining annually
- For charges to be predictable, rebaselining should only be done every several years
- Power reactor industry supports annual rebaselining; in this manner certain licensees are not unjustly subsidizing NRC costs for services rendered to other licensees
- One commentor stated that benefits of rebaselining outweigh administrative costs associated with rebaselining
- NEI stated percent change does not promote in-depth review and streamlining necessary to ensure maximum efficiency

Response:

- Majority of those commenting support rebaselining every several years as warranted
- Lack of overwhelming support for changing policy
- Policy of using percent change unless stated criteria are met stabilizes fees
- Existing policy permits rebaselining as warranted

Additional Notes:

- Decision for FY2000 will be made during FY2000 fee rulemaking process

Agency Position:

- Continue existing policy of rebaselining in five years or earlier if warranted

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ISSUE 'C' SUPPORT SPENT FUEL STORAGE/REACTOR DECOMM. ANNUAL FEE

Comment:

- Four commentors; three oppose and one supports establishment of new fee category
- Two out of three opposing, oppose because criteria should be "no fuel, no fee"

Response:

- Until a permanent offsite storage facility becomes available, sites will be required to continue to store spent fuel
- Agree that generic spent fuel storage activities do not relate to reactors that have ceased operation and have no fuel onsite

Additional Notes:

- See attached list

Agency Position:

- Agree with commentors that new spent fuel storage/reactor decommissioning annual fee will not be assessed to those reactors that have ceased operations and have no fuel onsite

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Licensed Power Reactors in Decommissioning or Possession Only Status

REACTOR

DOCKET NO.

Big Rock Point	50-155
Indian Point, Unit 1	50-003
Dresden, Unit 1	50-010
*Fermi 1	50-016
Haddam Neck	50-213
Humboldt	50-133
La Crosse	50-409
Maine Yankee	50-309
Millstone 1	50-245
*N.S. Savannah	50-238
Pathfinder	50-130
*Peach Bottom 1	50-171
Rancho Seco	50-312
San Onofre, Unit 1	50-206
*Saxton	50-146
*Three Mile Island Unit 2	50-320
Trojan	50-344
*Vallecitos Nuclear Center	50-018
Yankee Rowe	50-029
Zion 1	50-295
Zion 2	50-304

TOTAL No. of Reactors in decommissioning or possession only: 21

Part 72 Licensees without a Part 50 License

Ft. St. Vrain	72-009
GE Morris	72-001

TOTAL Part 72 Licenses: 2

* No fuel onsite (6)

ISSUE 'D' EXPAND PART 170

Comment:

- Of fourteen commentors, nine oppose (six of nine opposing are (UR)
- Opposes charging Project Manager's time fully as Part 170
- Potentially could double Part 170 charges due to increase in hourly rate
- Do not have adequate justification to expand scope of Part 170

Response:

- Activities are identifiable services for specific recipients
- Continues efforts to shift costs from Part 171 to Part 170

Agency Position:

- Expand scope of Part 170 as proposed

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ISSUE 'E' ELIMINATE FLAT AMENDMENT FEES

Comment:

- One commentor - small materials

Response:

- Change will improve efficiency
- Change is cost-effective

Agency Position:

- Eliminate materials flat amendment fees

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ISSUE 'F' HOURLY RATE

Comment:

- Eight commentators oppose dramatic increase in hourly rate
- Seven of eight opposing are UR
- Hourly rate not justified based on inflation indices of 3% annually
- Will create a substantial financial burden
- Hourly charges should be predictable
- Equals or exceeds hourly charge of senior consultant or principal at major consulting firms and generally accepted rate for similar work in private industry

Response:

- Hourly rates are established to recover 100% of approved budget
- Dramatic increases due largely to 1998 budget coding error
- Increase from FY1997 approximates salary and benefit increases

Agency Position:

- Establish hourly rates at proposed levels

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ISSUE 'G' INCLUDE ORDERS, ESCALATED ENFORCEMENT IN PART 170 FOR FY2000

Comment:

- Three commentors disagreed with proposal, one supported
- Direct allocation of costs could be viewed as penalizing licensees for exercising their rights
- Would welcome opportunity to comment on next year's proposal
- More appropriate to distribute costs as part of Part 170
- Current enforcement policy allows enforcement discretion when the licensee identifies and corrects violations
- NEI supports for escalated enforcement actions, indicating it is inappropriate for one licensee to subsidize oversight for another licensee and perception that they serve as industry-wide deterrent not borne out

