

**FY 2011  
PROPOSED  
FEE RULE  
WORK PAPERS**

# **FY 2011**

## **Proposed Fee Rule**

### **Work Papers**

The supporting information to the FY 2011 Proposed Fee Rule is contained in the following work papers. The items identified in the Table of Contents are located behind a corresponding Tab. At the beginning of each Tab is a cross reference, if appropriate, to the location of the subject matter and Tables found within the Proposed Fee Rule Document. For example, a reference to **"Section III."** is the supporting information for: **Section III. Proposed Action A. Amendments to 10 CFR Part 170 1. Hourly Rate.**

The complete outline of the FY 2011 Proposed Fee Rule showing the Section and Table titles is located immediately following the Table of Contents.

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## **I. Submitting Comments and Accessing Information**

Comments submitted in writing or in electronic form will be posted on the NRC Web site <http://www.regulations.gov>. Because your comments will not be edited, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

**NRC's Public Document Room (PDR):** The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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**Federal Rulemaking Website:** Public comments and supporting materials related to this proposed rule can be found at <http://www.regulations.gov> by searching on Docket ID: NRC-2011-0016.

# Budget and Fee Recovery

## Section III

### Table I

The NRC's total budget authority for FY 2011 is \$1,053.6 million. The non-fee items include \$10 million appropriated from the NWF, \$0.5 million for WIR activities, and \$26.1 million for generic homeland security activities. Based on the 90 percent fee-recovery requirement, the NRC will have to recover approximately \$915.3 million in FY 2011 through Part 170 licensing and inspection fees and Part 171 annual fees. The amount required by law to be recovered through fees for FY 2011 would be \$3.1 million more than the amount estimated for recovery in FY 2010, an increase of less than one percent.

The FY 2011 fee recovery amount is increased by \$0.4 million to account for billing adjustments (i.e., for FY 2011 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2011 for prior year invoices). This leaves approximately \$915.7 million to be billed as fees in FY 2011 through Part 170 licensing and inspection fees and Part 171 annual fees.

The NRC estimates that \$369.3 million would be recovered from Part 170 fees in FY 2011. This represents an increase of approximately 1.5 percent as compared to the actual Part 170 collections of \$364 million for FY 2010. The remaining \$546.4 million would be recovered through the Part 171 annual fees in FY 2011, which is an increase of less than one percent compared to actual Part 171 collections of \$545.6 million for FY 2010.

See Tab "Budget Authority (FY 2011)" for supplemental information on the distribution of budgeted FTE and contract dollars.

Budget and Fee Recovery  
FY 2011  
(\$ in Millions)  
(Individual dollar amounts may not add to totals due to rounding)

	<u>FY 2011</u>
NRC Budget Authority	\$1,053.6
Nuclear Waste Fund, Waste Incidental to Reprocessing, General Fund, generic homeland security activities	<u>-\$36.6</u>
Balance	\$1,017.0
Fee Recovery Rate for FY 2010	<u>x      .90</u>
Total Amount to be Recovered For FY 2010	\$915.3
Carryover from Prior Year	<u>\$0.0</u>
Amount to be Recovered Through Fees and Other Receipts	\$915.3
Estimated amount to be recovered through Part 170 fees and other receipts	<u>-\$369.3</u>
Estimated amount to be recovered through Part 171 annual fees	\$546.0
Part 171 billing adjustments	<u>\$0.4</u>
Adjusted Part 171 annual fee collections required	\$546.4



# **Part 170 Fees**

## **Section III.A.1**

# **Part 170 Fees**

## **Determination of Hourly Rate**

### **Section III.A**

#### **Table II**

**Proposed Hourly Rate is \$273**

The NRC's hourly rate is derived by dividing the sum of recoverable budgeted resources for (1) mission direct program salaries and benefits; (2) mission indirect salaries and benefits and contract activity; and (3) agency management and support and Inspector General (IG), by mission direct full-time equivalent (FTE) hours. The only budgeted resources excluded from the hourly rate are those for mission direct contract activities.

The NRC has reviewed data from its time and labor system to determine if the annual direct hours worked per direct FTE estimate requires updating for the FY 2011 fee rule. Based on this review of the most recent data available, the NRC determined that 1,371 hours is the best estimate of direct hours worked annually per direct FTE. This estimate excludes all non-direct activities, such as training, general administration, and leave.

DETERMINATION OF HOURLY RATE  
CALCULATION OF FTE RATES BY PROGRAM  
(S&Bs only - no overhead)

This is for the purpose of converting FTE to \$.

<b>PROGRAM</b>		(1) <b>Total FTE</b>	(2) <b>Total S&amp;B(\$,K):</b>	(2)/(1) <b>FTE Rate (\$)</b>
NUCLEAR REACTOR SAFETY		1,753	263,842	150,526
	General Fund	23	5,171	227,776
NUCLEAR MATERIAL SAFETY (Excl. NWF & General Fund)		480	73,351	152,782
	NWF & General Fund	60	11,512	190,591
MANAGEMENT AND SUPPORT		1,617	239,306	148,021
	NWF & General Fund	1	220	219,800
INSPECTOR GENERAL		58	9,584	165,241
	<b>TOTAL</b>	<b>3,992</b>	<b>602,984</b>	

MISSION DIRECT RESOURCES

	(in actual \$)	<b>nonlabor</b>	<b>labor</b>
NUCLEAR REACTOR SAFETY (BUDGET PROGRAM)		\$141,686,000	\$263,841,610
NUCLEAR MATERIALS AND WASTE SAFETY (BUDGET PROGRAM)		\$27,999,000	\$73,350,530
<b>TOTAL</b>		<b>\$169,685,000</b>	<b>\$337,192,140</b>

PROGRAM OVERHEAD (or MISSION  
INDIRECT) RESOURCES

	(in actual \$)	<b>nonlabor</b>	<b>labor</b>
NUCLEAR REACTOR SAFETY (BUDGET PROGRAM)		\$21,124,000	\$0
NUCLEAR MATERIALS AND WASTE SAFETY (BUDGET PROGRAM)		\$4,818,000	\$0
<b>TOTAL</b>		<b>\$25,942,000</b>	<b>\$0</b>

AGENCY OVERHEAD (or MANAGEMENT  
AND SUPPORT) RESOURCES

	(in actual \$)	<b>nonlabor</b>	<b>labor</b>
<b>TOTAL</b>		<b>\$224,907,000</b>	<b>\$248,445,823</b>

<b>TOTALS</b>	<b>Total (\$)</b>
Direct Labor	\$337,636,204
Direct Nonlabor (excl. from hourly rates)	\$180,082,000
Program Overhead Labor	\$0
Program Overhead Nonlabor	\$25,942,000
Agency Overhead Labor	\$248,445,823
Agency Overhead Nonlabor	\$224,907,000
<b>TOTAL</b>	<b>\$1,017,013,027</b>

## DETERMINATION OF HOURLY RATE CONTINUED

Total included in hourly rates:	% total	value
Direct Labor	40.34%	\$337,636,204
Program Overhead	3.10%	\$25,942,000
Agency Overhead	56.56%	\$473,352,823
Total	100.00%	<u>\$836,931,027</u>
less offsetting receipts*		\$47,465
total in hourly rates**		\$836,883,562
Direct FTE		2,236
FTE rate** ('total in hourly rates' divided by 'direct FTE')		\$374,315
Mission direct hours worked annually		1,371
FTE converted to hours ('FTE rate' divided by 'Mission direct hours worked annually')		3,065,419
hourly rate** ('total in hourly rates' divided by 'FTE converted to hours')		\$273
*Calculation of offsetting receipts	Total	
FOIA	%	value
	\$37,603	100% \$37,603
INDEMNITY	\$9,862	100% \$9,862
TOTAL		<u>\$47,465</u>

\*\*Since offsetting receipts can not be used to offset total fee collections, offsetting receipts are not subtracted from numerator for FTE rate. Per fee policy documents, we can subtract these receipts when calculating hourly rates.

Note this worksheet is not adjusted for rescission, which is 'taken off the top' for annual fees (but no hourly or FTE rate adjustment).

# **Part 170 Fees**

## **Licensing Fees**

### **Section III.A.2**

Flat application fees are calculated by multiplying the average professional staff hours needed to process the licensing actions by the proposed professional hourly rate (\$273 for FY 2011). The agency estimates the average professional staff hours every other year as part of its biennial review of fees which performed in FY 2011.

DETERMINATION OF MATERIALS PART 170 APPLICATION FEES and Average Inspection Costs ** FY 2011			
FY2011 Hourly Rate \$273			
Materials Part 170 Fee Category	FY 2011 Estimated Professional Process Time (Hours)*	FY 2011 Fee/Cost (Professional Time x FY 2011 Hourly Rate)	FY 2011 Fee/Cost (Rounded)
<b>1. Special Nuclear Material</b>			
<b>1C. Industrial Gauges</b>			
Inspection Costs**	7.7	\$2,102	\$2,100
New License	4.6	\$1,256	\$1,300
<b>1D. All Other SNM Material</b>			
Inspection Costs**	12.9	\$3,522	\$3,500
New License	9.3	\$2,539	\$2,500
<b>2. Source Material</b>			
<b>2B. Shielding</b>			
Inspection Costs**	5.6	\$1,529	\$1,500
New License	2.2	\$601	\$600
<b>2C. All Other Source Material</b>			
Inspection Costs**	15.4	\$4,204	\$4,200
New License	19.7	\$5,378	\$5,400
<b>3. Byproduct Material</b>			
<b>3A. Mfg-Broad Scope</b>			
Inspection Costs**	43.1	\$11,767	\$11,800
New License	46.8	\$12,777	\$12,800
<b>3B. Mfg-Other</b>			
Inspection Costs**	13.6	\$3,713	\$3,700
New License	16	\$4,368	\$4,400
<b>3C. Mfg/Distribution Radiopharmaceuticals</b>			
Inspection Costs**	17	\$4,641	\$4,600
New License	23.7	\$6,470	\$6,500
<b>3D. Distribution Radiopharmaceuticals/No Process</b>			
Inspection Costs**	12.6	\$3,440	\$3,400
New License	17	\$4,641	\$4,600
<b>3E. Irradiators/Self-Shielded</b>			
Inspection Costs**	11.5	\$3,140	\$3,100
New License	11.5	\$3,140	\$3,100
<b>3F. Irradiators &lt; 10,000 Ci</b>			
Inspection Costs**	15.7	\$4,286	\$4,300
New License	23.4	\$6,388	\$6,400
<b>3G. Irradiators =&gt; 10,000 Ci</b>			
Inspection Costs**	43	\$11,739	\$11,700
New License	223.2	\$60,935	\$60,900
<b>3H. Exempt Distribution/Device Review</b>			
Inspection Costs**	7.8	\$2,129	\$2,100
New License	15.6	\$4,259	\$4,300
<b>3I. Exempt Distribution/No Device Review</b>			
Inspection Costs**	11	\$3,003	\$3,000
New License	41.8	\$11,412	\$11,400

DETERMINATION OF MATERIALS PART 170 APPLICATION FEES and Average Inspection Costs ** FY 2011			
FY2011 Hourly Rate \$273			
Materials Part 170 Fee	FY 2011 Estimated Professional Process Time (Hours)*	FY 2011 Fee/Cost (Professional Time x FY 2011 Hourly Rate)	FY 2011 Fee/Cost (Rounded)
Category			
<b>3J. General License Distribution/Device Review</b>			
Inspection Costs**	8.1	\$2,211	\$2,200
New License	7.2	\$1,966	\$2,000
<b>3K. General License Distribution/No Device Review</b>			
Inspection Costs**	7	\$1,911	\$1,900
New License	4.1	\$1,119	\$1,100
<b>3L. R&amp;D-Broad</b>			
Inspection Costs**	15.7	\$4,286	\$4,300
New License	19.7	\$5,378	\$5,400
<b>3M. R&amp;D-Other</b>			
Inspection Costs**	11.5	\$3,140	\$3,100
New License	12.7	\$3,467	\$3,500
<b>3N. Service License</b>			
Inspection Costs**	15.8	\$4,314	\$4,300
New License	23.3	\$6,361	\$6,400
<b>3O. Radiography</b>			
Inspection Costs**	18.5	\$5,051	\$5,100
New License	14.5	\$3,959	\$4,000
<b>3P. All Other Byproduct Material</b>			
Inspection Costs**	12	\$3,276	\$3,300
New License	5.5	\$1,502	\$1,500
<b>3R1. Radium-226 (less than or equal to 10x limits in 31.12)</b>			
Inspection Costs**	24.2	\$6,607	\$6,600
New License	9.2	\$2,512	\$2,500
<b>3R2. Radium-226 (more than 10x limits in 31.12)</b>			
Inspection Costs**	12	\$3,276	\$3,300
New License	5.5	\$1,502	\$1,500
<b>3S. Accelerator Produced Radionuclides</b>			
Inspection Costs**	15.3	\$4,177	\$4,200
New License	23.7	\$6,470	\$6,500
<b>4. Waste Disposal/Processing</b>			
<b>4B. Waste Packaging</b>			
Inspection Costs**	17.2	\$4,696	\$4,700
New License	30.8	\$8,409	\$8,400
<b>4C. Waste-Prepackaged</b>			
Inspection Costs**	12.4	\$3,385	\$3,400
New License	18	\$4,914	\$4,900
<b>5. Well Logging</b>			
<b>5A. Well Logging</b>			
Inspection Costs**	14.1	\$3,849	\$3,800
New License	12.1	\$3,303	\$3,300

DETERMINATION OF MATERIALS PART 170 APPLICATION FEES and Average Inspection Costs ** FY 2011			
FY2011 Hourly Rate \$273			
Materials Part 170 Fee	FY 2011 Estimated Professional Process Time (Hours)*	FY 2011 Fee/Cost (Professional Time x FY 2011 Hourly Rate)	FY 2011 Fee/Cost (Rounded)
Category			
<b>6. Nuclear Laundries</b>			
<b>6A. Nuclear Laundry</b>			
Inspection Costs**	21.7	\$5,924	\$5,900
New License	79.7	\$21,759	\$21,800
<b>7. Human Use</b>			
<b>7A. Teletherapy</b>			
Inspection Costs**	11.6	\$3,167	\$3,200
New License	32.1	\$8,764	\$8,800
<b>7B. Medical-Broad</b>			
Inspection Costs**	30.2	\$8,245	\$8,200
New License	31.2	\$8,518	\$8,500
<b>7C. Medical-Other</b>			
Inspection Costs**	12.1	\$3,303	\$3,300
New License	10	\$2,730	\$2,700
<b>8. Civil Defense</b>			
<b>8A. Civil Defense</b>			
Inspection Costs**	24.2	\$6,607	\$6,600
New License	9.2	\$2,512	\$2,500
<b>9. Device, product or sealed source evaluation</b>			
<b>9A. Device evaluation-commercial distribution</b>			
Application - each device	28	\$7,644	\$7,600
<b>9B. Device evaluation - custom</b>			
Application - each device	32.4	\$8,845	\$8,800
<b>9C. Sealed source evaluation - commercial distribution</b>			
Application - each source	37.8	\$10,320	\$10,300
<b>9D. Sealed source evaluation - custom</b>			
Application - each source	3.8	\$1,037	\$1,040
<b>10. Transportation</b>			
<b>10B. Evaluation - Part 71 QA program</b>			
Application - approval	14.2	\$3,877	\$3,900
<b>17. Master Materials License<sup>1</sup></b>			
Inspection Costs**	235.7	\$64,348	\$64,300
New License	540	\$147,424	\$147,400
<b>NOTES:</b>			
Rounding: <\$1000 rounded to nearest \$10, =or>\$1000 and <\$100,000 rounded to nearest \$100, =or>\$100,000 rounded to nearest \$1,000			
* hours based on FY 2009 Biennial Review ** Inspection costs are used in computation of the Annual fees for the category			
<sup>1</sup> Beginning with FY 2011 fee rule, the Master Materials License Part 170 application fee was eliminated. Per FSME's recommendation in their Biennial Review, the fee for a new MML license will be fully costed based on the hours spent on reviewing a new application.			





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# **Part 170 Fees**

## **Export and Import Fees**

### **Section III.A.2**

Flat application fees are calculated by multiplying the average professional staff hours needed to process the licensing actions by the proposed professional hourly rate (\$273 for FY 2011). The agency estimates the average professional staff hours every other year as part of its biennial review of fees. The NRC conducted a biennial review for the FY 2011 fee rule, which included license and amendment applications for import and export licenses.

<b>DETERMINATION OF MATERIALS PART 170 APPLICATION FEES</b> <b>and Average Inspection Costs **</b> <b>FY 2011</b>			
<b>FY2010 Hourly Rate</b> <b>\$273</b>			
Materials Part 170 Fee	FY 2011 Estimated Professional Process Time (Hours)*	FY 2011 Fee/Cost (Professional Time x FY 2011 Hourly Rate)	FY 2011 Fee/Cost (Rounded)
Category			
<b>DETERMINATION OF EXPORT AND IMPORT PART 170 FEES</b> <b>FY 2011</b> <b>FY 2011 Hourly Rate = \$273</b>			
Export and Import Part 170 Fees	FY 2011 Estimated Professional Process Time (Hours)*	FY 2011 Fee/Cost (Professional Time x FY 2011 Hourly Rate)	FY 2011 Fee/Cost (Rounded)
Category			
<b>10 CFR 170.21, Category K</b>			
<b>Subcategory</b>			
1	65	17,746	17,700
2	35	9,555	9,600
3	16	4,368	4,400
4	10	2,730	2,700
5	5	1,365	1,400
<b>10 CFR 170.31, Category 15</b>			
<b>Subcategory</b>			
A	65	17,746	17,700
B	35	9,555	9,600
C	16	4,368	4,400
D	10	2,730	2,700
E	5	1,365	1,400
F	55	15,015	15,000
G	32	8,736	8,700
H	20	5,460	5,500
I	1	273	270
J	55	15,015	15,000
K	32	8,736	8,700
L	20	5,460	5,500
M	0	0	0
N	0	0	0
O	0	0	0
P	0	0	0
Q	0	0	0
R	5	1,365	1,400
<b>NOTES:</b>			
The application fees and amendment fees are the same for each subcategory because, per discussion with IP representatives, the processing time is the same for a new license or an amendment to the license.			
Rounding: <\$1000 rounded to nearest \$10, =or>\$1000 and <\$100,000 rounded to nearest \$100, =or>\$100,000 rounded to nearest \$1,000			
* data based on FY 2009 Biennial Review			

## **Part 170 Fees**

### **Reciprocity Fees - Agreement State Licensees**

#### **Section III.A.2.**

The application fee for Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20 is determined using FYs 2008 and 2009 data and the FY 2011 hourly rate. The FYs 2008 and 2009 reciprocity fee data was provided as part of the FY 2010 biennial review of fees.

