March 2, 2011

MEMORANDUM TO: Chairman Jaczko
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff

FROM: J. E. Dyer ***/RA/***
Chief Financial Officer

SUBJECT: COMMISSION NOTIFICATION OF A PROPOSED RULE SIGNED BY THE CHIEF FINANCIAL OFFICER

On March 2, 2011, I approved a proposed rule that amends 10 CFR Parts 170 and 171. These proposed amendments to the Commission's fee regulations are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended, which requires the U.S. Nuclear Regulatory Commission (NRC) recover through fees approximately 90 percent of its budget authority in fiscal year (FY) 2011. In the absence of a final appropriation for FY 2011, the NRC's FY 2011 proposed fee rule is based on the FY 2011 budget submitted to the Congress to ensure that the required fees are collected by September 30, 2011. The NRC's required fee recovery amount for the FY 2011 budget is approximately $915.3 million. After accounting for billing adjustments, the total amount to be billed as fees is approximately $915.7 million.

Compared to FY 2010, the proposed FY 2011 annual fees would result in fees that are higher for almost all licensees except for power reactor licensees and uranium recovery facilities. In FY 2011, the NRC's total fee recovery amount has increased by $3.1 million from FY 2010. Other factors include changes in the allocation of budgetary costs and estimated Part 170 collections for the different classes of licenses and fee-relief activities. The FY 2011 proposed annual fees are compared to those assessed for FY 2010 and FY 2009 in the enclosed table.

The proposed rule also includes the following changes:

1. **Hourly Rate.** The NRC will establish a professional hourly rate of $273 to recover the cost of activities under 10 CFR Part 170. The FY 2011 hourly rate is higher than the FY 2010 rate of $259, primarily due to a higher FY 2010 budget.

2. **10 CFR Part 170 Flat Fees.** The NRC will revise the flat license application fees in 10 CFR 170.21 and 170.31 to reflect the new hourly rate.

3. **Billing for Inspections.** The NRC changed its current policy with regard to billing inspection costs. Instead of billing a licensee when the inspection is completed, the NRC currently bills the licensee for any inspection cost incurred during the quarter even if the inspection is still ongoing. Billing for incurred inspections cost began in the first quarter of FY 2011, when the NRC's new accounting system was implemented. This policy change does not require a revision to Part 170.

4. **Application of Fee-Relief.** The NRC applies the 10 percent of its appropriation that is excluded from fee recovery (fee-relief) to offset the total budget allocated for activities that do not directly benefit current NRC licensees. In FY 2011, the total budgetary resources for these fee-relief activities is $95.3 million which is $6.4 million less than the required NRC's 10 percent fee relief of $101.7 million. The NRC will distribute the $6.4 million surplus to all licensees by decreasing annual fees based on their percentage of the budget.

This notice informs the Commission that, in accordance with my delegated rulemaking authority, I have signed this proposed rule and am forwarding it to the Office of the Federal Register for publication.

This document is marked "Official Use Only" because it contains predecisional information about the NRC's FY 2011 fee rulemaking. It may be released upon the publication of the FY 2011 proposed fee rule.

Enclosure:
Comparison of 10 CFR Part 171
Annual Fees (Per License)

cc: OGC
S. McKelvin, SECY

COMPARISON OF ANNUAL FEES (PER LICENSE)