Response:

- There are both pros and cons to recovering costs under Part 170
- Further evaluation needed

*Consider 2, 2006
Petitions, as part
of FY2000 look
at these items.*

Additional Notes:

- Staff position will be included in FY2000 fee Commission paper

Agency Position:

- Will consider further before promulgating FY2000 fee rule

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H. TABLE II - COMMENTS ON OTHER ISSUES

ISSUE	COMMENTOR
1. Legal Issues	3, 5, 16, 18, 21, 22, 23
2. General opposition to increased fees	1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 20, 23, 24, 25
3. Continue to allocate more costs to Part 170	14, 22
4. Effects of declining number of licensees in classes	4, 5, 7, 9, 11, 13, 22, 23
5. Further streamline/reduce costs	4, 5, 7, 9, 11, 15, 22, 26
6. Questions Consistency of Tables I & II.	21
7. Performance-based licensing should result in lower costs	5, 9, 10, 13, 20, 22

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8. Specific uranium recovery issues <ul style="list-style-type: none"> - uranium recovery licensees being unfairly targeted for increases - depressed market/ unable to "pass through" increases on to customers - contrary to National interest of preserving domestic energy production infrastructure - excessive NRC regulatory oversight (no. of inspections, excess studies/analysis of surface water drainage issues, questionable if NRC should be regulating ISL wellfields and associated groundwater issues) 	<p>5, 9, 13, 20, 23, 24</p> <p>5, 9, 13, 20, 23</p> <p>5, 9, 20</p> <p>4, 5, 9, 13, 20, 22</p>
9. Revise fuel cycle matrix, assess one fee for GPD's	<p>17</p>
10. Multi sites allocate site-wide fee/billing system	<p>22</p>

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ISSUE 'H' OTHER

1. LEGAL ISSUES

100% BUDGET COLLECTION AUTHORITY SURCHARGES

Comment:

- Four commentors
- OBRA-90 does not permit charges to licensees for programs not directly related to licensees charged
- Surcharge is unlawful, unconstitutional, unfair, arbitrary and discriminatory
- Surcharges bear no relation to service or benefit-costs should be recovered from beneficiaries
- 100% fee recovery requirement of OBRA should be relaxed
- Activities should be funded through General Treasury appropriation or eliminated
- Reactors have reduced ability to pass through costs

Response:

- Omnibus Budget Reconciliation Act of 1990 (OBRA-90) requires:
 - ▶ Aggregate amount of annual charges, when added to IOAA fees, to equal approximately 100% of NRC total budget authority for each fiscal year, less amounts appropriated to NRC from Nuclear Waste Fund
 - ▶ Establish a schedule of annual charges that fairly and equitably allocates aggregate amount of charges among licensees and reasonably reflects cost of providing services to licensees or classes of licensees, to maximum extent practicable
- Conference Report for OBRA-90 recognized certain expenses cannot be attributed to individual licensee or class of licensees and that NRC "fairly and equitably recover these expenses from its licensees through the annual charge even though these expenses cannot be attributed to individual licensees or classes of licensees." Expenses to be recovered from "such licensees as ... can fairly, equitably, and practicably contribute to their payment."

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ISSUE 'H' OTHER
1. LEGAL ISSUES
FEE RELATIONSHIP TO REACTOR CAPACITY

Comment:

- One commentor
- Fees for operating reactors should be based on megawatt generation capability

Response:

- OBRA-90 requires that fees relate to expenditure of Commission resources
- No data to show that Commission expends fewer resources on lower-capacity reactors (services not related to capacity)
- No relationship between generic costs and capacity

Agency Position:

- Status quo; no legal basis for change

ISSUE 'H' OTHER
1. LEGAL ISSUES
PART 170 FEES FOR FEDERAL AGENCIES

Comment:

- One commentor
- NRC already has the authority to charge other Federal agencies Part 170 fees

Response:

- Section 101 of the IOAA states, "[E]ach service or thing of value provided by an agency . . . to a person (except a person on official business of the United States Government) is to be self-sustaining to the extent possible."
- Under the IOAA, a "person on official business of the United States Government" has been interpreted to mean a "Federal agency."
- This construction indicates that the NRC requires separate Congressional authorization in order to override this provision and lawfully impose fees on other federal agencies.
- In light of this language, section 161w. of the Atomic Energy Act was enacted in 1972 to allow the NRC to impose Part 170 fees on the Tennessee Valley Authority. Section 161w. was amended in 1992 to include the United States Enrichment Corporation, prior to its privatization. Had the NRC's statutory mandate included the authority to impose fees on all federal agencies, this legislation would have been unnecessary.
- The NRC submitted to Congress, as a provision in its FY 2000 authorization bill, an amendment to section 161w. which would provide the authority to impose any fee on any other Government Agency.

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ISSUE 'H' OTHER
1. LEGAL ISSUES
SHOULD ADOPT SBA'S NEW SIZE STANDARD

Comment:

- One commentor
- The Small Business Administration (SBA) revised its size standards in 1996 to provide that business concerns engaged in Environmental Remediation Services, with fewer than 500 employees, are "small entities." NRC should adopt this approach.

Response:

- Section 3(a)(2) of the Small Business Act permits Federal agencies to establish their own standards via informal "notice and comment" rulemaking, subject to approval by the Administrator of the SBA.
- The NRC has established a generic size standard for small businesses because its regulatory scheme is not well suited to regulation "by industry." The current size standard was approved by the SBA, per the statutory requirement, prior to its promulgation in April 1995. Seven months after the NRC amendment, the SBA published proposed amendments to its size standards, which ultimately included amendments to Standard Industrial Classification codes, including SIC 8744, Environmental Remediation Services.

Agency Position:

- Due to the procedural requirements of section 3(a)(2), the NRC cannot amend its size standards in this rulemaking. The staff will consider the issues raised by this comment separately. In the interim, an individual licensee may file for a fee exemption.

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ISSUE 'H' OTHER

1. LEGAL ISSUES

BASIS FOR FEES SHOULD BE MORE FULLY EXPLAINED, JUSTIFIED

Comment:

- Five commentors
- Proposed rule doesn't comply with Administrative Procedure Act
- The NRC has not provided sufficient information on how its fees are calculated; particularly needed is a description of the costs included in Part 171 fees
- Bills should provide more meaningful explanations of work done

Response:

- Extensive information regarding fee basis is available to the public. The Commission's detailed fee work papers and budget submissions to the Congress are available to the public in the NRC's public document room. In addition, the staff has been available to meet with interested persons either in person or via telephone to explain its fee schedules.

Agency Position:

- Sufficient information provided to allow for effective, constructive comments

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ISSUE 'H' OTHER

2. GENERAL OPPOSITION TO INCREASED FEES

Comment:

- Fifteen commentors
- Gauges have good safety record, no significant risk
- Costs should be reduced as a result of downsizing
- Could impact safety as resources have to be designated to fees instead
- Materials license applications have become more uniform
- Inspection frequencies expected to decline as a result of risk informed, performance-based regulation
- Fewer licensees should result in fewer FTE
- No increase in benefits
- Increase is excessive with no basis or justification
- Oppose large changes late in fiscal year
- Nonpower reactor service is critical to meeting national goals; fee contrary to public policy
- One licensee believes that the more than \$850,000 in fees it has paid since 1991 is excessively large compared to the services rendered

Response:

- FY1999 fees reflect program changes that have occurred since last rebaselining in FY1995
- Annual fees for most materials licenses now include costs for inspections, license renewals, and amendments

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- Annual fees reflect results of biennial review of materials fees, which shows increase in average time to complete certain reviews and inspections
- Rebaselined fees reflect budgeted costs for each class, less any estimated Part 170 fees
- Agency continues to streamline its activities; some of these efforts require an initial expenditure of resources before results are realized

Agency Position:

- Establish fees at rebaselined levels

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ISSUE 'H' OTHER
3. CONTINUE TO ALLOCATE MORE COSTS TO PART 170

Comment:

- One commentor - NEI
- Strongly urges NRC to continue to separate out fees related to given licensee
- Inappropriate for one licensee to subsidize additional oversight for another licensee that has not performed well

Response:

- Agree with commentor

Agency Position:

- We will continue to evaluate other activities for potential cost recovery under Part 170