DETERMINATION OF MATERIALS PART 170 APPLICATION FEES and Average Inspection Costs ** FY 2011			
FY2010 Hourly Rate \$273			
Materials Part 170 Fee	FY 2011 Estimated Professional Process Time (Hours)*	FY 2011 Fee/Cost (Professional Time x FY 2011 Hourly Rate)	FY 2011 Fee/Cost (Rounded)
Category			
DETERMINATION OF RECIPROCITY PART 170 FEES FY 2011			
NOTES: The reciprocity application and revision fees are determined using FYs 2008 and 2009 data*, and the FY 2011 hourly rate. The reciprocity application fee includes average costs for inspections, average costs for processing initial filings of NRC Form 241, and average costs for processing revisions to the initial filings of NRC Form 241.			
FY 2011 Hourly Rate:		\$273	
Average inspection costs:	Avg Inspection Costs (Avg. no. of hours for insp. x hourly rate)	Total Amount	
Reciprocity Part 170 Fee Fee Category 16			
Inspection	\$6,300		
Number of FY08 Inspections Conducted	13		
Number of FY09 Inspections Conducted	15		
Total	28	\$88,200	
Average for the 2 years	14		
Initial 241s	\$900		
Number of FY08 Completions	165		
Number of FY09 Completions	174		
Total	339	\$152,550	
Average for the 2 years	169.5		
Revised 241s	\$400		
Number of FY08 Completions	382		
Number of FY09 Completions	354		
Total	736	\$147,200	
Average for the 2 years	368		
APPLICATION FEE:			
Amount for inspections [Cost/Initial 241]	\$520		
Amount for initial filing of NRC Form 241 [Cost/Initial 241]	\$900		
for revisions to initial filing of NRC Form 241 [Cost/Initial 241]	\$868		
Total Application Fee	\$2,289		
Application Fee Rounded	\$2,300		
* data based on FY 2011 Biennial Review			

# **Part 170 Fees**

## **General License Registration Fees**

### **Section III.A.2.**

This fee under byproduct material is for registration of a device(s) generally licensed under part 31 of this chapter.

DETERMINATION OF GENERAL LICENSE REGISTRATION FEE , FY 2011 (FEE CATEGORY 3Q)			
	<u>Total</u> <u>GL Resources</u>	<u>% Supporting</u> <u>Registrable GLs</u>	<u>Total Supporting</u> <u>Registrable GLs</u>
<b><u>FSME GL Program</u></b>			
budgeted FTE			
	Regions		
	HQ		0.10
budgeted contract \$			
	Regions		\$0
	HQ		\$190,000
full cost of FTE	\$374,315		\$374,315
total budgeted resources, FSME GL Program (equals full cost of FTE + contract \$)			\$227,432
portion of budgeted resources associated w/fee exempt GLs (nonprofit educational)			\$9,325
net to be recovered			\$218,107
fee assuming 598 registrable GLs			\$365
fee, rounded			\$400
Data source for FSME GL Program resources is FSME FY 11 C-3 per Dennis Sollenberger. data based on the NRC budget documents and 1/26/11 email from Ujagar Bhachu (FSME GL program).			



## **Part 171 Annual Fees**

### **Section III.B.**

# **Part 171 Annual Fees**

## **Application of Fee-Relief Adjustment and LLW Surcharge**

### **Section III.B.1**

#### **Table III Table IV**

The NRC applies the 10 percent of its budget that is excluded from fee recovery under OBRA-90, as amended (fee relief), to offset the total budget allocated for activities which do not directly benefit current NRC licensees. The budget resources for these fee-relief activities are totaled, and then reduced by the amount of the NRC's fee relief. Any difference between the fee relief and the budgeted amount of these activities results in a fee relief adjustment (increase or decrease) to all licensees' annual fees, based on their percent of the budget (i.e., over 80 percent is allocated to power reactors each year).

In FY 2011, the 10 percent fee relief exceeded the total budget by \$6.4 million. The FY 2011 budget for fee-relief activities is lower than FY 2010, primarily due to a decrease in budgeted resources for nonprofit educational exemptions, international activities, small entity subsidies, and grants for fellowships and scholarships. The NRC is decreasing all licensees' annual fees to use the surplus amount of \$6.4 million, based on their percentage share of the fee recoverable budget authority.

This is consistent with the existing fee methodology. Any fee relief surplus is allocated as a reduction of license fees when the NRC fee relief amount is more than the budget for fee-relief activities. A fee relief shortfall amount is allocated as an increase in license fee to licensees when the NRC fee relief amount is less than the budgeted resources for fee-relief activities. In FY 2011, the power reactors class of licensees will be allocated approximately 86 percent of the fee-relief surplus based on their share of the NRC fee recoverable budget authority.

Separately, the NRC has continued to allocate the low-level waste (LLW) surcharge based on the volume of LLW disposal of three classes of licensees, operating reactors, fuel facilities, and materials users.

## FY 2011 FEE-RELIEF ACTIVITIES AND LLW GENERIC SURCHARGE

FTE rate: \$374,315

	DIRECT RESOURCES		Less Part 170	FEE AMOUNT
	\$,M	FTE	materials decommissioning revenue, \$ M	(\$,M)
<b>TOTAL NRC</b>				
NONPROFIT EDUCATIONAL EXEMPTION	1.10	32		13.26
INTERNATIONAL ACTIVITIES	6.29	23		15.05
SMALL ENTITY SUBSIDY				5.64
AGREEMENT STATE OVERSIGHT	2.65	31		14.10
REGULATORY SUPPORT TO AGREEMENT STATES	3.35	39		17.95
ISL RULE/GENERAL LICENSEES/FELLOWSHIPS & SCHOLARSHIPS	10.76	5		12.71
DECOMMISSIONING/RECLAMATION GENERIC	2.58	50	4.74	16.63
LLW GENERIC SURCHARGE	0.61	7		3.04
<b>TOTAL</b>	<b>27.34</b>	<b>187.4</b>		<b>98.37</b>

To meet the 90% fee recovery requirement for FY 2010, the Fee-Relief Activities are reduced by 10% of NRC's FY 2010 net budget authority (appropriation less Non-Recoverable Fee Items<sup>1</sup>, as shown below:

	(\$,M)
Fee-Relief Activity (Total above less LLW generic surcharge) <sup>2</sup>	95.33
Budget Authority minus NWF, Gen Fund, & generic HLS	1017.01
Percent reduction in fee recovery amount for FY 2011	10.0%
Reduction in annual fee recovery amount for FY 2011	101.70
Delta, Fee-Relief Activity (less generic LLW) and reduction in fee recovery amt	-6.37
Generic LLW Surcharge amount	3.04
<b>Net adjustment to fee assessments</b>	<b>-3.33</b>

## DISTRIBUTION OF ADJUSTMENT TO FEE ASSESSMENTS

	LLW GENERIC SURCHARGE		FEE-RELIEF ACTIVITIES		TOTAL ADJUSTMENT
	PERCENT	\$,M	PERCENT	\$,M	\$,M
POWER REACTORS	70%	2.1	85.86%	-5.5	-3.3538
SPENT FUEL STORAGE/REACTOR DECOMMISSIONING	0	0	3.71%	-0.2	-0.2366
TEST AND RESEARCH REACTORS	0	0	0.00%	0.0	-0.0132
FUEL FACILITIES	24%	0.7	6.17%	-0.4	0.3434
MATERIALS	6%	0.189	2.78%	-0.177	0.0112
TRANSPORTATION	0	0	0.49%	0.0	-0.0310
RARE EARTH FACILITIES	0	0	0.00%	0.0	0.0000
URANIUM RECOVERY	0	0	0.78%	0.0	-0.0498
<b>TOTAL</b>	<b>100</b>	<b>3.04</b>	<b>100.00%</b>	<b>-6.4</b>	<b>-3.33</b>

## NOTES:

<sup>1</sup>Non-Recoverable Fee Items: NWF, WIR and generic homeland security

<sup>2</sup>Generic LLW activities are not considered a fairness and equity issue because licensees will benefit from these activities

**NONPROFIT ED. EXEMPTION**

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee relief category for fiscal years 2010 and 2011.

	<b>FY11</b>	
	<b>\$,K</b>	<b>FTE</b>
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$122</b>	<b>0.2</b>
Generic HLS (PL)	\$0	0.0
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$4	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$118	0.2
Travel (PL)	\$0	0.0
<b>Operating Reactors</b>	<b>\$912</b>	<b>29.3</b>
Event Response	\$0	0.0
Generic HLS (PL)	\$0	0.0
International Activities	\$0	0.0
Licensing	\$859	24.0
Oversight	\$13	4.9
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$40	0.4
Travel (PL)	\$0	0.0
<b>TOTAL</b>	<b>\$1,034</b>	<b>29.5</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$47</b>	<b>2.6</b>
Event Response	\$0	0.0
International Activities	\$0	0.0
Licensing	\$12	1.3
Oversight	\$16	1.2
Research	\$4	0.0
Rulemaking (PL)	\$0	0.1
State, Tribal & Federal Pgms.	\$0	0.0
Training	\$15	0.0
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$0</b>	<b>0.0</b>
<b>Spent Fuel Storage and Transportation</b>	<b>\$22</b>	<b>0.4</b>
International Activities	\$0	0.0
Licensing	\$18	0.3
Oversight	\$0	0.1
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$1	0.0
Travel (PL)	\$4	0.0
<b>TOTAL</b>	<b>\$69</b>	<b>3.0</b>
<b>GRAND TOTAL</b>	<b>\$1,103</b>	<b>32.5</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE RELIEF CATEGORY**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$,K value	% change	value	% change
<b>NONPROFIT ED. EXEMPTION</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$2,869	28.0				
International Activities			\$0	0.0				
Reactor Oversight			\$68	5.3				
Reactor License Renewal			\$0	0.0				
New Reactors	\$122	0.2	\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors	\$912	29.3						
<b>Total</b>	<b>\$1,034</b>	<b>29.5</b>	<b>\$2,937</b>	<b>33.3</b>	<b>-\$1,903</b>	<b>-64.8%</b>	<b>-3.8</b>	<b>-11.4%</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$47	2.6	\$139	6.5				
Decommissioning and Low Level Waste			\$1	0.0				
Spent Fuel Storage and Transportation	\$22	0.4	\$7	0.3				
<b>Total</b>	<b>\$69</b>	<b>3.0</b>	<b>\$148</b>	<b>6.8</b>	<b>-\$79</b>	<b>-53.2%</b>	<b>-3.8</b>	<b>-56.1%</b>
<b>Grand Total - Nonprofit Education Exemption</b>	<b>\$1,103</b>	<b>32.5</b>	<b>\$3,085</b>	<b>40.1</b>	<b>-\$1,981</b>	<b>-64.2%</b>	<b>-7.6</b>	<b>-19.0%</b>
Total value of budgeted resources for fee class (mission direct FTE*full cost of FTE + mission direct contract \$)	\$13,269		\$17,360		-\$4,092	-23.6%		

## INTERNATIONAL ACTIVITIES

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee relief category for fiscal years 2010 and 2011.

	FY11 \$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$5,683</b>	<b>7.0</b>
International Activities	\$5,683	7.0
Licensing	\$0	0.0
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$0	0.0
Travel (PL)	\$0	0.0
<b>Operating Reactors</b>	<b>\$78</b>	<b>3.0</b>
Event Response	\$0	0.0
International Activities	\$78	3.0
Licensing	\$0	0.0
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$0	0.0
Travel (PL)	\$0	0.0
<b>TOTAL</b>	<b>\$5,761</b>	<b>10.0</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$288</b>	<b>4.0</b>
Event Response	\$0	0.0
International Activities	\$288	4.0
Licensing	\$0	0.0
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$0	0.0
Travel (PL)	\$0	0.0
<b>Nuclear Materials Users</b>	<b>\$0</b>	<b>4.0</b>
Event Response	\$0	0.0
International Activities	\$0	4.0
Licensing	\$0	0.0
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
State, Tribal & Federal Pgms.	\$0	0.0
Training	\$0	0.0
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$100</b>	<b>2.8</b>
Generic HLS (PL)	\$0	0.0
International Activities	\$100	2.8
Licensing	\$0	0.0
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$0	0.0
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$139</b>	<b>2.6</b>
Generic HLS (PL)	\$0	0.0
International Activities	\$117	2.3
Licensing	\$19	0.3
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$3	0.0
Travel (PL)	\$0	0.0
<b>TOTAL</b>	<b>\$527</b>	<b>13.4</b>
<b>GRAND TOTAL</b>	<b>\$6,288</b>	<b>23.4</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE RELIEF CATEGORY**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$,K value	% change	value	% change
<b>INTERNATIONAL ACTIVITIES</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$13	0.0				
International Activities			\$4,659	17.0				
Reactor Oversight			\$0	0.0				
Reactor License Renewal			\$0	0.0				
New Reactors	\$5,683	7.0	\$0	3.0				
Incident Response			\$0	0.0				
Operating Reactors	\$78	3.0						
<b>Total</b>	<b>\$5,761</b>	<b>10.0</b>	<b>\$4,672</b>	<b>20.0</b>	<b>\$1,089</b>	<b>23.3%</b>	<b>-10.0</b>	<b>-50.0%</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities	\$288	4.0	\$150	4.2				
Nuclear Materials Users		4.0	\$46	9.6				
Decommissioning and Low Level Waste	\$100	2.8	\$3	1.7				
Spent Fuel Storage and Transportation	\$139	2.6	\$203	1.4				
<b>Total</b>	<b>\$527</b>	<b>13.4</b>	<b>\$403</b>	<b>16.9</b>	<b>\$124</b>	<b>30.9%</b>	<b>-3.5</b>	<b>-20.7%</b>
<b>Grand Total - International Activities</b>	<b>\$6,288</b>	<b>23.4</b>	<b>\$5,075</b>	<b>36.9</b>	<b>\$1,213</b>	<b>23.9%</b>	<b>-13.5</b>	<b>-36.6%</b>
Total value of budgeted resources for fee class (mission direct								
FTE*full cost of FTE + mission direct contract \$)								
	\$15,047		\$18,201		-\$3,154	-17.3%		

## AGREEMENT STATE OVERSIGHT

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee relief category for fiscal years 2010 and 2011.

	FY11 \$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>Operating Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$0</b>	<b>0.0</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$2,331</b>	<b>27.7</b>
Event Response	\$0	0.0
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$265	0.7
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
State, Tribal & Federal Pgms.	\$530	26.4
Training	\$121	0.6
Travel (PL)	\$1,415	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$318</b>	<b>2.9</b>
International Activities	\$0	0.0
Licensing	\$0	0.1
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$313	2.8
Training	\$5	0.0
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$2,649</b>	<b>30.6</b>
<b>GRAND TOTAL</b>	<b>\$2,649</b>	<b>30.6</b>



**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE RELIEF CATEGORY**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$,K value	% change	value	% change
<b>AGREEMENT STATE OVERSIGHT</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$0	0.0				
Reactor License Renewal			\$0	0.0				
New Reactors			\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors								
<b>Total</b>	\$0	0.0	\$0	0.0	\$0		0.0	
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$2,331	27.7	\$1,029	28.5				
Decommissioning and Low Level Waste	\$318	2.9	\$5	0.1				
Spent Fuel Storage and Transportation			\$0	0.0				
<b>Total</b>	\$2,649	30.6	\$1,033	28.6	\$1,616	156.3%	2.0	6.9%
<b>Grand Total - Agreement State Oversight</b>	<b>\$2,649</b>	<b>30.6</b>	<b>\$1,033</b>	<b>28.6</b>	<b>\$1,616</b>	<b>156.3%</b>	<b>2.0</b>	<b>6.9%</b>
Total value of budgeted resources for fee class (mission direct								
FTE*full cost of FTE + mission direct contract \$)								
	\$14,103		\$11,216		\$2,887	25.7%		

**AGREEMENT STATE REGULATORY SUPT.**

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee relief category for fiscal years 2010 and 2011.

	<b>FY11</b>	
	<b>\$,K</b>	<b>FTE</b>
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>Operating Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$0</b>	<b>0.0</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$3,331</b>	<b>38.1</b>
Event Response	\$0	2.5
International Activities	\$0	0.0
Licensing	\$1,348	10.6
Oversight	\$915	15.5
Research	\$601	2.6
Rulemaking (PL)	\$56	4.7
State, Tribal & Federal Pgms.	\$20	1.8
Training	\$391	0.4
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$17</b>	<b>0.9</b>
International Activities	\$0	0.0
Licensing	\$0	0.9
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$17	0.0
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$3,348</b>	<b>39.0</b>
<b>GRAND TOTAL</b>	<b>\$3,348</b>	<b>39.0</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE RELIEF CATEGORY**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference			
					\$,K value	% change	FTE value	% change
<b>AGREEMENT STATE REGULATORY SUPT.</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$0	0.0				
Reactor License Renewal			\$0	0.0				
New Reactors			\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors								
<b>Total</b>	\$0	0.0	\$0	0.0	\$0	#DIV/0!	0.0	#DIV/0!
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$3,331	38.1	\$5,631	49.0				
Decommissioning and Low Level Waste	\$17	0.9	\$8	0.0				
Spent Fuel Storage and Transportation			\$0	0.0				
<b>Total</b>	\$3,348	39.0	\$5,639	49.0	-\$2,291	-40.6%	-10.0	-20.4%
<b>Grand Total - Agreement State Reg Supp</b>	<b>\$3,348</b>	<b>39.0</b>	<b>\$5,639</b>	<b>49.0</b>	<b>-\$2,291</b>	<b>-40.6%</b>	<b>-10.0</b>	<b>-20.4%</b>
Total value of budgeted resources for fee class (mission direct								
FTE*full cost of FTE + mission direct contract \$)								
	\$17,946		\$23,065		-\$5,118	-22.2%		

## GENERIC DECOMMISSION & RECLAIM

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee relief category for fiscal years 2010 and 2011.

	FY11 \$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>Operating Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$0</b>	<b>0.0</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$277</b>	<b>5.7</b>
Event Response	\$0	0.0
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$73	0.9
Research	\$0	0.0
Rulemaking (PL)	\$20	4.6
State, Tribal & Federal Pgms.	\$0	0.0
Training	\$184	0.2
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$2,299</b>	<b>44.5</b>
International Activities	\$0	0.0
Licensing	\$2,063	39.7
Oversight	\$0	0.0
Research	\$87	4.0
Rulemaking (PL)	\$0	0.8
Training	\$149	0.0
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$2,576</b>	<b>50.2</b>
<b>GRAND TOTAL</b>	<b>\$2,576</b>	<b>50.2</b>

All decommissioning resources for licensees other than Part 50 power reactors and Part 72 licensees--i.e., site specific + generic resources--are allocated to the 'generic decommissioning' Fee-Relief category. OCFO then subtracts from this total the estimated Part 170 decommissioning revenue [FY 2011 estimated revenue - \$4,740] from these licensees. By definition, what's left is 'generic.'