Fee Class/Fee Category	No. of Licenses FY10	FY11	FY 2009 Annual Fee	FY 2010 Annual Fee	% Change from FY09	FY 2011 Proposed Annual Fee	% Change from FY10
POWER REACTORS (INCLUDING SPENT FUEL STORAGE AND REACTOR DECOMMISSIONING)							
Power - Operating	104	104	$4,503,000	$4,636,000	3.0%	$4,428,000	-4.5%
Spent Fuel Storage/Reactor Decom.	123	123	$122,000	$148,000	21.3%	$241,000	62.8%
Total for Operating Power Reactors			$4,625,000	$4,784,000	3.4%	$4,669,000	-2.4%
TEST AND RESEARCH REACTORS	4	4	$87,600	$81,700	-6.7%	$86,100	5.4%
FUEL FACILITIES							
1.A.(1)(a) High Enriched Uranium	2	2	$4,691,000	$5,439,000	15.9%	$6,078,000	11.7%
1.A.(1)(b) Low Enriched Uranium	3	3	$1,649,000	$2,047,000	24.1%	$2,287,000	11.7%
1.A.(2)(a) Limited Fuel Fab	1	2	$765,000	$702,000	-8.2%	$752,000	7.1%
1.A.(2)(b) Gas Centrifuge Enrichment Demonstratio	1	1	$918,000	$1,053,000	14.7%	$1,176,000	11.7%
1.A.(2)(c) Other--Hot Cell Facility	1	1	$408,000	$526,000	28.9%	$588,000	11.8%
1.E. Uranium Enrichment	3	2	$2,804,000	$2,807,000	0.1%	$3,268,000	16.4%
2.A.(1) UF6 Conversion	1	1	$969,000	$1,111,000	14.7%	$1,242,000	11.8%
URANIUM RECOVERY							
2.A.(2)(a) Conventional & Heap Leach Mills	1	1	$31,200	$38,300	22.8%	$31,900	-16.7%
2.A.(2)(b) Basic In-situ Recovery Facilities	5	4	$29,700	$36,300	22.2%	$30,300	-16.5%
2.A.(2)(c) Expanded In-situ Recovery Facilities	1	1	$33,600	$41,100	N/A	$34,300	-16.5%
2.A.(2)(d) In-situ Recovery Resin Facilities	1	1	N/A	$34,400	N/A	$28,800	N/A
2.A.(2)(e) Resin Toll Milling	0	0	N/A	N/A	N/A	N/A	N/A
2.A.(3) Disposal of 11e(2) Materials	0	0	N/A	N/A	N/A	N/A	N/A
2.A.(4) 11e(2) Disposal Incidental to Oper.	1	1	$10,100	$12,400	22.8%	$10,400	-16.1%
2.A.(5) Uranium Water Treatment Facility	1	1	$7,000	$8,600	22.9%	$7,200	-16.3%
18.B. DOE UMTRCA Activities	1	1	$339,000	$590,000	74.0%	$771,000	30.7%
MATERIALS USERS							
1C. Industrial Gauges	5	5	$2,700	$3,300	22.2%	$3,600	9.1%
1D. All Other SNM	61	60	$7,600	$9,300	22.4%	$6,900	-25.8%
2B. Shielding	15	15	$1,310	$1,600	22.1%	$1,700	6.3%
2C. Other Source Materials	62	60	$17,400	$21,100	21.3%	$11,900	-43.6%
3A. Manufacturing - Broad	5	5	$40,000	$49,100	22.8%	$42,600	-13.2%
3B. Manufacturing - Other	34	33	$10,300	$12,700	23.3%	$11,900	-6.3%
3C. Radiopharmaceuticals - Manuf./Process	24	24	$13,500	$16,600	23.0%	$16,200	-2.4%
3D. Radiopharmaceuticals - No Manuf./Process	6	6	$8,700	$10,600	21.8%	$11,300	6.6%
3E. Irradiators - Self-Shield	75	75	$6,600	$8,200	24.2%	$8,700	6.1%
3F. Irradiators - < 10,000 Ci	4	4	$12,700	$15,500	22.0%	$15,200	-1.9%
3G. Irradiators - > 10,000 Ci	5	5	$62,800	$76,800	22.3%	$137,500	79.0%
3H. Exempt Distribution - Device Review	33	34	$8,300	$9,900	19.3%	$8,100	-18.2%
3I. Exempt Distribution - No Device Review	73	77	$14,900	$18,000	20.8%	$19,600	8.9%
3J. Gen. License - Device Review	7	7	$3,300	$4,200	27.3%	$4,700	11.9%
3K. Gen. License - No Device Review	2	2	$2,500	$3,000	20.0%	$3,100	3.3%
3L. R&D - Broad	51	48	$19,800	$24,200	22.2%	$14,100	-41.7%
3M. R&D - Other	100	104	$7,500	$9,100	21.3%	$8,100	-11.0%
3N. Service License	60	59	$11,400	$13,800	21.1%	$14,300	3.6%
3O. Radiography	89	88	$22,700	$28,200	24.2%	$25,700	-8.9%
3P. All Other Byproduct Materials	1190	1197	$3,700	$4,500	21.6%	$4,800	6.7%
3R1. Radium-226 (less than or equal to 10x limits i	20	20	$3,300	$4,100	24.2%	$8,900	117.1%
3R2. Radium-226 (more than 10x limits in 31.12)	1	1	$3,700	$4,500	21.6%	$4,800	6.7%
3S. Accelerator Produced Radionuclides	25	5	$12,200	$15,000	23.0%	$15,300	2.0%
4A. Waste Disposal	0	0	N/A	N/A	N/A	N/A	N/A
4B. Waste Receipt/Packaging	15	16	$18,700	$23,100	23.5%	$31,300	35.5%
4C. Waste Receipt - Prepackaged	2	2	$11,800	$14,500	22.9%	$14,400	-0.7%
5A. Well Logging	34	34	$9,700	$11,900	22.7%	$9,900	-16.8%
5B. Field Flooding Tracers Studies	0	0	N/A	N/A	N/A	N/A	N/A
6A. Nuclear Laundry	0	0	$35,400	$42,900	21.2%	$44,900	4.7%
7A. Teletherapy	11	11	$17,500	$21,300	21.7%	$17,600	-17.4%
7B. Medical - Broad	24	24	$36,300	$45,100	24.2%	$45,000	-0.2%
7C. Medical Other	971	979	$6,200	$7,600	22.6%	$8,400	10.5%
8A. Civil Defense	5	5	$3,300	$4,100	24.2%	$8,900	117.1%
9A. Device/Product Safety Evaluation - Broad	76	73	$10,400	$12,600	21.2%	$11,500	-8.7%
9B. Device/Product Safety Evaluation - Other	9	9	$10,400	$12,600	21.2%	$13,300	5.6%
9C. Sealed Sources Safety Evaluation - Broad	32	32	$7,300	$8,800	20.5%	$15,600	77.3%
9D. Sealed Sources Safety Evaluation - Other	20	20	$1,200	$1,500	25.0%	$1,600	6.7%
17. Master Material License	3	3	$187,000	$234,000	25.1%	$476,000	103.4%
TRANSPORTATION							
18.A. DOE Transportation Activities	1	1	$719,000	$861,000	19.7%	$1,028,000	19.4%

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S. McKelvin, SECY

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