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ISSUE 'H' OTHER

4. EFFECTS OF DECLINING NUMBER OF LICENSEES IN CLASSES

Comment:

- Eight commentors
- Fewer licensees not a justification for 47% increase
- Streamlining is in order
- Inequitable to assess significant increases to few remaining licensees in a category
- Why haven't FTE's been reduced
- NRC must develop means to address this issue
- Issue discussed in 1993 IG Commission briefing on fee audit
- Exacerbates problem of lack of reasonable relationship between annual fees and services rendered

*Rare Earths
GDP (2)
Uranium Recovery
Non-ferrous RFS*

*Valid issue - TBI
Address in SRM, 23
How to pursue
w/ FY 2000 rule*

Response:

- There is not necessarily a correlation between the number of licensees and the agency's regulatory oversight mission
- Costs of generic activities do not necessarily decrease with decline in number of licensees
- Rulemaking and certain other generic activities are allocated to surcharge based on ratio of agreement state licenses
- Steps have been taken to downsize and streamline
- No alternative given 100% fee recovery requirement

Agency Position:

- Establish fees at rebaselined levels

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ISSUE 'H' OTHER
5. FURTHER STREAMLINE/REDUCE COSTS

*Study on Support Services
is underway*

Comment:

- Eight commentors
- Has relocation of URFO field office been cost effective?
- NRC staffing should follow downward trend of regulated industry
- Overall reduction should be a requirement before increasing fees
- Costs should be reduced consistent with reduction in licenses
- Continue to seek efficiencies:
 - ▶ Consider changes to organizational structure
 - ▶ Eliminate regions
 - ▶ Reduce resources for evaluating events
 - ▶ Evaluate benefit of proceeding with research projects
 - ▶ Reduce resources with future Part 70 revisions
- Regulatory burden should be decreasing for mature industry with good performance
- UR commentors believe NRC staff on occasion spends excessive time on reviews of licensee submittals, leading to excessive hourly charges
- Has NRC properly assessed support staff needs to reduce support staff parallel with FTE reductions?

Response:

- Agency budget reflects the minimum resources necessary to carry out its health and safety mission
- Budget is carefully scrutinized and reviewed by OMB and Congress prior to approval

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- Agency budget reflects reduction of resources due to downsizing and streamlining
- Agency continually looks for ways to further improve efficiencies
- Agency has recently contracted with a consulting firm to review agency support functions
- Staff makes every effort to review licensee requests as expeditiously as possible; reviews must be technically defensible

Agency Position:

- Establish fees at rebaselined levels

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ISSUE 'H' OTHER

6. QUESTIONS CONSISTENCY OF TABLES I & II

Comment:

- One commentor
- Inconsistency in calculation of hourly rate and annual fees
- Tables indicate different amounts to be recovered through hourly charges

Response:

- Table I shows estimated amounts for recovery under Part 170 and Part 171
- Table II shows the amount of the budget authority included in the reactor and materials hourly rate
- The hourly rate is a rate established to cost out an FTE for both Part 170 and Part 171 purposes
- The amount included in the hourly rates is not the same as the amount to be recovered under Part 170; the budget authority included in the hourly rate is to be recovered through both Part 170 fees and Part 171 fees

Agency Position:

- The Tables are correct

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ISSUE 'H' OTHER

7. PERFORMANCE-BASED LICENSING SHOULD RESULT IN LOWER COSTS

Comment:

- Six commentors
- Performance-based licensing should result in less regulatory oversight and lower fees

Response:

- Adoption of performance-based licensees (PBL) should aid in streamlining licensing in the future as licensees adopt PBL's and gain familiarity with proper implementation of these licenses
- Reductions in staff efforts for PBL's will be reflected in reduced Part 170 fee assessments
- Rebaselined annual fees include staff resources for other areas, such as hearings, responses to 2-206 petitions, and responses to Congressional and public requests

Agency Position:

- Rebaselined fees reflect budgeted costs

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ISSUE 'H' OTHER
8. SPECIFIC URANIUM RECOVERY ISSUES
URANIUM RECOVERY LICENSEES BEING UNFAIRLY TARGETED FOR INCREASES

Comment:

- Six commentors
- Proposed rule selected UR industry for especially steep increases
- Fees decreased for reactors and certain other licensees, UR fees especially harsh in comparison
- Level of risk is low