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE RELIEF CATEGORY**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$,K value	% change	value	% change
<b>GENERIC DECOMMISSION &amp; RECLAIM</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$0	0.0				
Reactor License Renewal			\$0	0.0				
New Reactors			\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors								
<b>Total</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>		<b>0.0</b>	
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$277	5.7	\$224	1.4				
Decommissioning and Low Level Waste	\$2,299	44.5	\$1,922	48.5				
Spent Fuel Storage and Transportation			\$0	0.2				
<b>Total</b>	<b>\$2,576</b>	<b>50.2</b>	<b>\$2,146</b>	<b>50.1</b>	<b>\$430</b>	<b>20.0%</b>	<b>0.1</b>	<b>0.2%</b>
 <b>Grand Total - Decommissioning &amp; Reclaim.</b>	 <b>\$2,576</b>	 <b>50.2</b>	 <b>\$2,146</b>	 <b>50.1</b>	 <b>\$430</b>	 <b>20.0%</b>	 <b>0.1</b>	 <b>0.2%</b>
 Total value of budgeted resources for fee class (mission direct FTE*full cost of FTE + mission direct contract \$) <b>less Part 170 revenue</b>								
	<b>\$16,627</b>		<b>\$16,540</b>		<b>\$86</b>	<b>0.5%</b>		

## GENERIC LLW

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee relief category for fiscal years 2010 and 2011.

	FY11 \$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>Operating Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$0</b>	<b>0.0</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$24</b>	<b>0.3</b>
Event Response	\$0	0.0
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.3
State, Tribal & Federal Pgms.	\$0	0.0
Training	\$24	0.0
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$586</b>	<b>6.2</b>
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$148	3.7
Research	\$0	0.0
Rulemaking (PL)	\$437	1.0
Training	\$1	1.5
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$610</b>	<b>6.5</b>
<b>GRAND TOTAL</b>	<b>\$610</b>	<b>6.5</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE RELIEF CATEGORY**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$,K value	% change	value	% change
<b>GENERIC LLW</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$0	0.0				
Reactor License Renewal			\$0	0.0				
New Reactors			\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors								
<b>Total</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>		<b>0.0</b>	
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$24	0.3	\$15	0.0				
Decommissioning and Low Level Waste	\$586	6.2	\$161	6.0				
Spent Fuel Storage and Transportation			\$0	0.0				
<b>Total</b>	<b>\$610</b>	<b>6.5</b>	<b>\$176</b>	<b>6.0</b>	<b>\$434</b>	<b>245.7%</b>	<b>0.5</b>	<b>7.9%</b>
<b>Grand Total - Generic LLW</b>	<b>\$610</b>	<b>6.5</b>	<b>\$176</b>	<b>6.0</b>	<b>\$434</b>	<b>245.7%</b>	<b>0.5</b>	<b>7.9%</b>
Total value of budgeted resources for fee class (mission direct								
FTE*full cost of FTE + mission direct contract \$)	\$3,043		\$2,320		\$723	31.2%		

**ISL/GENERAL LICENSEES/GRANTS**

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee relief category for fiscal years 2010 and 2011.

	<b>FY11</b>	
	<b>\$,K</b>	<b>FTE</b>
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>Operating Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$0</b>	<b>0.0</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$365</b>	<b>1.9</b>
Event Response	\$0	0.0
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$357	1.9
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
State, Tribal & Federal Pgms.	\$0	0.0
Training	\$8	0.0
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$0</b>	<b>0.3</b>
International Activities	\$0	0.0
Licensing	\$0	0.3
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$0	0.0
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$365</b>	<b>2.2</b>
<b>PROGRAM: MANAGEMENT AND SUPPORT</b>		
<b>Corporate Support</b>	<b>\$10,397</b>	<b>3.0</b>
Outreach	\$10,397	3.0
<b>TOTAL</b>	<b>\$10,397</b>	<b>3.0</b>
<b>GRAND TOTAL</b>	<b>\$10,762</b>	<b>5.2</b>



**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE RELIEF CATEGORY**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference			
					\$,K value	% change	FTE value	% change
<b>ISL/GENERAL LICENSEES</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$0	0.0				
Reactor License Renewal			\$0	0.0				
New Reactors			\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors								
<b>Total</b>	\$0	0.0	\$0	0.0	\$0		0.0	
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$365	1.9	\$394	3.0				
Decommissioning and Low Level Waste	\$0	0.3	\$1	2.5				
Spent Fuel Storage and Transportation			\$0	0.0				
<b>Total</b>	\$365	2.2	\$395	5.5	-\$30	-7.6%	-3.3	-60.2%
<b>PROGRAM: MANAGEMENT AND SUPPORT</b>								
Outreach	\$10,397	3.0	\$15,000	0				
<b>Total</b>	\$10,397	3.0	\$15,000	0				
<b>Grand Total - ISL/General Licensees/Fellowships &amp; Scholarships</b>	<b>\$10,762</b>	<b>5.2</b>	<b>\$15,395</b>	<b>5.5</b>	<b>-\$4,633</b>	<b>-30.1%</b>	<b>-0.3</b>	<b>-5.9%</b>
Total value of budgeted resources for fee class (mission direct FTE*full cost of FTE + mission direct contract \$)	\$12,708		\$17,360		-\$4,652	-26.8%		
<b>TOTALS</b>	<b>\$180,082</b>	<b>2,235.9</b>	<b>\$203,735</b>	<b>2,276.4</b>	<b>-\$23,653</b>	<b>-11.6%</b>	<b>-40.5</b>	<b>-1.8%</b>
Total value of budgeted resources for fee class (mission direct FTE*full cost of FTE + mission direct contract \$)	<b>\$1,017,013</b>		<b>\$1,013,528</b>		<b>\$3,485</b>	<b>0.3%</b>		
FTE Rate(\$K)	\$374		\$356		-\$356	-100.0%		

# **Part 171 Annual Fees**

## **Fuel Facilities**

### **Section III.B.2.a**

#### **Table V**

#### **Table VII**

#### **Table VIII**

The FY 2011 budgeted cost to be recovered in the annual fees assessment to the fuel facility class of licenses [which includes licensees in fee categories 1.A.(1)(a), 1.A.(1)(b), 1.A.(2)(a), 1.A.(2)(b), 1.A.(2)(c), 1.E., and 2.A.(1), under §171.16] is approximately \$31 million. This value is based on the full cost of budgeted resources associated with all activities that support this fee class, which is reduced by estimated part 170 collections and adjusted for allocated generic transportation resources, and fee relief.

FY 2011 MISSION DIRECT BUDGETED RESOURCES				
	TOTAL		FUEL FACILITY ALLOCATIONS	
	CONTRACT		CONTRACT	
	\$,K	FTE	\$,K	FTE
NUCLEAR REACTOR SAFETY	162,810.0	1,752.8	0.0	0.0
NUCLEAR MATERIALS & WASTE SAFETY (no HLW/Gen Fund)	32,817.0	480.1	5,989.0	132.8
CORPORATE & OFFICE SUPPORT	234,786.0	1,616.7	0.0	0.0
INSPECTOR GENERAL	518.0	58.0		
SUBTOTAL - FEE BASE RESOURCE	430,931.0	3,907.6	5,989.0	132.8
Figures below in \$, M (unless otherwise indicated)				
(1) FY 2011 ALLOCATIONS: equals \$, K + FTE*FTE rate (shown below)				55.7
(2) LESS ESTIMATED PART 170 FEE COLLECTIONS				26.6
(3) PART 171 ALLOCATIONS (equals 1 - 2)				29.1
(4) GENERIC TRANSPORTATION RESOURCES (allocated)				0.6
				29.7
(6) FY 2011 TOTAL ALLOCATIONS (after transportation allocation) (equals 2+5)				56.3
(7) % OF BUDGET (% total allocations, excl. fee-relief activities, import/export alloc, small entity)				6.17%
(8) Fee-Relief Adjustment (includes small entity) + LLW Surcharge				0.3
(9) Fee-Relief Adjustment and LLW Surcharge per licensee				
(10) Part 171 billing adjustments				0.0
(11) Adjustment for FY 2011 Rescission (currently no rescission)				0.0000
(12) TOTAL FY 2011 ANNUAL FEE (equals 5+8+10+11)				30.0622
(13) Number of Licensees				different for different categories of licenses; see other worksheets
(14) Fee Per License (equals 12/13)				
unrounded annual fee amount per license, actual \$				
rounded annual fee, actual \$				
FTE RATE (average based on budget data, actual \$):		374,315		

**FUEL FACILITY ANNUAL FEES  
FY 2011**

<b>Part 171 Amount</b>	\$29,692,916
Less Billing Adjustment	25,905
Less Recession Adjustment	0
<b>TOTAL</b>	<b>\$29,718,821</b>

	<u>SAFETY</u>	<u>SAFEGUARDS</u>	<u>TOTAL</u>	<u>FEE-RELIEF</u>	<u>TOTAL ANNUAL FEE</u>
<b>Allocation of Part 171 Amount to Safety/Safeguards</b>	\$16,216,139	\$13,502,682	\$29,718,821	\$343,353	\$30,062,174

		<u>EFFORT FACTORS</u>					
		<u>Safety</u>		<u>Safeguards</u>		<u>Total</u>	
<u>FEE CATEGORY</u>	<u>NUMBER OF LICENSES</u>		%		%		%
1A(1)(a) SSNM (HEU)	2	89	35.5%	97	46.4%	186	40.4%
1A(1)(b) SNM (LEU)	3	70	27.9%	35	16.7%	105	22.8%
1A(2)(a) LIMITED OPS (Areva)	2	15	6.0%	8	3.8%	23	5.0%
1A(2)(b) OTHERS (Gas centrifuge enrichment demonstration)	1	3	1.2%	15	7.2%	18	3.9%
1A(2)(c) OTHERS (hot cell facility)	1	6	2.4%	3	1.4%	9	2.0%
1E ENRICHMENT	2	56	22.3%	44	21.1%	100	21.7%
2A(1) UF6 (Honeywell)	1	12	4.8%	7	3.3%	19	4.1%
<b>TOTAL</b>	<b>12</b>	<b>251</b>	<b>100.0%</b>	<b>209</b>	<b>100%</b>	<b>460</b>	<b>100%</b>
		54.6%		45.4%			

**ALLOCATION to CATEGORY**

		(1)	(2)	(3)	(4)	(5) TOTAL ANNUAL FEE PER LICENSE	FY 2011 Annual Fee Rounded	FY 2010 Annual Fee	% inc./dec.
<b>Fee Category</b>									
1A(1)(a) SSNM (HEU)	2	\$5,749,946	\$6,266,795	\$12,016,741	\$138,834	\$6,077,787	\$6,078,000	\$5,439,000	11.7%
1A(1)(b) SNM (LEU)	3	4,522,429	2,261,215	6,783,644	\$78,374	\$2,287,339	\$2,287,000	\$2,047,000	11.7%
1A(2)(a) LIMITED OPS (Framatome)	2	969,092	516,849	1,485,941	\$17,168	\$751,554	\$752,000	\$702,000	7.1%
1A(2)(b) OTHERS (Gas centrifuge enrichment demonstration)	1	193,818	969,092	1,162,910	\$13,436	\$1,176,346	\$1,176,000	\$1,053,000	11.7%
1A(2)(c) OTHERS (hot cell facility)	1	387,637	193,818	581,455	\$6,718	\$588,173	\$588,000	\$526,000	11.8%
1E ENRICHMENT	2	3,617,943	2,842,670	6,460,613	\$74,642	\$3,267,628	\$3,268,000	\$2,807,000	16.4%
2A(1) UF6 (Honeywell)	1	775,274	452,243	1,227,517	\$14,182	\$1,241,699	\$1,242,000	\$1,111,000	11.8%
<b>TOTAL</b>	<b>12</b>	<b>\$16,216,139</b>	<b>\$13,502,682</b>	<b>\$29,718,821</b>	<b>\$343,353</b>				

Cols 1 and 2=budgeted amounts x percent of total effort factor

Col 3 = Col 1 + Col 2

Col 4 = Total fee-relief x percent of total effort factor

Col 5 = Col 3 + Col 4 / number of licensees

**NRC FUEL CYCLE FACILITIES  
FY 2011 ANNUAL FEES - EFFORT FACTOR MATRIX  
19-Nov-09**

CATEGORY	LICENSEE	FEE CATEGORY	PROCESSES														SUBTOTALS		TOTAL						
			SOLID UF6/METAL		ENRICHMENT		LIQUID UF6		HEU DOWN BLEND		CONVERSION POWDER		PELLET		ROD/ BUNDLE					SCRAP/ WASTE		HOT CELL		SENSITIVE INFORMATION	
			S	SG	S	SG	S	SG	S	SG	S	SG	S	SG	S	SG	S	SG		S	SG	S	SG	S	SG
SNM (HEU)	B&W NOG (SNM-42)	1A(1)(a)	10	10	0	0	0	0	5	5	5	5	10	5	5	5	10	5	1	1	1	10	47	46	93
	NFS (SNM-124)	1A(1)(a)	10	10	0	0	1	1	10	10	10	10	0	0	0	0	10	10	0	0	1	10	42	51	93
Uranium Enrichment	USEC Paducah (GDP-1)	1E	10	1	10	10	10	1	0	0	0	0	0	0	0	0	5	5	0	0	0	5	35	22	57
	USEC Portsmouth (GDP-2)	1A(2)(a)	5	1	0	0	1	1	0	0	0	0	0	0	0	0	1	1	0	0	0	1	7	4	11
	LES (SNM-2010)	1E	10	1	5	10	1	1	0	0	0	0	0	0	0	0	5	1	0	0	0	10	21	23	44
	USEC ACP (SNM-2011)*	1E	10	1	5	10	1	1	0	0	0	0	0	0	0	0	5	1	0	0	0	10	21	23	44
SNM (LEU)	Global Nuclear (SNM-1097)	1A(1)(b)	5	1	1	5	1	1	0	0	5	1	5	1	1	1	5	1	0	0	1	10	24	21	45
	AREVA NP Richland (SNM-1227)	1A(1)(b)	5	1	0	0	1	1	0	0	5	1	5	1	1	1	5	1	0	0	1	1	23	7	30
	Westinghouse (SNM-1107)	1A(1)(b)	5	1	0	0	1	1	0	0	5	1	5	1	1	1	5	1	0	0	1	1	23	7	30
UF6 Conversion	Honeywell (SUB-526)	2A(1)	5	1	0	0	5	5	0	0	1	0	0	0	0	0	1	0	0	0	0	1	12	7	19
Limited Fuel Fab	AREVA NP Lynchburg (SNM-1168)	1A(2)(a)	0	0	0	0	0	0	0	0	0	0	5	1	1	1	1	1	0	0	1	1	8	4	12
Gas Cent. Enrichment	USEC Lead Cascade (SNM-7003)	1A(2)(b)	1	0	1	5	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	10	3	15	18
Hot Cell	GE Vallecitos (SNM-960)	1A(2)(c)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	1	1	1	0	1	6	3	9

S = Safety  
SG = Safeguards

HIGH = 10  
MODERATE = 5  
LOW = 1  
NONE = 0

FY 2011 TOTALS\* 251 210 461

For USEC-PORTSMOUTH: Fee category is changed to reflect its remaining limited operations. As USEC-PORTS deleasd all primary uranium enrichment facilities to DOE on 9/30/2010, its certificate no longer includes the facilities for enrichment of uranium.

\*This facility was not factored into the annual fee calculations (i.e. the required collections to recover budgeted resources) for FY 2011, because, although it was issued a license, the NRC estimates they will not have received all of the required NRC authorizations for operation in FY 2011. As explained in the FY 2007 fee rule, licensees are not subject to annual fees until they receive the required NRC authorizations (as specified in the NRC's regulations) for operations. The facility is included above for information purposes only; the overall totals shown exclude the values for this facility.

## FUEL FACILITY

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee class for fiscal years 2010 and 2011.

	FY11 \$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0</b>
<b>Operating Reactors</b>	<b>\$0</b>	<b>0</b>
<b>TOTAL</b>	<b>\$0</b>	<b>0</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$5,477</b>	<b>128.1</b>
Event Response	\$0	2.5
International Activities	\$0	0
Licensing	\$3,248	51.3
Oversight	\$229	54
Research	\$87	1
Rulemaking (PL)	\$1,657	17.1
Training	\$256	2.2
Travel (PL)	\$0	0
<b>Nuclear Materials Users</b>	<b>\$491</b>	<b>3.8</b>
Event Response	\$0	0
International Activities	\$0	0
Licensing	\$0	0
Oversight	\$3	0.7
Research	\$0	0
Rulemaking (PL)	\$2	1.8
State, Tribal & Federal Pgms.	\$0	0.6
Training	\$486	0.7
Travel (PL)	\$0	0
<b>Decommissioning &amp; LLW</b>	<b>\$21</b>	<b>0.1</b>
International Activities	\$0	0
Licensing	\$0	0.1
Oversight	\$0	0
Research	\$0	0
Rulemaking (PL)	\$0	0
Training	\$21	0
Travel (PL)	\$0	0
<b>Spent Fuel Storage and Transportation</b>	<b>\$0</b>	<b>0.8</b>
International Activities	\$0	0
Licensing	\$0	0.8
Oversight	\$0	0
Research	\$0	0
Rulemaking (PL)	\$0	0
Training	\$0	0
Travel (PL)	\$0	0
<b>TOTAL</b>	<b>\$5,989</b>	<b>132.8</b>
<b>GRAND TOTAL</b>	<b>\$5,989</b>	<b>132.8</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE CLASS**

	FY11		FY10		Difference			
	\$,K	FTE	\$,K	FTE	\$,K	% change	FTE	% change
	value		value		value		value	
<b>FUEL FACILITY</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$0	0.0				
Reactor License Renewal			\$0	0.0				
New Reactors			\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors								
<b>Total</b>	\$0	0.0	\$0	0.0	\$0	0.0%	0.0	0.0%
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities	\$5,477	128.1	\$6,485	114.5				
Nuclear Materials Users	\$491	3.8	\$330	2.4				
Decommissioning and Low Level Waste	\$21	0.1	\$20	0.1				
Spent Fuel Storage and Transportation		0.8	\$0	1.0				
<b>Total</b>	\$5,989	132.8	\$6,836	118.0	-\$847	-12.4%	14.8	12.5%
<b>Grand Total - Fuel Facility</b>	<b>\$5,989</b>	<b>132.8</b>	<b>\$6,836</b>	<b>118.0</b>	<b>-\$847</b>	<b>-12.4%</b>	<b>14.8</b>	<b>12.5%</b>
Total value of budgeted resources for fee class (mission direct FTE*full cost of FTE + mission direct contract \$)	\$55,698		\$48,817		\$6,881	14.1%		

# **Part 171 Annual Fees**

## **Uranium Recovery Facilities**

### **Section III.B.3.b.**

**Table IX**

**Table X**

**Table XI**

**Table XII**

The total FY 2011 budgeted cost to be recovered through annual fees assessed to the uranium recovery class [which includes licensees in fee categories 2.A.(2)(a), 2.A.(2)(b), 2.A.(2)(c), 2.A.(2)(d), 2.A.(2)(e), 2.A.(3), 2.A.(4), 2.A.(5) and 18.B., under § 171.16], is approximately \$1 million.

Of the required annual fee collections, \$771,000 is assessed to DOE's Uranium Mill Tailings Radiation Control Act (UMTRCA) under fee category 18.B. The remaining \$234,000 (rounded) would be recovered through annual fees assessed to the other licensees in this fee class (i.e., conventional mills, in-situ recovery facilities, 11e.(2) mill tailings disposal facilities (incidental to existing tailings sites), and a uranium water treatment facility.)



FY 2011 MISSION DIRECT BUDGETED RESOURCES				
			URANIUM RECOVERY	
	TOTAL		ALLOCATIONS	
	CONTRACT		CONTRACT	
	\$,K	FTE	\$,K	FTE
NUCLEAR REACTOR SAFETY	162,810.0	1,752.8	0.0	0.0
NUCLEAR MATERIALS & WASTE SAFETY (no HLW/Gen Fund)	32,817.0	480.1	1,340.0	15.5
CORPORATE & OFFICE SUPPORT	234,786.0	1,616.7	0.0	0.0
INSPECTOR GENERAL	518.0	58.0		
SUBTOTAL - FEE BASE RESOURCE	430,931.0	3,907.6	1,340.0	15.5
Figures below in \$, M (unless otherwise indicated)				
(1) FY 2011 ALLOCATIONS: equals \$, K + FTE*FTE rate (shown below)				7.142
(2) LESS ESTIMATED PART 170 FEE COLLECTIONS				6.090
(3) PART 171 ALLOCATIONS (equals 1 - 2)				1.052
(4) GENERIC TRANSPORTATION RESOURCES (allocated)				
				1.05
(6) FY 2011 TOTAL ALLOCATIONS (after transportation allocation) (equals 2+5)				7.1
(7) % OF BUDGET (% total allocations, excl. fee-relief activities, import/export alloc, small entity)				0.78%
(8) Fee-Relief Adjustment (includes small entity) + LLW Surcharge				-0.050
(9) Fee-Relief Adjustment and LLW Surcharge per licensee				
(10) Part 171 billing adjustments				0.003
(11) Adjustment for FY 2011 Rescission (currently no rescission)				0.0000
(12) TOTAL FY 2011 ANNUAL FEE (equals 5+8+10+11)				1.0053
(13) Number of Licensees				
(14) Fee Per License (equals 12/13)				
				different for different categories of licenses; see other worksheets
unrounded annual fee amount per license, actual \$				
rounded annual fee, actual \$				
FTE RATE (average based on budget data, actual \$):		374,315		

**URANIUM RECOVERY ANNUAL FEES**

**FY 2011**

	<b>TOTAL</b>
TOTAL ANNUAL FEE AMOUNT (excl. fee-relief adjustment):	\$1,055,168
TOTAL FEE-RELIEF ADJUSTMENT:	-49,842
<b>TOTAL:</b>	<b>\$1,005,327</b>

**GROUP 1**  
**Calculation of DOE Annual Fee**

<u>Fee Category</u>	<u>contract \$</u>	<u>FTE</u>	<u>FTE Rate</u>	<u>Total Fee</u>
18.B. DOE UMRCA Budgeted Costs:	0	2.25	\$374,315	\$745,331
10% x (Total Annual Fee Amount (excl. Fee-Relief) less UMRCA)				\$30,984
10% of Fee-Relief Activities				-\$4,984
			<b>Total:</b>	<b>\$771,330</b>
			DOE's Annual Fee Rounded:	<b>\$771,000</b>

**GROUP 2**  
**Calculation of Annual Fee Amount for Remaining UR Licensees**

	<b>FY 2011</b>
	<b>Total</b>
	<b>Fee</b>
Remaining Annual Fee Amount (excl. Fee-Relief Adjustment):	\$278,854
Remaining Fee Relief Adjustment (90%):	-\$44,857
<b>Total:</b>	<b>\$233,996</b>

**CALCULATION OF ANNUAL FEE AMOUNTS BY CATEGORY:**

CALCULATION OF ANNUAL FEE AMOUNTS BY CATEGORY:										
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)		
Type of Site	Fee Category	Number of Licenses	Category Benefit	Total Benefit Value	Percent	Total base annual fee	Annual Fee Per License			FY 2011 Annual Fee Rounded
							Base	Fee Relief	Total	
Conventional & Heap Leach Mills	2.A.(2)(a)	1	200	200	14%	\$38,069	\$38,069	-\$6,124	\$31,945	\$31,900
Basic In-situ Recovery Facilities	2.A.(2)(b)	4	190	760	52%	\$144,661	\$36,165	-\$5,818	\$30,348	\$30,300
Expanded In-situ Recovery Facilities	2.A.(2)(c)	1	215	215	15%	\$40,924	\$40,924	-\$6,583	\$34,341	\$34,300
In-situ Recovery Resin Facilities	2.A.(2)(d)	1	180	180	12%	\$34,262	\$34,262	-\$5,511	\$28,750	\$28,800
Resin Toll Milling Facilities	2.A.(2)(e)	0	-	-	0%	\$0	N/A	N/A	N/A	N/A
Facilities for Disposal of 11e(2) Materials	2.A.(3)	0	-	-	0%	\$0	N/A	N/A	N/A	N/A
Disposal Incident to Operation at Licensed Facilities	2.A.(4)	1	65	65	4%	\$12,372	\$12,372	-\$1,990	\$10,382	\$10,400
Uranium Water Treatment Facility	2.A.(5)	1	45	45	3%	\$8,565	\$8,565	-\$1,378	\$7,188	\$7,200
TOTAL		9	895	1,465	100%	\$278,854				

Col. 3= Col. 1 x Col. 2  
Col. 5= Col. 4 x Group 2 Total Base Fee  
Col. 6= Col. 5 /Col. 1  
Col. 7= Col. 4 x Group 2 Fee-Relief Adjustment Amount/Col. 1  
Col. 8= Col. 6 + Col. 7

URANIUM RECOVERY MATRIX OF REGULATORY BENEFIT BY CATEGORY OF LICENSEE												
includes facilities licensed to operate (even if in standby), excludes possession only licensees												
TO DETERMINE ANNUAL FEES FOR FY11 FEE RULE												
TYPE OF OPERATING ACTIVITY												
				Operations		Waste Operations		Groundwater Protection				
				weight =		weight =		weight =				
				10		5		10				
Type of Site	Fee Category	No. of Licensees	Benefit	Total Score (=benefit score * weight)	Benefit	Total Score (=benefit score * weight)	Benefit	Total Score (=benefit score * weight)	Total Score, all activities	Total Score, all Licensees per category	Percent total Annual Fee, per Licensee	
Conventional and Heap Leach Mills	2(A)2a	1	10	100	10	50	5	50	200	200	14%	
Basic In Situ Recovery Facilities	2(A)2b	4	9	90	2	10	9	90	190	760	13%	
Expanded In Situ Recovery Facilities	2(A)2c	1	10	100	3	15	10	100	215	215	15%	
In-situ Recovery Resin Facilities	2(A)2d	1	8	80	2	10	9	90	180	180	12%	
Resin Toll Milling Facilities	2(A)2e	0	0	0	0	0	0	0	0	-	-	
Facilities for Disposal of 11e(2) Materials	2(A)3	0	0	0	0	0	0	0	0	-	-	
Disposal Incident to Operation at Licensed Facilities	2(A)4	1	0	0	5	25	4	40	65	65	4%	
Uranium Water Treatment Facility	2(A)5	1	2	20	5	25	0	0	45	45	3%	
Grand Total										1465		
Level of Regulatory Benefit- Scale of 0 to 10 (examples)			Benefit factors under "Operations", "Waste Operations", and "Groundwater Protection" reflect the regulatory benefit to each licensee in the fee category from generic uranium recovery program activities.									
None	0											
Minor	2											
Some	5											
Significant	10											

## URANIUM RECOVERY

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee class for fiscal years 2010 and 2011.

	FY11 \$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>Operating Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$0</b>	<b>0.0</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$57</b>	<b>1.0</b>
Event Response	\$0	0.0
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.7
State, Tribal & Federal Pgms.	\$0	0.2
Training	\$57	0.1
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$1,283</b>	<b>14.5</b>
International Activities	\$0	0.0
Licensing	\$1,281	14.5
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$2	0.0
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$1,340</b>	<b>15.5</b>
<b>GRAND TOTAL</b>	<b>\$1,340</b>	<b>15.5</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE CLASS**

	FY11		FY10		Difference			
	\$,K	FTE	\$,K	FTE	\$,K	% change	FTE	% change
	value		value		value		value	
<b>URANIUM RECOVERY</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$0	0.0				
Reactor License Renewal			\$0	0.0				
New Reactors			\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors			\$0	0.0				
<b>Total</b>	\$0	0.0	\$0	0.0	\$0	#DIV/0!	0.0	#DIV/0!
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$57	1.0	\$31	0.3				
Decommissioning and Low Level Waste	\$1,283	14.5	\$2,381	11.8				
Spent Fuel Storage and Transportation			\$0	0.0				
<b>Total</b>	\$1,340	15.5	\$2,412	12.0	-\$1,072	-44.4%	3.5	28.8%
<b>Grand Total - Uranium Recovery</b>	<b>\$1,340</b>	<b>15.5</b>	<b>\$2,412</b>	<b>12.0</b>	<b>-\$1,072</b>	<b>-44.4%</b>	<b>3.5</b>	<b>28.8%</b>
Total value of budgeted resources for fee class (mission direct								
FTE*full cost of FTE + mission direct contract \$)	\$7,142		\$6,692		\$450	6.7%		

# **Part 171 Annual Fees**

## **Operating Power Reactors**

### **Section III.B.3.c.**

#### **Table XIII**

The budgeted costs to be recovered through annual fees to power reactors are divided equally among the 104 power reactors licensed to operate. This results in a FY 2011 annual fee of \$4,428,000 per reactor. Additionally, each power reactor licensed to operate would be assessed the FY 2011 spent fuel storage/reactor decommissioning annual fee of \$241,000. This results in a total FY 2011 annual fee of \$4,669,000 for each power reactor licensed to operate.

FY 2011 MISSION DIRECT BUDGETED RESOURCES					
		TOTAL		POWER REACTORS ALLOCATIONS	
		CONTRACT		CONTRACT	
		\$,K	FTE	\$,K	FTE
NUCLEAR REACTOR SAFETY		162,810.0	1,752.8	134,737.0	1,708.5
NUCLEAR MATERIALS & WASTE SAFETY (no HLW/Gen Fund)		32,817.0	480.1	3,536.0	14.3
CORPORATE & OFFICE SUPPORT		234,786.0	1,616.7	0.0	0.0
INSPECTOR GENERAL		518.0	58.0		
SUBTOTAL - FEE BASE RESOURCE		430,931.0	3,907.6	138,273.0	1,722.8
Figures below in \$, M (unless otherwise indicated)					
(1) FY 2011 ALLOCATIONS: equals \$, K + FTE*FTE rate (shown below)					783.1
(2) LESS ESTIMATED PART 170 FEE COLLECTIONS					320.6
(3) PART 171 ALLOCATIONS (equals 1 - 2)					462.6
(4) GENERIC TRANSPORTATION RESOURCES (allocated)					0.9
					463.5
(6) FY 2011 TOTAL ALLOCATIONS (after transportation allocation) (equals 2+5)					784.1
(7) % OF BUDGET (% total allocations, excl. fee-relief activities, import/export alloc, small entity)					85.8626%
(8) Fee-Relief Adjustment (includes small entity) + LLW Surcharge					-3.4
(9) Fee-Relief Adjustment and LLW Surcharge per licensee					-0.03225
(10) Part 171 billing adjustments					0.4
(11) Adjustment for FY 2011 Rescission (currently no rescission)					0.0000
(12) TOTAL FY 2011 ANNUAL FEE (equals 5+8+10+11)					460.5031
(13) Number of Licensees					104
(14) Fee Per License (equals 12/13)					4.427914
unrounded annual fee amount per license, actual \$					4,427,914
rounded annual fee, actual \$					4,428,000
FTE RATE (average based on budget data, actual \$):		374,315			

OPERATING POWER REACTOR ANNUAL FEE  
FY 2011

NUMBER OF POWER REACTORS LICENSED TO OPERATE:  
(by Nuclear Steam System Supplier & Design Type)

Westinghouse	48
General Electric	35
Combustion Engineering	14
Babcock & Wilcox	<u>7</u>
TOTAL REACTORS	104

DETERMINATION OF ANNUAL FEE:

TOTAL BUDGETED COSTS FOR OPERATING POWER REACTORS (INCLUDES NON-FEE ACTIVITIES)	\$783,142,973
ANNUAL FEE PER REACTOR (rounded) (BUDGETED COSTS DIVIDED BY 104 OPERATING POWER REACTORS)	\$4,428,000
PLUS SPENT FUEL STORAGE/ REACTOR DECOMMISSIONING ANNUAL FEE	\$241,000
TOTAL ANNUAL FEE PER LICENSE	\$4,669,000



## POWER REACTORS

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee class for fiscal years 2010 and 2011.

### SUMMARY TABLE: POWER REACTOR FEE CLASS BY PROGRAM, BUSINESS LINE AND PRODUCT LINE

	FY11	
	\$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$60,476</b>	<b>556.9</b>
International Activities	\$0	4.0
Licensing	\$40,778	363.3
Oversight	\$2,068	113.3
Research	\$10,516	45.0
Rulemaking (PL)	\$220	5.5
Training	\$6,894	25.8
<b>Operating Reactors</b>	<b>\$74,261</b>	<b>1151.6</b>
Event Response	\$5,276	39.4
International Activities	\$0	8.0
Licensing	\$11,746	348.9
Oversight	\$9,394	553.6
Research	\$39,905	122.0
Rulemaking (PL)	\$5,815	41.7
Training	\$2,125	38.0
Travel (PL)	\$0	0.0
<b>TOTAL</b>	<b>\$134,737</b>	<b>1708.5</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$143</b>	<b>2.0</b>
Event Response	\$0	0.0
International Activities	\$0	1.0
Licensing	\$0	0.0
Oversight	\$6	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.9
State, Tribal & Federal Pgms.	\$0	0.0
Training	\$137	0.1
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$6</b>	<b>1.3</b>
Generic HLS (PL)	\$0	0.0
International Activities	\$0	0.0
Licensing	\$0	1.3
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$6	0.0
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$3,387</b>	<b>11.0</b>
Generic HLS (PL)	\$0	0.0
International Activities	\$75	1.5
Licensing	\$600	1.0
Oversight	\$0	0.0
Research	\$2,000	8.0
Rulemaking (PL)	\$525	0.5
Training	\$17	0.0
Travel (PL)	\$170	0.0
<b>TOTAL</b>	<b>\$3,536</b>	<b>14.3</b>
<b>GRAND TOTAL</b>	<b>\$138,273</b>	<b>1722.8</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE CLASS**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$.K value	% change	value	% change
<b>POWER REACTOR</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$59,925	448.1				
International Activities			\$0	10.0				
Reactor Oversight			\$13,230	623.6				
Reactor License Renewal			\$6,863	91.6				
New Reactors	\$60,476	556.9	\$65,934	541.0				
Incident Response			\$4,970	43.2				
Operating Reactors	\$74,261	1,151.6						
Total	\$134,737	1,708.5	\$150,922	1,757.5	-\$16,185	-10.7%	-49.0	-2.8%
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$143	2.0	\$51	0.8				
Decommissioning and Low Level Waste	\$6	1.3	\$3	1.7				
Spent Fuel Storage and Transportation	\$3,387	11.0	\$5,500	13.3				
Total	\$3,536	14.3	\$5,554	15.8	-\$2,018	-36.3%	-1.5	-9.3%
<b>Grand Total - Power Reactors</b>	<b>\$138,273</b>	<b>1,722.8</b>	<b>\$156,476</b>	<b>1,773.3</b>	<b>-\$18,203</b>	<b>-11.6%</b>	<b>-50.5</b>	<b>-2.8%</b>
Total value of budgeted resources for fee class (mission direct FTE*full cost of FTE + mission direct contract \$)	\$138,273		\$787,291		-\$649,018	-82.4%		

# **Part 171 Annual Fees**

## **Spent Fuel Storage/Reactor Decommissioning**

### **Section III.B.3.d.**

#### **Table XIV**

For FY 2011, budgeted costs of approximately \$29.7 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 required annual fee recovery amount is divided equally among 123 licensees, resulting in a FY 2011 annual fee of \$241,000 per licensee.

FY 2011 MISSION DIRECT BUDGETED RESOURCES				
			SPENT FUEL STORAGE/ REACTOR DECOMM. ALLOCATIONS	
	TOTAL			
	CONTRACT		CONTRACT	
	\$,K	FTE	\$,K	FTE
NUCLEAR REACTOR SAFETY	162,810.0	1,752.8	2.0	0.1
NUCLEAR MATERIALS & WASTE SAFETY (no HLW/Gen Fund)	32,817.0	480.1	5,230.3	75.2
CORPORATE & OFFICE SUPPORT	234,786.0	1,616.7	0.0	0.0
INSPECTOR GENERAL	518.0	58.0		
SUBTOTAL - FEE BASE RESOURCE	430,931.0	3,907.6	5,232.3	75.3
Figures below in \$, M (unless otherwise indicated)				
(1) FY 2011 ALLOCATIONS: equals \$, K + FTE*FTE rate (shown below)				33.4
(2) LESS ESTIMATED PART 170 FEE COLLECTIONS				4.0
(3) PART 171 ALLOCATIONS (equals 1 - 2)				29.4
(4) GENERIC TRANSPORTATION RESOURCES (allocated)				0.5
				29.9
(6) FY 2011 TOTAL ALLOCATIONS (after transportation allocation) (equals 2+5)				33.9
(7) % OF BUDGET (% total allocations, excl. fee-relief activities, import/export alloc, small entity)				3.71%
(8) Fee-Relief Adjustment (includes small entity) + LLW Surcharge				-0.237
(9) Fee-Relief Adjustment and LLW Surcharge per licensee				-0.001923
(10) Part 171 billing adjustments				0.02
(11) Adjustment for FY 2011 Rescission (currently no rescission)				0.0000
(12) TOTAL FY 2011 ANNUAL FEE (equals 5+8+10+11)				29.6479
(13) Number of Licensees				123
(14) Fee Per License (equals 12/13)				0.241040
unrounded annual fee amount per license, actual \$				241,040
rounded annual fee, actual \$				241,000
FTE RATE (average based on budget data, actual \$):				
	374,315			

SPENT FUEL STORAGE/REACTOR DECOMMISSIONING  
ANNUAL FEE  
FY 2011

LICENSES SUBJECT TO THE ANNUAL FEE:

Operating Power Reactor Licensees: 104

Power Reactors in Decommissioning or Possession Only  
Status with Fuel Onsite

Reactor	Docket No.
Big Rock Point	50-155
Indian Point, Unit 1	50-003
Dresden, Unit 1	50-010
Haddam Neck	50-213
Humboldt	50-133
La Crosse	50-409
Maine Yankee	50-309
Millstone 1	50-245
Rancho Seco	50-312
San Onofre, Unit 1	50-206
Yankee Rowe	50-029
Zion 1	50-295
Zion 2	50-304

Total No. of Reactors in decommissioning or possession only  
status with fuel onsite: 13

Part 72 Licensees without a Part 50 License

Ft. St. Vrain	72-009
GE Morris	72-001
Department of Energy, Idaho Ops. Office	72-020
Foster Wheeler Environmental Corp.	72-025
Trojan	72-017
Private Fuel Storage, LLC	72-022

Total Part 72 licenses: 6

The annual fee is determined by dividing the total budgeted costs of approximately \$29.7 million (including the fee-relief activities) by the total number of licensees (123). This results in an annual fee (rounded) of \$241,000 per license.