Response:

- The agency does not target any class of licensees for increases or decreases
- Rebaselined fees reflect budgeted costs for each class of licensee

Agency Position:

- Rebaselined fees to be established to recover budgeted costs from each licensee class

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ISSUE 'H' OTHER

8. SPECIFIC URANIUM RECOVERY ISSUES

DEPRESSED MARKET/UNABLE TO "PASS THROUGH" INCREASES ON TO CUSTOMERS

Comment:

- Five commentors
- Domestic UR industry experiencing economically difficult times
- License fees place unfair burden on industry already suffering from depressed market
- Uranium prices are lower than 1996
- UR operators are unable to pass increases on to customers
- Directly affects profitability and viability of an operation
- Increased fees will impact pace of cleanup of mill tailings sites

Response:

- NRC realizes that fee increases may have adverse economic impacts
- OBRA-90 requires that annual charges must, to the maximum extent practicable, have a reasonable relationship to the cost of providing regulatory services
- Rebaselined fees are established to recover the costs of NRC's regulatory programs for each licensee class
- Similar comments have been addressed in the past
- Impacts cannot be eliminated or reduced without increasing fees assessed to other licensees
- Basing fees on economic factors would not result in a more fair allocation of costs
- Commission previously declined to consider ability to "pass through" costs in establishing fees
- Agency provides reduced annual fees for qualifying small entities in accordance with the Regulatory Flexibility Act

Agency Position:

- Establish fees at rebaselined levels

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ISSUE 'H' OTHER
8. SPECIFIC URANIUM RECOVERY ISSUES
CONTRARY TO NATIONAL INTEREST OF PRESERVING
DOMESTIC ENERGY PRODUCTION INFRASTRUCTURE

Comment:

- Three commentors
- In national interest to preserve UR industry and produce uranium in the U.S.
- Imposing high fees on all UR facilities discourages uranium production and discourages companies from holding licenses for standby facilities pending an improved market

Response:

- OBRA-90 requires that annual fees, to the maximum extent practicable, have a reasonable relationship to the cost of providing regulatory services
- Commission previously declined to consider a licensees' economic state in establishing fees

Agency Position:

- Continue to establish rebaselined fees based on budgeted costs

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ISSUE 'H' OTHER
8. SPECIFIC URANIUM RECOVERY ISSUES
EXCESSIVE NRC REGULATORY OVERSIGHT

Comment:

- Six commentors
- Since closure of URFO, NRC is conducting two vs. one annual inspections for insite operations
- Contrary to commitments made by NRC to Congress at time URFO was closed
- NRC requires excessively detailed studies and analysis of surface water drainage issues
- NRC regulation of ISL wellfields continues to promote dual jurisdiction with State and EPA programs
- Need and legality of NRC regulation of ISL wellfield and groundwater concerns are in question

Response:

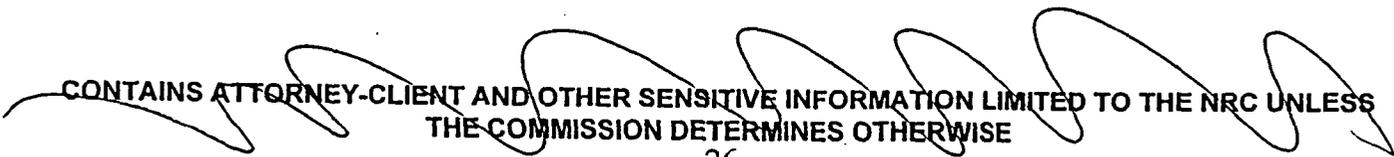
- In establishing inspection frequencies, staff considers the risk to public health and safety and the environment
- Agency has examined ways in which to reduce or eliminate inspections if an operating UR licensee has a good inspection record and the inspector sees justification for eliminating the second inspection, we will do so; staff has implemented a program to inspect sites under reclamation once every three (3) years; sites on standby status are to be inspected every two (2) to three (3) years
- Experience has shown that erosion protection is an area where impacts to the impoundment are greater