## SPENT FUEL STORAGE & REACTOR DEC.

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at high level for each fee class for fiscal years 2010 and 2011.

	FY11 \$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0</b>
<b>Operating Reactors</b>	<b>\$2</b>	<b>0.1</b>
Event Response	\$0	0
International Activities	\$0	0
Licensing	\$0	0
Oversight	\$2	0.1
Research	\$0	0
Rulemaking (PL)	\$0	0
Training	\$0	0
Travel (PL)	\$0	0
<b>TOTAL</b>	<b>\$2</b>	<b>0.1</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0</b>
<b>Nuclear Materials Users</b>	<b>\$280</b>	<b>1.7</b>
Event Response	\$0	0
International Activities	\$0	0
Licensing	\$0	0
Oversight	\$4	0.8
Research	\$0	0
Rulemaking (PL)	\$0	0.6
State, Tribal & Federal Pgms.	\$0	0
Training	\$276	0.3
Travel (PL)	\$0	0
<b>Decommissioning &amp; LLW</b>	<b>\$12</b>	<b>8.9</b>
International Activities	\$0	0
Licensing	\$0	0
Oversight	\$0	8.9
Research	\$0	0
Rulemaking (PL)	\$0	0
Training	\$12	0
Travel (PL)	\$0	0
<b>Spent Fuel Storage and Transportation</b>	<b>\$4,938</b>	<b>64.6</b>
International Activities	\$0	0
Licensing	\$2,493	31.1
Oversight	\$0	12.3
Research	\$1,981	6.1
Rulemaking (PL)	\$200	14.3
Training	\$84	0.8
Travel (PL)	\$180	0
<b>TOTAL</b>	<b>\$5,230</b>	<b>75.2</b>
<b>GRAND TOTAL</b>	<b>\$5,232</b>	<b>75.3</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE CLASS**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$,K value	% change	value	% change
<b>SPENT FUEL STORAGE &amp; REACTOR DEC.</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$3	0.2				
Reactor License Renewal			\$0	0.0				
New Reactors			\$1	0.0				
Incident Response			\$0	0.0				
Operating Reactors	\$2	0.1						
<b>Total</b>	<b>\$2</b>	<b>0.1</b>	<b>\$3</b>	<b>0.2</b>	<b>-\$1</b>	<b>-42.1%</b>	<b>-0.1</b>	<b>-53.2%</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$280	1.7	\$163	3.2				
Decommissioning and Low Level Waste	\$12	8.9	\$310	10.9				
Spent Fuel Storage and Transportation	\$4,938	64.6	\$2,880	43.9				
<b>Total</b>	<b>\$5,230</b>	<b>75.2</b>	<b>\$3,354</b>	<b>58.1</b>	<b>\$1,876</b>	<b>55.9%</b>	<b>17.1</b>	<b>29.5%</b>
<b>Grand Total - Spent Fuel Storage &amp; Reactor Decomm</b>	<b>\$5,232</b>	<b>75.3</b>	<b>\$3,357</b>	<b>58.3</b>	<b>\$1,875</b>	<b>55.8%</b>	<b>17.0</b>	<b>29.2%</b>
Total value of budgeted resources for fee class (mission direct								
FTE*full cost of FTE + mission direct contract \$)								
	\$33,418		\$24,090		\$9,328	38.7%		

# **Part 171 Annual Fees**

## **Test and Research Reactors**

### **Section III.B.3.e.**

#### **Table XV**

Approximately \$340,000 in budgeted costs is to be recovered through annual fees assessed to the test and research reactor class of licenses for FY 2011. This required annual fee recovery amount is divided equally among the four test and research reactors subject to annual fees, and results in a FY 2011 annual fee of \$86,100 for each licensee.



FY 2011 MISSION DIRECT BUDGETED RESOURCES				
		TEST AND RESEARCH		
		REACTORS		
		ALLOCATIONS		
		TOTAL		
		CONTRACT	CONTRACT	
		\$,K	FTE	
NUCLEAR REACTOR SAFETY		162,810.0	1,752.8	150.7 4.6
NUCLEAR MATERIALS & WASTE SAFETY (no HLW/Gen Fund)		32,817.0	480.1	0.0 0.0
CORPORATE & OFFICE SUPPORT		234,786.0	1,616.7	0.0 0.0
INSPECTOR GENERAL		518.0	58.0	
SUBTOTAL - FEE BASE RESOURCE		430,931.0	3,907.6	150.7 4.6
Figures below in \$, M (unless otherwise indicated)				
(1) FY 2011 ALLOCATIONS: equals \$, K + FTE*FTE rate (shown below)				1.87
(2) LESS ESTIMATED PART 170 FEE COLLECTIONS				1.54
(3) PART 171 ALLOCATIONS (equals 1 - 2)				0.33
(4) GENERIC TRANSPORTATION RESOURCES (allocated)				0.02
				0.36
(6) FY 2011 TOTAL ALLOCATIONS (after transportation allocation) (equals 2+5)				1.90
(7) % OF BUDGET (% total allocations, excl. fee-relief activities, import/export alloc, small entity)				0.207696%
(8) Fee-Relief Adjustment (includes small entity) + LLW Surcharge				-0.01323581
(9) Fee-Relief Adjustment and LLW Surcharge per licensee				-0.0033
(10) Part 171 billing adjustments				0.00
(11) Adjustment for FY 2011 Rescission (currently no rescission)				0.0000
(12) TOTAL FY 2011 ANNUAL FEE (equals 5+8+10+11)				0.3442
(13) Number of Licensees				4
(14) Fee Per License (equals 12/13)				0.086055
unrounded annual fee amount per license, actual \$				86,055
rounded annual fee, actual \$				86,100
FTE RATE (average based on budget data, actual \$):		374,315		

# TEST AND RESEARCH REACTOR ANNUAL FEE

## FY 2011 FEE RULE

### DETERMINATION OF THE FY 2011 ANNUAL FEE:

#### TEST AND RESEARCH REACTORS SUBJECT TO ANNUAL FEES (See note)

	License No.	Docket No.
1. Dow Chemical - TRIGA MARK I	R-108	50-264
2. AEROTEST	R-98	50-228
3. GE, NTR	R-33	50-73
4. NIST	TR-5	50-184

#### DETERMINATION OF ANNUAL FEE

BUDGETED COSTS \$344,219

ANNUAL FEE PER LICENSE (rounded) \$86,100  
(Budgeted costs divided by number of test and research reactor  
licensees subject to annual fee)

NOTE: Does not include License R-38 (TRIGA MARK I), Docket No. 50-89, issued to General  
Atomics. License R-38 was amended in 1997 to authorize possession only.

## TEST & RESEARCH REACTOR

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee class for fiscal years 2010 and 2011.

	FY11 \$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$19</b>	<b>0</b>
International Activities	\$0	0
Licensing	\$0	0
Oversight	\$1	0
Research	\$0	0
Rulemaking (PL)	\$0	0
Training	\$18	0
Travel (PL)	\$0	0
<b>Operating Reactors</b>	<b>\$132</b>	<b>4.6</b>
Event Response	\$0	0
International Activities	\$0	0
Licensing	\$123	3.8
Oversight	\$3	0.7
Research	\$0	0
Rulemaking (PL)	\$0	0
Training	\$6	0.1
Travel (PL)	\$0	0
<b>TOTAL</b>	<b>\$151</b>	<b>4.6</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0</b>
<b>Nuclear Materials Users</b>	<b>\$0</b>	<b>0</b>
<b>Decommissioning &amp; LLW</b>	<b>\$0</b>	<b>0</b>
<b>Spent Fuel Storage and Transportation</b>	<b>\$0</b>	<b>0</b>
<b>TOTAL</b>	<b>\$0</b>	<b>0</b>
<b>GRAND TOTAL</b>	<b>\$151</b>	<b>4.6</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE CLASS**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$,K value	% change	value	% change
<b>TEST &amp; RESEARCH REACTOR</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$141	2.5				
International Activities			\$0	0.0				
Reactor Oversight			\$7	0.7				
Reactor License Renewal			\$0	0.0				
New Reactors	\$19	0.0	\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors	\$132	4.6						
Total	\$151	4.6	\$147	3.3	\$3	2.2%	1.3	40.4%
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users			\$0	0.0				
Decommissioning and Low Level Waste			\$0	0.0				
Spent Fuel Storage and Transportation			\$0	0.0				
Total	\$0	0.0	\$0	0.0	\$0		0.0	
<b>Grand Total - Test &amp; Research Reactors</b>	<b>\$151</b>	<b>4.6</b>	<b>\$147</b>	<b>3.3</b>	<b>\$3</b>	<b>2.2%</b>	<b>1.3</b>	<b>40.4%</b>
Total value of budgeted resources for fee class (mission direct								
FTE*full cost of FTE + mission direct contract \$)								
	\$1,873		\$1,313		\$560	42.6%		

# **Part 171 Annual Fees**

## **Rare Earth Facilities**

### **Section III.B.3.f.**

The agency does not anticipate receiving an application for a rare earth facility this fiscal year, so no budget resources are allocated to this fee class and no annual fee will be published in FY 2011. NRC revised the fee category for this fee class from 2.A.(2)(c) to 2.A.(2)(f) in FY 2009.

# Part 171 Annual Fees

## Materials Users

### Section III.B.3.g.

#### Table XVI

The following fee categories under §171.16 are included in this fee class: 1.C., 1.D., 2.B., 2.C., 3.A. through 3.S., 4.A. through 4.C., 5.A., 5.B., 6.A., 7.A. through 7.C., 8.A., 9.A. through 9.D., 16, and 17. The annual fee for these categories of materials users licenses is developed as follows:

$$\text{Annual fee} = \text{Constant} \times [\text{Application Fee} + (\text{Average Inspection Cost divided by Inspection Priority})] + \text{Inspection Multiplier} \times (\text{Average Inspection Cost divided by Inspection Priority}) + \text{Unique Category Costs}.$$

To equitably and fairly allocate the \$29.4 million in FY 2011 budgeted costs to be recovered in annual fees assessed to the approximately 3,150 diverse materials users licensees, the NRC will continue to base the annual fees for each fee category within this class on the part 170 application fees and estimated inspection costs for each fee category. 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 NRC's cost to regulate each category. This 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.

FY 2011 MISSION DIRECT BUDGETED RESOURCES				
	TOTAL		MATERIALS ALLOCATIONS	
	CONTRACT		CONTRACT	
	\$,K	FTE	\$,K	FTE
NUCLEAR REACTOR SAFETY	162,810.0	1,752.8	0.0	0.0
NUCLEAR MATERIALS & WASTE SAFETY (no HLW/Gen Fund)	32,817.0	480.1	861.3	77.9
CORPORATE & OFFICE SUPPORT	234,786.0	1,616.7	0.0	0.0
INSPECTOR GENERAL	518.0	58.0		
SUBTOTAL - FEE BASE RESOURCE	430,931.0	3,907.6	861.3	77.9
Figures below in \$, M (unless otherwise indicated)				
(1) FY 2011 ALLOCATIONS: equals \$, K + FTE*FTE rate (shown below)				30.0
(2) LESS ESTIMATED PART 170 FEE COLLECTIONS				1.6
(3) PART 171 ALLOCATIONS (equals 1 - 2)				28.4
(4) GENERIC TRANSPORTATION RESOURCES (allocated)				1.0
				29.4
(6) FY 2011 TOTAL ALLOCATIONS (after transportation allocation) (equals 2+5)				31.0
(7) % OF BUDGET (% total allocations, excl. fee-relief activities, import/export alloc, small entity)				2.78%
(8) Fee-Relief Adjustment (includes small entity) + LLW Surcharge				0.0
(9) Fee-Relief Adjustment and LLW Surcharge per licensee				
(10) Part 171 billing adjustments				0.00
(11) Adjustment for FY 2011 Rescission (currently no rescission)				0.0000
(12) TOTAL FY 2011 ANNUAL FEE (equals 5+8+10+11)				29.4728
(13) Number of Licensees				different for different categories of licenses; see other worksheets
(14) Fee Per License (equals 12/13)				
unrounded annual fee amount per license, actual \$				
rounded annual fee, actual \$				
FTE RATE (average based on budget data, actual \$):	374,315			

## MATERIALS

**NOTE:** Beginning in FY 2011, the NRC is transitioning to a new budget structure. Therefore, the reports included in these work papers summarize only the FY 2011 budgeted FTE and contract dollars allocated to each fee class and fee-relief category product line level. The reports comparing the FY 2011 allocations to FY 2010 are at a higher summary level.

	<b>FY11</b>	
	<b>\$,K</b>	<b>FTE</b>
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>Operating Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$0</b>	<b>0.0</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$859</b>	<b>77.8</b>
Event Response	\$0	0.5
International Activities	\$0	0.0
Licensing	\$274	32.0
Oversight	\$353	41.8
Research	\$87	0.4
Rulemaking (PL)	\$9	1.9
State, Tribal & Federal Pgms.	\$3	0.2
Training	\$133	1.0
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$2</b>	<b>0.1</b>
International Activities	\$0	0.0
Licensing	\$0	0.1
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$2	0.0
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$0</b>	<b>0.0</b>
<b>TOTAL</b>	<b>\$861</b>	<b>77.9</b>
<b>GRAND TOTAL</b>	<b>\$861</b>	<b>77.9</b>



**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE CLASS**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$,K value	% change	value	% change
<b>MATERIALS</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$0	0.0				
Reactor License Renewal			\$0	0.0				
New Reactors			\$0	0.0				
Incident Response			\$0	0.0				
Operating Reactors								
<b>Total</b>	\$0	0.0	\$0	0.0	\$0	0.0%	0.0	0.0%
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$859	77.8	\$1,532	76.6				
Decommissioning and Low Level Waste	\$2	0.1	\$0	0.0				
Spent Fuel Storage and Transportation			\$0	0.0				
<b>Total</b>	\$861	77.9	\$1,532	76.6	-\$670	-43.8%	1.3	1.7%
<b>Grand Total - Materials</b>	<b>\$861</b>	<b>77.9</b>	<b>\$1,532</b>	<b>76.6</b>	<b>-\$670</b>	<b>-43.8%</b>	<b>1.3</b>	<b>1.7%</b>
Total value of budgeted resources for fee class (mission direct FTE*full cost of FTE + mission direct contract \$)	\$30,020		\$28,774		\$1,247	4.3%		

# **Part 171 Annual Fees**

## **Transportation**

### **Section III.B.3.h.**

#### **Table XVII**

#### **Table XVIII**

Consistent with the policy established in the NRC's FY 2006 final fee rule, the NRC will recover generic transportation costs unrelated to DOE as part of existing annual fees for license fee classes. NRC will continue to assess a separate annual fee under §171.16, fee category 18.A., for DOE transportation activities.

The resources associated with generic transportation activities are distributed to the license fee classes based on the number of CoCs benefiting (used by) that fee class, as a proxy for the generic transportation resources expended for each fee class. The amount of the generic resources allocated is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

FY 2011 MISSION DIRECT BUDGETED RESOURCES					
		TOTAL		TRANSPORTATION ALLOCATIONS	
		CONTRACT		CONTRACT	
		\$,K	FTE	\$,K	FTE
NUCLEAR REACTOR SAFETY		162,810.0	1,752.8	1.0	0.1
NUCLEAR MATERIALS & WASTE SAFETY (no HLW/Gen Fund)		32,817.0	480.1	898.4	17.5
CORPORATE & OFFICE SUPPORT		234,786.0	1,616.7	0.0	0.0
INSPECTOR GENERAL		518.0	58.0		
SUBTOTAL - FEE BASE RESOURCE		430,931.0	3,907.6	899.4	17.6
Figures below in \$, M (unless otherwise indicated)					
(1) FY 2011 ALLOCATIONS: equals \$, K + FTE*FTE rate (shown below)					7.5
(2) LESS ESTIMATED PART 170 FEE COLLECTIONS					3.4
(3) PART 171 ALLOCATIONS (equals 1 - 2)					4.1
(4) GENERIC TRANSPORTATION RESOURCES (allocated)					-3.1
					1.1
(6) FY 2011 TOTAL ALLOCATIONS (after transportation allocation) (equals 2+5)					4.4
(7) % OF BUDGET (% total allocations, excl. fee-relief activities, import/export alloc, small entity)					0.49%
(8) Fee-Relief Adjustment (includes small entity) + LLW Surcharge					0.0
(9) Fee-Relief Adjustment and LLW Surcharge per licensee					
(10) Part 171 billing adjustments					0.0
(11) Adjustment for FY 2011 Rescission (currently no rescission)					0.0000
(12) TOTAL FY 2011 ANNUAL FEE (equals 5+8+10+11)					1.0285
(13) Number of Licensees					1
					1.028491
					(DOE's fee)
unrounded annual fee amount per license, actual \$					1,028,491
rounded annual fee, actual \$					1,028,000
FTE RATE (average based on budget data, actual \$):		374,315			

## TRANSPORTATION ANNUAL FEES

FY 2011

The total transportation budgeted costs of \$4,109,766 to be recovered from annual fees (not including fee-relief adjustments) is to be obtained from two sources:

1. Department of Energy (DOE)--has own annual fee (fee category 18A)
2. Other licensees (included in their annual fees)

Distribute these costs to DOE and the fee classes based on the percentage of CoCs benefitting (used) per fee class:

Fee Class	# CoCs	% CoCs	Transportation Resources to be included in annual fees	Resources in Millions
DOE	22.00	25.7%	\$1,057,484	\$1.06
Operating Reactors	19.00	22.2%	\$913,281	\$0.91
Spent fuel/reactor decom	10.00	11.7%	\$480,674	\$0.48
T&R reactors	0.50	0.6%	\$24,034	\$0.02
Fuel Facilities	13.00	15.2%	\$624,877	\$0.62
Materials Users	21.00	24.6%	\$1,009,416	\$1.01
Total	85.50	100.0%	\$4,109,766	\$4.11

**TRANSPORTATION**

**NOTE:** Beginning in FY 2011, the NRC transitioned to a new budget structure. Therefore, the tables below summarize and compare budgeted contract dollars and FTEs at a high level for each fee class for fiscal years 2010 and 2011.

	FY11	
	\$,K	FTE
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>		
<b>New Reactors</b>	<b>\$0</b>	<b>0.0</b>
<b>Operating Reactors</b>	<b>\$1</b>	<b>0.1</b>
Event Response	\$0	0.0
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$1	0.1
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$0	0.0
Travel (PL)	\$0	0.0
<b>TOTAL</b>	<b>\$1</b>	<b>0.1</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>		
<b>Fuel Facilities</b>	<b>\$0</b>	<b>0.0</b>
<b>Nuclear Materials Users</b>	<b>\$69</b>	<b>1.7</b>
Event Response	\$0	0.0
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$0	0.4
Research	\$0	0.0
Rulemaking (PL)	\$5	1.2
State, Tribal & Federal Pgms.	\$0	0.0
Training	\$64	0.1
Travel (PL)	\$0	0.0
<b>Decommissioning &amp; LLW</b>	<b>\$3</b>	<b>0.0</b>
International Activities	\$0	0.0
Licensing	\$0	0.0
Oversight	\$0	0.0
Research	\$0	0.0
Rulemaking (PL)	\$0	0.0
Training	\$3	0.0
Travel (PL)	\$0	0.0
<b>Spent Fuel Storage and Transportation</b>	<b>\$826</b>	<b>15.8</b>
Generic HLS (PL)	\$0	0.0
International Activities	\$0	0.0
Licensing	\$531	9.4
Oversight	\$0	3.7
Research	\$0	0.0
Rulemaking (PL)	\$92	2.0
Training	\$27	0.7
Travel (PL)	\$176	0.0
<b>TOTAL</b>	<b>\$898</b>	<b>17.5</b>
<b>GRAND TOTAL</b>	<b>\$899</b>	<b>17.6</b>

**Summary Table: COMPARISON ALLOCATIONS OF DIRECT RESOURCES BY FEE CLASS**

	FY11 \$,K	FTE	FY10 \$,K	FTE	Difference		FTE	
					\$,K value	% change	value	% change
<b>TRANSPORTATION</b>								
<b>PROGRAM: NUCLEAR REACTOR SAFETY</b>								
Reactor Licensing Tasks			\$0	0.0				
International Activities			\$0	0.0				
Reactor Oversight			\$3	0.2				
Reactor License Renewal			\$0	0.0				
New Reactors			\$1	0.0				
Incident Response			\$0	0.0				
Operating Reactors	\$1	0.1						
<b>Total</b>	<b>\$1</b>	<b>0.1</b>	<b>\$3</b>	<b>0.2</b>	<b>-\$2</b>	<b>-70.7%</b>	<b>-0.1</b>	<b>-52.9%</b>
<b>PROGRAM: NUCLEAR MATERIALS AND WASTE SAFETY</b>								
Fuel Facilities			\$0	0.0				
Nuclear Materials Users	\$69	1.7	\$54	1.9				
Decommissioning and Low Level Waste	\$3	0.0	\$3	0.0				
Spent Fuel Storage and Transportation	\$826	15.8	\$365	15.2				
<b>Total</b>	<b>\$898</b>	<b>17.5</b>	<b>\$422</b>	<b>17.2</b>	<b>\$476</b>	<b>112.8%</b>	<b>0.3</b>	<b>1.9%</b>
<b>Grand Total - Transportation</b>	<b>\$899</b>	<b>17.6</b>	<b>\$426</b>	<b>17.4</b>	<b>\$474</b>	<b>111.3%</b>	<b>0.2</b>	<b>1.2%</b>
Total value of budgeted resources for fee class (mission direct								
FTE*full cost of FTE + mission direct contract \$)								
	\$7,487		\$6,609		\$878	13.3%		

# **Regulatory Flexibility Analysis**

## **Section IX. and Appendix A.**

The Regulatory Flexibility Act (RFA), as amended 5 U.S.C. § 601 *et seq.*, requires that agencies consider the impact of their rulemakings on small entities and, consistent with applicable statutes, consider alternatives to minimize these impacts on the businesses, organizations, and government jurisdictions to which they apply.

**NOTE: THIS APPENDIX WILL NOT APPEAR IN THE CODE OF FEDERAL REGULATIONS.**

**APPENDIX A TO PROPOSED RULE, REVISION OF FEE SCHEDULES; FEE RECOVERY FOR FISCAL YEAR 2011, -- REGULATORY FLEXIBILITY ANALYSIS FOR THE FINAL AMENDMENTS TO 10 CFR PART 170 (LICENSE FEES) AND 10 CFR PART 171 (ANNUAL FEES)**

**I. Background.**

The Regulatory Flexibility Act (RFA), as amended at 5 U.S.C. 601 *et seq.*, requires that agencies consider the impact of their rulemakings on small entities and, consistent with applicable statutes, consider alternatives to minimize these impacts on the businesses, organizations, and government jurisdictions to which they apply.

The Nuclear Regulatory Commission (NRC) has established standards for determining which NRC licensees qualify as small entities (10 CFR 2.810). These standards were based on the Small Business Administration's most common receipts-based size standards and provides for business concerns that are manufacturing entities. The NRC uses the size standards to reduce the impact of annual fees on small entities by establishing a licensee's eligibility to qualify for a maximum small entity fee. The small entity fee categories in § 171.16(c) of this proposed rule are based on the NRC's size standards.

The NRC is required each year, under Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, to recover approximately 90 percent of its budget authority (less amounts appropriated from the Nuclear Waste Fund (NWF) and for other activities specifically removed from the fee base), through fees to NRC licensees and applicants. The OBRA-90 requires that the schedule of charges established by rulemaking should fairly and equitably allocate the total amount to be recovered from the NRC's licensees and be assessed under the principle that licensees who require the greatest expenditure of agency resources pay the greatest annual charges. Since FY 1991, the NRC has complied with OBRA-90 by issuing a final rule that amends its fee regulations. These final rules have established the methodology used by the NRC in identifying and determining the fees to be assessed and collected in any given FY.

The Commission is proposing to rebaseline its 10 CFR part 171 annual fees in FY 2011. As compared with FY 2010 annual fees, the FY 2011 proposed rebaselined fees are higher for four classes of licensees (spent fuel storage and reactors in decommissioning facilities, test and research reactors, fuel facilities and transportation), and lower for one class of licensees (power reactors). Within the uranium recovery fee class, the proposed annual fees for most licensees decrease, while the proposed annual fee for one fee category increases. The annual fee increases for most fee categories in the materials users fee class.

The Small Business Regulatory Enforcement Fairness Act (SBREFA) provides Congress with the opportunity to review agency rules before they go into effect. Under this legislation, the NRC annual fee rule is considered a "major" rule and must be reviewed by Congress and the Comptroller General before the rule becomes effective.

The SBREFA also requires that an agency prepare a written compliance guide to assist small entities in complying with each rule for which a Regulatory Flexibility Analysis (RFA) is prepared. As required by law, this analysis and the small entity compliance guide (Attachment 1) have been prepared for the FY 2011 fee rule.

**II. Impact on Small Entities.**



The fee rule results in substantial fees charged to those individuals, organizations, and companies licensed by the NRC, including those licensed under the NRC materials program. Comments received on previous proposed fee rules and the small entity certifications in response to previous final fee rules indicate that licensees qualifying as small entities under the NRC's size standards are primarily materials licensees. Therefore, this analysis will focus on the economic impact of fees on materials licensees. In FY 2010, about 29 percent of these licensees (approximately 921 licensees) qualified as small entities.

Commenters on previous fee rulemakings consistently indicated that the following would occur if the proposed annual fees were not modified:

1. Large firms would gain an unfair competitive advantage over small entities. Commenters noted that small and very small companies ("Mom and Pop" operations) would find it more difficult to absorb the annual fee than a large corporation or a high-volume type of operation. In competitive markets, such as soil testing, annual fees would put small licensees at an extreme competitive disadvantage with their much larger competitors because the proposed fees would be identical for both small and large firms.

2. Some firms would be forced to cancel their licenses. A licensee with receipts of less than \$500,000 per year stated that the proposed rule would, in effect, force it to relinquish its soil density gauge and license, thereby reducing its ability to do its work effectively. Other licensees, especially well-loggers, noted that the increased fees would force small businesses to abandon the materials license altogether. Commenters estimated that the proposed rule would cause roughly 10 percent of the well-logging licensees to terminate their licenses immediately and approximately 25 percent to terminate before the next annual assessment.

3. Some companies would go out of business.

4. Some companies would have budget problems. Many medical licensees noted that, along with reduced reimbursements, the proposed increase of the existing fees and the introduction of additional fees would significantly affect their budgets. Others noted that, in view of the cuts by Medicare and other third party carriers, the fees would produce a hardship difficult for some facilities to meet.

Over 3,000 licenses, approvals, and registration terminations have been requested since the NRC first established annual fees for materials licenses. Although some terminations were requested because the license was no longer needed or could be combined with registrations, indications are that the economic impact of the fees caused other terminations.

To alleviate the significant impact of the annual fees on a substantial number of small entities, the NRC considered the following alternatives in accordance with the RFA in developing each of its fee rules since FY 1991.

1. Base fees on some measure of the amount of radioactivity possessed by the licensee (e.g., number of sources).

2. Base fees on frequency of use of licensed radioactive material (e.g., volume of patients).

3. Base fees on the NRC size standards for small entities.

The NRC has reexamined its previous evaluations of these alternatives and continues to believe that a maximum fee for small entities is the most appropriate and effective option for reducing the impact of fees on small entities.

### III. Maximum Fee.

The SBREFA and its implementing guidance do not provide specific guidelines on what constitutes a significant economic impact on a small entity. In developing the maximum small entity annual fee in FY 1991, the NRC examined 10 CFR Part 170 licensing and inspection fees and Agreement State fees for fee categories which were expected to have a substantial number of small entities. Six Agreement States (Washington, Texas, Illinois, Nebraska, New York, and

Utah) were used as benchmarks in the establishment of the maximum small entity annual fee in FY 1991.

The NRC maximum small entity fee was established as an annual fee only. In addition to the annual fee, NRC small entity licensees were required to pay amendment, renewal and inspection fees. In setting the small entity annual fee, NRC ensured that the total amount small entities paid would not exceed the maximum paid in the six benchmark Agreement States.

Of the six benchmark states, the NRC used Washington's maximum Agreement State fee of \$3,800 as the ceiling for total fees. Thus, the NRC's small entity fee was developed to ensure that the total fees paid by NRC small entities would not exceed \$3,800. Given the NRC's FY 1991 fee structure for inspections, amendments, and renewals, a small entity annual fee established at \$1,800 allowed the total fee (small entity annual fee plus yearly average for inspections, amendments, and renewal fees) for all categories to fall under the \$3,800 ceiling.

In FY 1992, the NRC introduced a second, lower tier to the small entity fee in response to concerns that the \$1,800 fee, when added to the license and inspection fees, still imposed a significant impact on small entities with relatively low gross annual receipts. For purposes of the annual fee, each small entity size standard was divided into an upper and lower tier. Small entity licensees in the upper tier continued to pay an annual fee of \$1,800, while those in the lower tier paid an annual fee of \$400.

Based on the changes that had occurred since FY 1991, the NRC reanalyzed its maximum small entity annual fees in FY 2000 and determined that the small entity fees should be increased by 25 percent to reflect the increase in the average fees paid by other materials licensees since FY 1991, as well as changes in the fee structure for materials licensees. The structure of fees NRC charged its materials licensees changed during the period between 1991 and 1999. Costs for materials license inspections, renewals, and amendments, which were previously recovered through Part 170 fees for services, are now included in the Part 171 annual fees assessed to materials licensees. Because of the 25 percent increase, in FY 2000 the maximum small entity annual fee increased from \$1,800 to \$2,300. However, despite the increase, total fees for many small entities were reduced because they no longer paid Part 170 fees. Costs not recovered from small entities were allocated to other materials licensees and to power reactors.

While reducing the impact on many small entities, the NRC determined that the maximum annual fee of \$2,300 for small entities could continue to have a significant impact on materials licensees with relatively low annual gross receipts. Therefore, the NRC continued to provide the lower-tier small entity annual fee for small entities with relatively low gross annual receipts, manufacturing concerns, and for educational institutions not State or publicly supported with fewer than 35 employees. The NRC also increased the lower-tier small entity fee by 25 percent, the same percentage increase to the maximum small entity annual fee, resulting in the lower-tier small entity fee increasing from \$400 to \$500 in FY 2000.

The NRC stated in the RFA for the FY 2001 final fee rule 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 Chief Financial Officers Act. Accordingly, the NRC examined the small entity fees again in FY 2003 and FY 2005, determining that a change was not warranted to those fees established in FY 2001.

As part of the small entity review in FY 2007, the NRC also considered whether it should establish reduced fees for small entities under Part 170. The NRC received one comment requesting that small entity fees be considered for certain export licenses, particularly in light of the recent increases to Part 170 fees for these licenses. Because the NRC's Part 170 fees are not assessed to a licensee or applicant on a regular basis (i.e., they are only assessed when a licensee or applicant requests a specific service from the NRC), the NRC does not believe that the impact of its Part 170 fees warrants a fee reduction for small entities, in addition to the Part 171 small entity fee reduction. Regarding export licenses, the NRC notes that interested parties

can submit a single application for a broad scope, multi-year license that permits exports to multiple countries. Because the NRC charges fees per application, this process minimizes the fees for export applicants. Because a single NRC fee can cover numerous exports, and because there are a limited number of entities who apply for these licenses, the NRC does not anticipate that the Part 170 export fees will have a significant impact on a substantial number of small entities. Therefore, the NRC retained the \$2,300 small entity annual fee and the \$500 lower tier small entity annual fee for FY 2007 and FY 2008.

The NRC conducted an in-depth biennial review of the FY 2009 small entity fees. The review noted significant changes between FY 2000 and FY 2008 in both the external and internal environment which impacted fees for NRC's materials users licensees. Since FY 2000, small entity licensees in the upper tier had increased approximately 53 percent. In addition, due to changes in the law, NRC is now required to recover only 90 percent of its budget authority compared to 100 percent recovery required in FY 2000. This ten percent fee relief has influenced the materials users' annual fees. A decrease in the NRC's budget allocation to the materials users also influenced annual fees in FY 2007 and FY 2008.

Based on the review, the NRC changed the methodology for reviewing small entity fees. The NRC determined the maximum small entity fee should be adjusted each biennial year using a fixed percentage of 39 percent applied to the prior two-year weighted average of materials users fees for all fee categories which have small entity licensees. The 39 percent was based on the small entity annual fee for FY 2005, which was the first year the NRC was required to recover only 90 percent of its budget authority. The FY 2005 small entity annual fee of \$2,300 was 39 percent of the two-year weighted average for all fee categories in FY 2005 and FY 2006 that had an upper tier small entity licensee. The new methodology allows small entity licensees to be able to predict changes in their fee in the biennial year based on the materials users' fees for the previous two years. Using a two-year weighted average smoothes the fluctuations caused by programmatic and budget variables and reflects the importance of the fee categories with the majority of small entities. The agency also determined the lower tier annual fee should remain at 22 percent of the maximum small entity annual fee. In FY 2009, the NRC decreased the maximum small entity fee from \$2,300 to 1,900 and decreased the lower tier annual fee from \$500 to \$400.

In FY 2011, the NRC re-examined the small entity fee, including the new methodology developed in FY 2009. Per the methodology used in FY 2009, the agency computed the small entity fee by using a fixed percentage of 39 percent applied to the prior two-year weighted average of materials users' fees. This resulted in an upper-tier small entity fee amount that was 74% higher than the current fee of \$1,900, a reflection of the increase in annual fees for the materials users licensees for the past two years. Implementing this increase would have a disproportionate impact upon small NRC licensees. Therefore in FY 2011, NRC has decided to limit the increase for upper tier fees to \$2,300, a 21% increase, and the lower tier fee to \$500, a 25% increase. This increase in the small entity fee partially reflects the changes to the annual fee for the materials users for the previous two years.

#### 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 90 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. Based on its RFA, 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 \$450,000, small governmental jurisdictions with a population of fewer than 20,000, small manufacturing entities that have fewer than 35 employees, and educational

institutions that are not State or publicly supported and have fewer than 35 employees, reduces the impact on small entities. At the same time, these reduced annual fees are consistent with the objectives of OBRA-90. Thus, the fees for small entities maintain a balance between the objectives of OBRA-90 and the RFA.

# **Small Entity Compliance Guide**

## **Attachment 1 to Appendix A**

The Congressional Review Act 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 the Congressional Review Act. Therefore, in compliance with the law, this guide has been prepared to assist NRC materials licensees in complying with the FY 2010 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 2010 annual fees assessed under 10 CFR part 171. The NRC has established two tiers of annual fees for those materials licensees who qualify as small entities under the NRC’s size standards.

## **ATTACHMENT 1 TO APPENDIX A -- U. S. Nuclear Regulatory Commission Small Entity Compliance Guide; Fiscal Year 2011**

### **Contents**

- I. Introduction
- II. NRC Definition of Small Entity
- III. NRC Small Entity Fees
- IV. Instructions for Completing NRC Form 526

### **I. Introduction**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by U.S.C. 604 to prepare a regulatory flexibility analysis. Therefore, in compliance with the law, Attachment 1 to the Regulatory Flexibility Analysis is the small entity compliance guide for FY 2011.

Licensees may use this guide to determine whether they qualify as a small entity under NRC regulations and are eligible to pay reduced FY 2011 annual fees assessed under 10 CFR Part 171. The NRC has established two tiers of annual fees for those materials licensees who qualify as small entities under the NRC's size standards.

Licensees who meet the NRC's size standards for a small entity (listed in 10 CFR 2.810) 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 Web site at <http://www.nrc.gov>. The form can then be accessed by selecting "Business with NRC," then "NRC Forms," selecting NRC Form 526. For licensees who cannot access the NRC's 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.resource@nrc.gov](mailto:fees.resource@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, Accounts Receivable/Payable Branch, at the address indicated on the invoice. Failure to file the NRC small entity certification Form 526 in a timely manner may result in the denial of any refund that might otherwise be due.

### **II. NRC Definition of Small Entity**

For purposes of compliance with its regulations (10 CFR 2.810), the NRC has defined a small entity as follows:

- (1) *Small business*--a for-profit concern that (a) provides a service, or a concern that is not engaged in manufacturing, with average gross receipts of \$6.5 million or less over its last 3 completed fiscal years; or (b) a manufacturing concern with an average number of 500 or fewer employees based on employment during each pay period for the preceding 12 calendar months;
- (2) *Small organizations*--a not-for-profit organization which is independently owned and operated and has annual gross receipts of \$6.5 million or less;
- (3) *Small governmental jurisdiction*--a government of a city, county, town, township, village, school district, or special district, with a population of less than 50,000;

(4) *Small educational institution*--an educational institution that is (a) supported by a qualifying small governmental jurisdiction, or (b) one that is not State or publicly supported and has 500 or fewer employees.<sup>1</sup>

To further assist licensees in determining if they qualify as a small entity, the following guidelines are provided, which are based on the Small Business Administration's regulations (13 CFR Part 121).

(1) A small business concern is an independently owned and operated entity which is not considered dominant in its field of operations.

(2) The number of employees means the total number of employees in the parent company, any subsidiaries and/or affiliates, including both foreign and domestic locations (i.e., not solely the number of employees working for the licensee or conducting NRC-licensed activities for the company).