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- To provide additional guidance for the licensees in this and other technical areas, the staff developed a Standard Review Plan for Reclamation of Title II Sites and an erosion report that discusses acceptable design methods and analyses for erosion control; those two documents were released for public comment in February 1999; the staff will be reviewing and responding to the comments received; the final versions of these documents should provide more clearly the types of design methods and analyses that would serve as acceptable bases for the staff's conclusions about the stability of the site
- In late 1997 staff began examining the NRC's role regarding the regulation of ISL wellfields and the associated groundwater; in addition, in April 1998 the National Mining Association provided the Commission with a White Paper in which it cited four major concerns related to NRC regulation of the Uranium industry. Based on staff's and NMA's concerns, staff prepared a paper for the Commission's review which outlines options for NRC regulation of groundwater and wastes at ISL facilities. Staff's involvements in the regulation of ISLs in the future will be impacted by the Commission's decision on which option is acceptable

Agency Position:

- Agency is continuing its streamlining efforts and to consider issues related to regulations of ISL's in the future


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ISSUE 'H' OTHER

9. REVISE FUEL CYCLE MATRIX, ASSESS ONE FEE FOR GDP'S

Comment:

- USEC contends that the two GDPs are the operational equivalent of a single plant and as such a double assessment against the two certificates of compliance results is a significantly disproportionate allocation of costs to USEC
- USEC takes issue with NRC's matrix evaluation of the relative weight and hence NRC regulatory effort for GDP activities; USEC contends that NRC has counted the risk of UF6 twice, once as solid and once as liquid and argues that the risk is less, and that the Effort Factor for UF6 should be reduced from 10 to 5 for the GDPs

Response:

- The Paducah and Portsmouth GDPs are distinct and separate operating entities
- NRC has established and maintains separate certificates for the two facilities; both are authorized to operate independently
- Although there are some commonalities and NRC has treated some issues in common, the extent and application of these common considerations has not been extensive enough to support treating these facilities under a single certificate
- In developing the Matrix, the NRC assessed the risk based on the total relative amounts of UF6. The amount of both liquid and solid UF6 merits weighting the value as ten (10) when compared to other fuel cycle facilities

Agency Position:

- Specific issues raised by USEC in their exemption request which is currently pending will be addressed in our response

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ISSUE 'H' OTHER
10. MULTI SITES ALLOCATE SITE-WIDE FEE/BILLING SYSTEM

Comment:

- Two commentors: NEI and NMA
- NRC should allocate the cost of services to individual units on multi-unit sites. Current agency practice is to arbitrarily allocate site-wide inspection fees to one unit rather than allocating them among the unit. Due to varying ownership percentages at each unit, it is critically important in a competitive environment for the NRC to more accurately allocate site-wide fees among the units.
- NMA requests that NRC continue its efforts to provide bills that contain more meaningful descriptions of work done. In the private sector, adequate explanations and dates are provided to fully understand what was done, when it was done, and how much time was spent on each discreet activity.

Response:

- Currently, if a senior resident inspector is assigned to a site and not to a specific docket/unit, the time that is not spent on a specific inspection is billed to the lowest docket number for the site
- We are not able at this time to provide separate billings for each unit for these senior residents
- The NRC converted to a new billing format in October 1998 for materials licensing actions/amendments which provides detailed analysis of the charges to support the non-inspection bills; attached to these quarterly invoices is a detailed back up sheet which provides the date of the application, the name of the NRC reviewer and/or contractor; the number of regular and non-regular hours expended by reviewer; and the TAC number and title of the reviewer
- In the very near future, the NRC will convert to a new inspection fee billing system for materials licensees (including UR) that will provide more detailed information for inspections.

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Agency Position:

- We will pursue modification of our billing system in the future to allocate senior resident time that is not related to a specific inspection to each docket; we will continue to provide as much information as practical with the Part 170 licensing and inspection bills

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SUMMARY

- Will proceed with developing final fee rule based on direction received today.
- SRM should address rebaselining with or without cap. Must be received prior to issuing final fee rule planned for June 1.
- Schedule:
 - Proposed Fee Rule Published April 1–On Time
 - Commission SRM May 21
 - CFO Signs Final Rule Jun 1
 - Forward to Federal Register Jun 7
 - Final Fee Rule Published Jun 10
 - Final Fee Rule Effective Aug 10
- Defer decision on rebaselining/percent change for FY 2000 until FY 2000 Commission Fee Paper.