(3) Gross annual receipts include all revenue received or accrued from any source, including receipts of the parent company, any subsidiaries and/or affiliates, and account for both foreign and domestic locations. Receipts include all revenues from sales of products and services, interest, rent, fees, and commissions from whatever sources derived (i.e., not solely receipts from NRC-licensed activities).

(4) A licensee who is a subsidiary of a large entity, including a foreign entity, does not qualify as a small entity.

### III. NRC Small Entity Fees

In 10 CFR 171.16(c), the NRC has established two tiers of fees for licensees that qualify as a small entity under the NRC's size standards. The fees are as follows:

	Maximum Annual Fee Per Licensed Category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years):	
\$450,000 to \$6.5 million	\$2,300
Less than \$450,000	\$500
Small Not-For-Profit Organizations (Annual Gross Receipts):	
\$450,000 to \$6.5 million	\$2,300
Less than \$450,000	\$500
Manufacturing entities that have an average of 500 employees or fewer:	
35 to 500 employees	\$2,300
Fewer than 35 employees	\$500

<sup>1</sup> An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population): 20,000 to 50,000	\$2,300
Fewer than 20,000	\$500
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer 35 to 500 employees	\$2,300
Fewer than 35 employees	\$500
Fewer than 20,000	\$500

#### IV. Instructions for Completing NRC Small Entity Form 526

1. Complete all items on NRC Form 526 as follows: (**NOTE:** Incomplete or improperly completed forms will be returned as unacceptable.)
  - (a) Enter the license number and invoice number exactly as they appear on the annual fee invoice.
  - (b) Enter the North American Industry Classification System (NAICS).
  - (c) Enter the licensee's name and address exactly as they appear on the invoice. Annotate name and/or address changes for billing purposes on the payment copy of the invoice -- include contact's name, telephone number, e-mail address, and company Web site address. Correcting the name and/or address on NRC Form 526 or on the invoice does not constitute a request to amend the license.
  - (d) Check the appropriate size standard under which the licensee qualifies as a small entity. Check one box only. Note the following:
    - (i) A licensee who is a subsidiary of a large entity, including foreign entities, does not qualify as a small entity. The calculation of a firm's size includes the employees or receipts of all affiliates. Affiliation with another concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management, and identity of interest (often found in members of the same family), among others, are indications of affiliation. The affiliated business concerns need not be in the same line of business.
    - (ii) Gross annual receipts, as used in the size standards, include all revenue received or accrued by your company from all sources, regardless of the form of the revenue and not solely receipts from licensed activities.
    - (iii) NRC's size standards on a small entity are based on the Small Business Administration's regulations (13 CFR Part 121).
    - (iv) The size standards apply to the licensee, not to the individual authorized users who may be listed in the license.
2. If the invoice states the "Amount Billed Represents 50% Proration," the amount due is not the prorated amount shown on the invoice but rather one-half of the maximum small entity annual fee shown on NRC Form 526 for the size standard under which the licensee qualifies (either \$1,150 or \$250) for each category billed.
3. If the invoice amount is less than the reduced small entity annual fee shown on this form, pay the amount on the invoice; there is no further reduction. In this case, do not file NRC Form 526. However, if the invoice amount is greater than the reduced small entity annual fee, file NRC Form 526 and pay the amount applicable to the size standard you checked on the form.
4. The completed NRC Form 526 must be submitted with the required annual fee payment and the "Payment Copy" of the invoice to the address shown on the invoice.



5. 10 CFR 171.16(c) states licensees shall submit a proper certification with its annual fee payment each year. Failure to submit NRC Form 526 at the time the annual fee is paid will require the licensee to pay the full amount of the invoice.

The NRC sends invoices to its licensees for the full annual fee, even though some licensees qualify for reduced fees as small entities. Licensees who qualify as small entities and file NRC Form 526, which certifies eligibility for small entity fees, may pay the reduced fee, which is either \$2,300 or \$500 for a full year, depending on the size of the entity, for each fee category shown on the invoice. Licensees granted a license during the first 6 months of the fiscal year, and licensees who file for termination or for a "possession-only" license and permanently cease licensed activities during the first 6 months of the fiscal year, pay only 50 percent of the annual fee for that year. Such invoices state that the "amount billed represents 50% proration."

Licensees must file a new small entity form (NRC Form 526) with the NRC each fiscal year to qualify for reduced fees in that year. Because a licensee's "size," or the size standards, may change from year to year, the invoice reflects the full fee, and licensees must complete and return NRC Form 526 for the fee to be reduced to the small entity fee amount. **LICENSEES WILL NOT RECEIVE A NEW INVOICE FOR THE REDUCED AMOUNT.** The completed NRC Form 526, the payment of the appropriate small entity fee, and the "Payment Copy" of the invoice should be mailed to the U. S. Nuclear Regulatory Commission, Accounts Receivable/Payable Branch, at the address indicated on the invoice.

If you have questions regarding the NRC's annual fees, please contact the license fee staff at 301-415-7554, e-mail the fee staff at [fees.resource@nrc.gov](mailto:fees.resource@nrc.gov), or write to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Office of the Chief Financial Officer.

False certification of small entity status could result in civil sanctions being imposed by the NRC under the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et. seq.* NRC's implementing regulations are found at 10 CFR Part 13.

## **Budget Authority (FY 2011)**

[illegible]

FY 2011 MISSION DIRECT BUDGETED RESOURCES													
	INTERNATIONAL		AGREEMENT		AGREEMENT		ISL RULE/		GENERIC				
	ACTIVITIES		STATE		STATE		GEN LICENSEES/		DECOMMISS/				
			OVERSIGHT		REG SUPPORT		FELLOWSHIPS		RECLAMATION		GENERIC LLW		
	CONTRACT		CONTRACT		CONTRACT		CONTRACT		CONTRACT		CONTRACT		
	\$,K	FTE	\$,K	FTE	\$,K	FTE	\$,K	FTE	\$,K	FTE	\$,K	FTE	
NUCLEAR REACTOR SAFETY	5,761.0	10.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
NUCLEAR MATERIALS & WASTE SAFETY (no HLW/Gen Fund)	527.0	13.4	2,649.0	30.6	3,348.0	39.0	365.0	2.2	2,576.0	50.2	610.0	6.5	
CORPORATE & OFFICE SUPPORT	0.0	0.0	0.0	0.0	0.0	0.0	10,397.0	3.0	0.0	0.0	0.0	0.0	
INSPECTOR GENERAL													
SUBTOTAL - FEE BASE RESOURCE	6,288.0	23.4	2,649.0	30.6	3,348.0	39.0	10,762.0	5.2	2,576.0	50.2	610.0	6.5	

FY 2011 MISSION DIRECT BUDGETED RESOURCES													
	TRANSPORTATION ALLOCATIONS		URANIUM RECOVERY ALLOCATIONS		IMPORT/EXPORT ALLOCATIONS		INCLUDED IN FEE-RELIEF ACTIVITIES		INCLUDED IN HOURLY & FTE RATE (overhead)		NONPROFIT ED. EXEMPTION		
	CONTRACT		CONTRACT		CONTRACT		CONTRACT		CONTRACT		CONTRACT		
	\$,K	FTE	\$,K	FTE	\$,K	FTE	\$,K	FTE	\$,K	FTE	\$,K	FTE	
NUCLEAR REACTOR SAFETY	1.0	0.1	0.0	0.0	0.0	0.0	6,795.3	39.5	21,124.0	0.0	1,034.3	29.5	
NUCLEAR MATERIALS & WASTE SAFETY (no HLW/Gen Fund)	898.4	17.5	1,340.0	15.5	0.0	2.0	10,144.1	144.9	4,818.0	0.0	69.1	3.0	
CORPORATE & OFFICE SUPPORT	0.0	0.0	0.0	0.0	0.0	0.0	10,397.0	3.0	224,389.0	1,613.7	0.0	0.0	
INSPECTOR GENERAL									518.0	58.0			
SUBTOTAL - FEE BASE RESOURCE	899.4	17.6	1,340.0	15.5	0.0	2.0	27,336.4	187.4	250,849.0	1,671.7	1,103.4	32.5	

# **Budget Authority (FY 2011)**

## **FY 2011 Budget Summary by Program**

This report is provided as supplemental information. It provides a summary of the FY2011 budgeted FTE and contract dollars allocated to each fee class and fee-relief/surcharge activities at the Program level. The Programs include: 1) Nuclear Reactor Safety, 2) Nuclear Materials & Waste Safety, 3) Management and Support, and 4) Inspector General.

**FY 2011 BUDGET BY BUSINESS LINE, PRODUCT LINE, PRODUCT**  
**Nuclear Reactor Safety, Nuclear Materials and Waste Safety and Corporate Support Programs**

<b>Program (All)</b>		<b>Values</b>	
<b>Business Lines</b>	<b>Product Lines</b>	<b>FY 11 (\$,K)</b>	<b>FY 11 FTE</b>
<b>Corporate Support</b>	Administrative Services	86,008	82
	Financial Mgmt.	30,737	121
	Human Resource Mgmt.	21,157	59
	Information Mgmt.	11,175	64
	Information Technology	62,447	89
	Outreach	11,501	11
	Policy Support	1,399	114
	Travel (PL)	1,965	0
<b>Decommissioning &amp; LLW</b>	International Activities	100	3
	Licensing	3,344	57
	Oversight	148	13
	Research	87	4
	Rulemaking (PL)	750	5
	Training	218	2
	Travel (PL)	874	0
	Travel (PL)	874	0
<b>Fuel Facilities</b>	International Activities	288	4
	Licensing	3,248	51
	Oversight	229	54
	Research	87	1
	Rulemaking (PL)	1,657	17
	Training	256	2
	Travel (PL)	1,361	0
	Travel (PL)	1,361	0
<b>New Reactors</b>	International Activities	5,683	11
	Licensing	40,778	363
	Oversight	2,073	113
	Research	10,516	45
	Rulemaking (PL)	220	6
	Training	7,030	26
	Travel (PL)	5,280	0
	Travel (PL)	5,280	0
<b>Nuclear Materials Users</b>	International Activities	0	7
	Licensing	1,634	44
	Oversight	1,992	64
	Research	692	3
	Rulemaking (PL)	92	17
	State, Tribal & Federal Pgms.	553	29
	Training	1,896	4
	Travel (PL)	3,900	0
<b>Office Support</b>	Administrative Services	772	48
	Financial Mgmt.	265	104
	Human Resource Mgmt.	3,786	53
	Information Mgmt.	1,009	31
	Information Technology	1,658	39
	Support Staff	0	801
	Travel (PL)	907	1
	Travel (PL)	907	1
<b>Operating Reactors</b>	International Activities	78	11
	Licensing	12,728	377
	Oversight	9,413	559
	Research	39,905	122
	Rulemaking (PL)	5,815	42
	Training	2,171	39
	Travel (PL)	15,844	0
	Travel (PL)	15,844	0
<b>Spent Fuel Storage and Transportation</b>	International Activities	192	4
	Licensing	3,661	43
	Oversight	0	16
	Research	3,981	14
	Rulemaking (PL)	817	17
	Training	132	2
	Travel (PL)	628	0
	Travel (PL)	628	0
<b>Grand Total</b>		<b>425,137</b>	<b>3,805</b>

**FY 2011 BUDGET RESOURCES FOR  
CORPORATE SUPPORT AND OFFICE SUPPORT PROGRAMS**

			Values		HOURLY		HOURLY		FEE-RELIEF		FEE-RELIEF	
Program	Business Lines	Product Lines	Total (\$/K)	Total FTE	RATE (\$/K)		RATE FTE		(\$/K)		FTE	
Corporate Support	Corporate Support	Administrative Services	86,008	82	86,008		82		0		0	
		Financial Mgmt.	30,737	121	30,737		121		0		0	
		Human Resource Mgmt.	21,157	59	21,157		59		0		0	
		Information Mgmt.	11,175	64	11,175		64		0		0	
		Information Technology	62,447	89	62,447		89		0		0	
		Outreach	11,501	11	1,104		8	10,397		3		
		Policy Support	1,399	114	1,399		114		0		0	
		Travel (PL)	1,965	0	1,965		0		0		0	
	Office Support	Administrative Services	772	48	772		48		0		0	
		Financial Mgmt.	265	104	265		104		0		0	
		Human Resource Mgmt.	3,786	53	3,786		53		0		0	
		Information Mgmt.	1,009	31	1,009		31		0		0	
		Information Technology	1,658	39	1,658		39		0		0	
		Support Staff	0	801	0		801		0		0	
		Travel (PL)	907	1	907		1		0		0	
Grand Total			234,786	1,617	224,389		1,614		10,397		3	



# **Budget Authority (FY 2011)**

## **FY 2011 Budget by Product Line**

These reports are provided as supplemental information. They provide a summary of the FY 2010 budgeted FTE and contract dollars by Product Line and allocated by: 1) the Nuclear Reactor Safety Program and the Nuclear Materials & Waste Safety Program, 2) the Management & Support Program, and 3) each office with mission direct budgeted resources.

The offices include:

- Office of Inspector General
- Office of Research
- Office of Nuclear Reactor Regulations
- Office of New Reactors
- Regional Offices
- Office of Nuclear Material Safety and Safeguards
- Office of Federal and State Materials and Environmental Management Programs
- Office of Nuclear Security and Incident Response
- Office of General Counsel
- Advisory Committee on Reactor Safeguards
- Office of International Programs
- Office of Enforcement
- Office of Investigations
- Atomic Safety and Licensing Board
- Office of Human Resources
- Office of Administration
- Office of Information Services

Office Division Summary  
Version: Performance Budget  
Office: IG  
Data Input Type: Input

Business Line	Product Line	Divisions	Products	FY10 Enacted			FY10 CE - Enacted			FY11 President's Budget			FY11 Current Estimate					
				\$ K	Total FTE	Amt	\$ K	Total FTE	Amt	\$ K	Total FTE	Amt	\$ K	Total FTE	Amt			
Inspector General (IG)	Inspector General (PL)	IG-AUD	Admin Assistants	0	2.0	326	0	2.0	326	0	2.0	330	0	2.0	330			
			Mission IT	52	1.0	215	52	1.0	215	36	1.0	201	36	1.0	201			
			Supervisory Staff	0	4.0	652	0	4.0	652	0	4.0	661	0	4.0	661			
			Training & Development	77	0.0	77	77	0.0	77	85	0.0	85	85	0.0	85			
			Travel	105	0.0	105	105	0.0	105	123	0.0	123	123	0.0	123			
			Audits	860	29.0	5,587	860	29.0	5,587	0	29.0	4,792	0	29.0	4,792			
			Operational Support	17	2.0	343	17	2.0	343	16	2.0	346	16	2.0	346			
			Office Division Subtotal	1,111	38.0	7,305	1,111	38.0	7,305	260	38.0	6,538	260	38.0	6,538			
			Inspector General (IG)	Inspector General (PL)	IG-INV/G	Admin Assistants	0	1.0	163	0	1.0	163	0	1.0	165	0	1.0	165
						Mission IT	29	0.0	29	29	0.0	29	22	0.0	22	22	0.0	22
Supervisory Staff	0	2.0				326	0	2.0	326	0	2.0	330	0	2.0	330			
Training & Development	57	0.0				57	57	0.0	57	57	0.0	57	57	0.0	57			
Travel	170	0.0				170	170	0.0	170	170	0.0	170	170	0.0	170			
Investigations	30	16.0				2,638	30	16.0	2,638	0	16.0	2,644	0	16.0	2,644			
Operational Support	9	1.0				172	9	1.0	172	8	1.0	174	8	1.0	174			
Office Division Subtotal	295	20.0				3,555	295	20.0	3,555	258	20.0	3,563	258	20.0	3,563			
Product Line Subtotal						1,406	58.0	10,860	1,406	58.0	10,860	518	58.0	10,102	518	58.0	10,102	
Business Line Subtotal						1,406	58	10,860	1,406	58	10,860	518	58	10,102	518	58	10,102	
Division Grand Totals		IG-AUD	1,111	38.0	7,305	1,111	38.0	7,305	260	38.0	6,538	260	38.0	6,538				
Division Grand Totals		IG-INV/G	295	20.0	3,555	295	20.0	3,555	258	20.0	3,563	258	20.0	3,563				
Division Grand Totals		IG-FG	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0				
Grand Total				1,406	58.0	10,860	1,406	58.0	10,860	518	58.0	10,102	518	58.0	10,102			

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF RESEARCH**

Office		RES														
		Values														
					Power Reactors Fee Class (\$,K)	Power Reactors Fee Class FTE	Stor/ReactorDecomm Fee Class (\$,K)	Stor/ReactorDecomm Fee Class FTE	Fuel Facility Fee Class (\$,K)	Fuel Facility Fee Class FTE	Materials Fee Class (\$,K)	HOURLY RATE (\$,K)	HOURLY RATE FTE	FEE-RELIEF Contract (\$,K)	FEE-RELIEF FTE	
Program	Business Lines	Product Lines	Total (\$,K)	Total 11 FTE												
Corporate Support	Office Support	Administrative Services	90	1	0	0	0	0	0	0	0	0	90	1	0	0
		Financial Mgmt.	0	11	0	0	0	0	0	0	0	0	0	11	0	0
		Human Resource Mgmt.	91	5	0	0	0	0	0	0	0	0	91	5	0	0
		Information Mgmt.	25	4	0	0	0	0	0	0	0	0	25	4	0	0
		Information Technology	456	4	0	0	0	0	0	0	0	0	456	4	0	0
		Support Staff	0	53	0	0	0	0	0	0	0	0	0	53	0	0
Nuclear Reactor Safety	New Reactors	Research	10,516	45	10,516	45	0	0	0	0	0	0	0	0	0	0
		Rulemaking (PL)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Operating Reactors	Research	39,905	122	39,905	122	0	0	0	0	0	0	0	0	0	0
		Rulemaking (PL)	4,886	9	4,886	9	0	0	0	0	0	0	0	0	0	0
		Training	259	3	259	3	0	0	0	0	0	0	0	0	0	0
		Travel (PL)	1,328	0	0	0	0	0	0	0	0	0	1,328	0	0	0
Nuclear Materials and Waste Safety	Decommissioning & LLW	Research	87	4	0	0	0	0	0	0	0	0	0	87	4	
		Research	87	1	0	0	0	0	87	1	0	0	0	0	0	0
	Fuel Facilities	Rulemaking (PL)	150	1	0	0	0	0	150	1	0	0	0	0	0	0
	Nuclear Materials Users	Research	692	3	0	0	0	0	0	0	87	0	0	605	3	
		Travel (PL)	30	0	0	0	0	0	0	0	0	30	0	0	0	
	Spent Fuel Storage and Transportation	Research	681	1	0	0	681	1	0	0	0	0	0	0	0	
Grand Total			59,283	267	55,566	179	681	1	237	2	87	2,020	78	692	7	

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF NUCLEAR REACTOR REGULATION**

Office: **NRR**

			Values									
					Power Reactors Fee Class CS&T (\$,K)	Power Reactors Fee Class FTE	FY 11 HOURLY RATE (\$,K)	HOURLY RATE FTE	FEE-RELIEF Contract (\$,K)	FEE-RELIEF FTE		
Program	Business Lines	Product Lines	Total (\$,K)	Total FTE								
Corporate Support	Corporate Support	Outreach	754	1	0	0	754	1	0	0		
	Office Support	Administrative Services	0	3	0	0	0	3	0	0		
		Financial Mgmt.	0	14	0	0	0	14	0	0		
		Human Resource Mgmt.	50	8	0	0	50	8	0	0		
		Information Mgmt.	0	6	0	0	0	6	0	0		
		Information Technology	235	0	0	0	235	0	0	0		
		Support Staff	0	104	0	0	0	104	0	0		
		Travel (PL)	50	0	0	0	50	0	0	0		
Nuclear Reactor Safety	New Reactors	Licensing	462	20	462	20	0	0	0	0		
		Oversight	0	13	0	13	0	0	0	0		
		Travel (PL)	178	0	0	0	178	0	0	0		
	Operating Reactors	International Activities	0	8	0	8	0	0	0	0		
		Licensing	11,920	328	10,938	300	0	0	859	24		
		Oversight	5,689	439	5,689	434	0	0	0	5		
		Rulemaking (PL)	184	27	184	27	0	0	0	0		
		Training	304	10	288	10	0	0	14	0		
		Travel (PL)	2,598	0	0	0	2,598	0	0	0		
Grand Total			22,424	980	17,561	811	3,865	136	873	29		

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF NEW REACTORS**

Office		NRO		Values		Power Reactors		Power Reactors		HOURLY RATE	
Program	Business Lines	Product Lines	Total (\$K)	Total FTE	Fee Class (\$K)	Fee Class FTE	Contract (\$K)	HOURLY RATE FTE			
Corporate Support	Office Support	Administrative Services	0	2	0	0	0	0	2		
		Financial Mgmt.	0	12	0	0	0	0	12		
		Human Resource Mgmt.	576	2	0	0	0	576	2		
		Information Mgmt.	0	2	0	0	0	0	2		
		Information Technology	0	3	0	0	0	0	3		
		Support Staff	0	100	0	0	0	0	100		
		Travel (PL)	109	0	0	0	0	109	0		
Nuclear Reactor Safety	New Reactors	International Activities	0	3	0	3	0	0	0		
		Licensing	26,538	281	26,538	281	0	0	0		
		Oversight	1,845	95	1,845	95	0	0	0		
		Rulemaking (PL)	220	5	220	5	0	0	0		
		Training	0	15	0	15	0	0	0		
		Travel (PL)	3,205	0	0	0	3,205	0	0		
<b>Grand Total</b>			<b>32,493</b>	<b>520</b>	<b>28,603</b>	<b>399</b>	<b>3,890</b>	<b>121</b>			

**FY 2011 BUDGET RESOURCES FOR  
REGIONS**

Office	Program	Business Lines	Product Lines	Values		HOURLY RATE		Power Reactors Fee			
				Total (\$K)	Total FTE	(\$K)	HOURLY RATE FTE	Class (\$K)			
Region I	Corporate Support	Corporate Support	Administrative Services	2,342	0	2,342	0	0	0		
			Information Mgmt.	227	0	227	0	0	0		
			Information Technology	564	0	564	0	0	0		
		Office Support	Administrative Services	0	11	0	11	0	0		
			Financial Mgmt.	0	8	0	8	0	0		
			Human Resource Mgmt.	370	5	370	5	0	0		
			Information Mgmt.	95	1	95	1	0	0		
			Information Technology	0	6	0	6	0	0		
			Support Staff	0	49	0	49	0	0		
			Travel (PL)	0	0	0	0	0	0		
		Nuclear Reactor Safety	New Reactors	Travel (PL)	2,211	0	2,211	0	0	0	
			Operating Reactors	Travel (PL)							
		Nuclear Materials and Waste Safety	Decommissioning & LLW	Travel (PL)	37	0	37	0	0	0	
				Nuclear Materials Users	548	0	548	0	0	0	
			Spent Fuel Storage and Transportation	Travel (PL)	17	0	17	0	0	0	
Region I Total				6,411	80	6,411	80	0			
Region II	Corporate Support	Corporate Support	Administrative Services	4,415	0	4,415	0	0	0		
			Information Technology	693	0	693	0	0	0		
			Office Support	Administrative Services	0	11	0	11	0	0	
		Office Support	Financial Mgmt.	0	3	0	3	0	0		
			Human Resource Mgmt.	326	6	326	6	0	0		
			Information Mgmt.	235	2	235	2	0	0		
			Information Technology	0	5	0	5	0	0		
			Support Staff	0	57	0	57	0	0		
			Nuclear Reactor Safety	New Reactors	Travel (PL)	1,197	0	1,197	0	0	0
				Operating Reactors	Travel (PL)	2,756	0	2,756	0	0	0
		Nuclear Materials and Waste Safety	Fuel Facilities	Travel (PL)	651	0	651	0	0	0	
				Nuclear Materials Users	21	0	21	0	0	0	
			Spent Fuel Storage and Transportation	Travel (PL)	6	0	6	0	0	0	
			Region II Total				10,300	84	10,300	84	0
Region III	Corporate Support	Corporate Support	Administrative Services	3,202	0	3,202	0	0	0		
			Information Mgmt.	204	0	204	0	0	0		
			Information Technology	405	0	405	0	0	0		
		Office Support	Administrative Services	0	5	0	5	0	0		
			Financial Mgmt.	0	5	0	5	0	0		
			Human Resource Mgmt.	215	6	215	6	0	0		
			Information Mgmt.	0	3	0	3	0	0		
			Information Technology	0	6	0	6	0	0		
			Support Staff	0	49	0	49	0	0		
			Travel (PL)	0	1	0	1	0	0		
		Nuclear Reactor Safety	Operating Reactors	Travel (PL)	2,136	0	2,136	0	0	0	
		Nuclear Materials and Waste Safety	Decommissioning & LLW	Travel (PL)	42	0	42	0	0	0	
				Nuclear Materials Users	418	0	418	0	0	0	

Region III	Nuclear Materials and Waste Safety	Spent Fuel Storage and Transportation	Travel (PL)	29	0	29	0	0
Region III Total				6,651	74	6,651	74	0
Region IV	Corporate Support	Corporate Support	Administrative Services	3,088	0	3,088	0	0
			Information Technology	639	0	639	0	0
		Office Support	Administrative Services	0	8	0	8	0
			Financial Mgmt.	0	6	0	6	0
			Human Resource Mgmt.	152	7	152	7	0
			Information Mgmt.	95	0	95	0	0
			Information Technology	0	6	0	6	0
			Support Staff	0	45	0	45	0
	Nuclear Reactor Safety	New Reactors	Travel (PL)	7	0	7	0	0
		Operating Reactors	Event Response	495	0	0	0	495
			Travel (PL)	3,080	0	3,080	0	0
	Nuclear Materials and Waste Safety	Decommissioning & LLW	Travel (PL)	33	0	33	0	0
		Fuel Facilities	Travel (PL)	12	0	12	0	0
		Nuclear Materials Users		535	0	535	0	0
		Spent Fuel Storage and Transportation	Travel (PL)	46	0	46	0	0
Region IV Total				8,182	71	7,687	71	495
Grand Total				31,544	309	31,049	309	495

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS**

Office		NMSS														
		Values														
Program	Business Lines	Product Lines	Total (\$,K)	Total FTE	Power Reactors Fee	Power Reactors Fee	Stor/ReactorD	Stor/Reactor	Fuel Facility	Fuel Facility	Transportatio	Transportatio	HOURLY	HOURLY	FEE-RELIEF	FEE-RELIEF
					Class (\$,K)	Class FTE	ecomm Fee Class (\$,K)	Decomm Fee Class FTE	Fee Class (\$,K)	Fee Class FTE	n Fee Class (\$,K)	n Fee Class FTE				
Corporate Support	Office Support	Administrative Services	0	2	0	0	0	0	0	0	0	0	0	0	2	0
		Financial Mgmt.	0	9	0	0	0	0	0	0	0	0	0	9	0	0
		Human Resource Mgmt.	40	4	0	0	0	0	0	0	0	0	0	40	4	0
		Information Mgmt.	28	2	0	0	0	0	0	0	0	0	0	28	2	0
		Information Technology	118	2	0	0	0	0	0	0	0	0	0	118	2	0
		Support Staff	0	37	0	0	0	0	0	0	0	0	0	0	37	0
		Travel (PL)	85	0	0	0	0	0	0	0	0	0	0	85	0	0
Nuclear Materials and Waste Safety	Fuel Facilities	International Activities	288	4	0	0	0	0	0	0	0	0	0	0	288	4
		Licensing	1,906	28	0	0	0	0	1,906	28	0	0	0	0	0	0
		Oversight	81	45	0	0	0	0	81	45	0	0	0	0	0	0
		Rulemaking (PL)	475	10	0	0	0	0	475	10	0	0	0	0	0	0
		Training	226	2	0	0	0	0	226	2	0	0	0	0	0	0
		Travel (PL)	566	0	0	0	0	0	0	0	0	0	566	0	0	0
		Integrated Spent Fuel M	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Spent Fuel Storage and Transportation	International Activities	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Licensing	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Research	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Rulemaking (PL)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Travel (PL)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		International Activities	192	4	75	2	0	0	0	0	0	0	0	0	117	2
		Licensing	3,578	39	600	1	2,493	31	0	1	448	6	0	0	37	1
		Oversight	0	14	0	0	0	11	0	0	0	4	0	0	0	0
		Research	3,300	13	2,000	8	1,300	5	0	0	0	0	0	0	0	0
		Rulemaking (PL)	725	15	525	1	200	14	0	0	1	1	0	0	0	0
		Training	132	2	17	0	84	1	0	0	27	1	0	0	4	0
		Travel (PL)	530	0	170	0	180	0	0	0	176	0	0	0	4	0
Grand Total			12,270	232	3,387	11	4,257	61	2,688	86	651	12	837	56	449	7



FY 2011 BUDGET RESOURCES FOR  
OFFICE OF FEDERAL AND STATE MATERIALS AND ENVIRONMENTAL MANAGEMENT PROGRAMS

Office: FSME

Values

Program	Business Lines	Product Lines	Total (\$,K)	Total FTE	Power Reactors Fee Class (\$,K)	Power Reactors Fee Class FTE	Storage/Reactor Decommission Fee Class (\$,K)	Storage/Reactor Decommission Fee Class FTE	Fuel Facility Fee Class (\$,K)	Fuel Facility Fee Class FTE	Materials Fee Class (\$,K)	Materials Fee Class FTE	Transportation Fee Class (\$,K)	Transportation Fee Class FTE	Uranium Recovery Fee Class (\$,K)	Uranium Recovery Fee Class FTE	HOURLY RATE (\$,K)	FEE-RELIEF FTE	FEE-RELIEF (\$,K)
Corporate Support	Office Support	Administrative Services	152	4	0	0	0	0	0	0	0	0	0	0	0	0	12	152	0
		Financial Mgmt.	0	12	0	0	0	0	0	0	0	0	0	0	0	0	12	0	0
		Human Resource Mgmt.	55	2	0	0	0	0	0	0	0	0	0	0	0	0	2	55	0
		Information Mgmt.	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
		Information Technology	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
		Support Staff	0	36	0	0	0	0	0	0	0	0	0	0	0	0	36	0	0
		Travel (PL)	30	0	0	0	0	0	0	0	0	0	0	0	0	0	0	30	0
			0	8	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0
Nuclear Reactor Safety	Operating Reactors																		
Nuclear Materials and Waste Safety	Decommissioning & LLW	International Activities	100	2	0	0	0	0	0	0	0	0	0	0	0	0	0	2	100
		Licensing	3,334	49	0	1	0	0	0	0	0	0	0	0	1,271	13	0	35	2,063
		Oversight	148	13	0	0	0	9	0	0	0	0	0	0	0	0	0	4	148
		Rulemaking (PL)	750	4	0	0	0	0	0	0	0	0	0	0	0	0	0	4	750
		Training	141	2	0	0	0	0	0	0	0	0	0	0	0	0	0	2	141
		Travel (PL)	850	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Licensing	1,236	7	0	0	0	0	1,236	7	0	0	0	0	0	0	0	650	0
		Rulemaking (PL)	1,000	3	0	0	0	0	1,000	3	0	0	0	0	0	0	0	0	0
	Nuclear Materials Users	International Activities	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
		Licensing	1,553	38	0	0	0	0	0	0	196	27	0	0	0	0	0	11	1,357
		Oversight	1,975	48	8	0	3	0	3	1	338	27	0	0	0	0	0	20	1,825
		Rulemaking (PL)	92	18	0	1	0	1	2	2	9	1	5	1	0	1	0	0	76
		State, Tribal & Federal Pgms.	553	28	0	0	0	0	0	1	3	0	0	0	0	0	0	27	550
		Training	83	2	0	0	0	0	0	0	71	1	0	0	0	0	0	1	12
		Travel (PL)	2,020	0	0	0	0	0	0	0	0	0	0	0	0	0	0	605	1,415
	Spent Fuel Storage and Transportation	Licensing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Rulemaking (PL)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Grand Total			13,872	276	8	11	3	10	2,241	14	617	66	5,805	2	1,271	14	96	1,482	8,237

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF NUCLEAR SECURITY AND INCIDENT RESPONSE**

Office		NSIR																	
		Values																	
Program	Business Lines	Product Lines	Total (\$,K)	Total FTE	Sum of FY 11										Transportatio n Fee Class (\$,K)	Transportatio n Fee Class FTE	HOURLY RATE Contract (\$,K)	HOURLY RATE FTE	FY 11 FEE- RELIEF (\$,K)
					Power Reactors Fee Class (\$,K)	Power Reactors Fee Class FTE	Stor/Reactor Decomm Fee Class FTE	Fuel Facility Fee (\$,K)	Fuel Facility Fee Class FTE	Materials Fee Class (\$,K)	Materials Fee Class FTE								
Corporate Support	Corporate Support	Human Resource Mgmt.	28	1	0	0	0	0	0	0	0	0	0	0	28	1	0		
		Information Mgmt.	3,942	8	0	0	0	0	0	0	0	0	0	0	3,942	8	0		
	Office Support	Administrative Services	92	1	0	0	0	0	0	0	0	0	0	0	92	1	0		
		Financial Mgmt.	0	6	0	0	0	0	0	0	0	0	0	0	0	6	0		
		Human Resource Mgmt.	283	3	0	0	0	0	0	0	0	0	0	0	283	3	0		
		Information Mgmt.	85	7	0	0	0	0	0	0	0	0	0	0	85	7	0		
		Information Technology	445	2	0	0	0	0	0	0	0	0	0	0	445	2	0		
		Support Staff	0	38	0	0	0	0	0	0	0	0	0	0	0	38	0		
		Travel (PL)	101	0	0	0	0	0	0	0	0	0	0	0	101	0	0		
		Decommissioning & LLW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
	Nuclear Materials and Waste Safety	Fuel Facilities	46	6	0	0	0	46	6	0	0	0	0	0	0	0	0		
		Oversight	138	7	0	0	0	138	7	0	0	0	0	0	0	0	0		
		Rulemaking (PL)	32	2	0	0	0	32	2	0	0	0	0	0	0	0	0		
		Training	30	0	0	0	0	30	0	0	0	0	0	0	0	0	0		
Nuclear Materials Users	Licensing	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
	Oversight	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
	Training	25	0	0	0	0	0	0	24	0	0	0	0	0	0	0			
	Spent Fuel Storage and Transportation	83	3	0	0	0	0	0	0	0	83	3	0	0	0	0			
Nuclear Reactor Safety	New Reactors	Oversight	0	2	0	0	2	0	0	0	0	0	0	0	0	0	0		
		Rulemaking (PL)	92	1	0	0	0	0	0	0	92	1	0	0	0	0	0		
		Licensing	1,675	16	1,675	16	0	0	0	0	0	0	0	0	0	0	0		
		Oversight	0	2	0	2	0	0	0	0	0	0	0	0	0	0	0		
		Rulemaking (PL)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
		Travel (PL)	50	0	0	0	0	0	0	0	0	0	0	0	50	0	0		
Operating Reactors		4,522	83	4,112	83	0	0	0	0	0	0	0	0	410	0	0			
Grand Total		11,669	187	5,787	101	2	246	15	24	1	175	4	5,436	65					

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF GENERAL COUNSEL**

Office	OGC										
			Values								
		</									

**FY 2011 BUDGET RESOURCES FOR  
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS**

Office ACRS

Values										
Program	Business Lines	Product Lines	Total (\$,K)	Total FTE	Power Reactors Fee Class (\$,K)	Power Reactors Fee Class FTE	Fuel Facility Fee Class FTE	HOURLY RATE (\$,K)	HOURLY RATE FTE	FEE-RELIEF FTE
Corporate Support	Office Support	Human Resource Mgmt.	50	0	0	0	0	50	0	0
		Support Staff	0	6	0	0	0	0	6	0
Nuclear Reactor Safety	New Reactors	Licensing	79	14	79	14	0	0	0	0
		Travel (PL)	241	0	0	0	0	241	0	0
	Operating Reactors	Licensing	232	18	232	18	0	0	0	0
		Travel (PL)	518	0	0	0	0	518	0	0
	Decommissioning & LLW	Licensing	0	1	0	0	0	0	0	1
		Travel (PL)	15	0	0	0	0	15	0	0
Nuclear Materials and Waste Safety	Fuel Facilities	Licensing	0	1	0	0	1	0	0	0
		Travel (PL)	45	0	0	0	0	45	0	0
Grand Total			1,180	40	311	32	1	869	6	1

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF INTERNATIONAL PROGRAMS**

Office		OIP		Values		HOURLY		FEE-RELIEF	
Program	Business Lines	Product Lines	FY 11 (\$,K)	Import/Export Fee Class FTE	FY 11 FTE	RATE Contract (\$,K)	HOURLY RATE FTE	Contract (\$,K)	FEE-RELIEF FTE
Corporate Support	Corporate Support	Policy Support	330	0	11	330	11	0	0
		Office Support	0	0	1	0	1	0	0
	Office Support	Financial Mgmt.	16	0	0	16	0	0	0
		Human Resource Mgmt.	12	0	0	12	0	0	0
		Information Technology	0	0	9	0	9	0	0
		Support Staff	334	0	0	334	0	0	0
Nuclear Reactor Safety	New Reactors	Travel (PL)	5,683	0	7	0	0	5,683	7
		International Activities	0	0	3	0	0	0	3
	Operating Reactors Decommissioning & LLW								
Nuclear Materials and Waste Safety	LLW	International Activities	0	0	1	0	0	0	1
	Nuclear Materials Users	International Activities	0	2	5	0	0	0	3
<b>Grand Total</b>			<b>6,375</b>	<b>2</b>	<b>37</b>	<b>692</b>	<b>21</b>	<b>5,683</b>	<b>14</b>

FY 2011 BUDGET RESOURCES FOR  
OFFICE OF ENFORCEMENT

Office		OE		Values																	
Program	Business Lines	Product Lines	Power Reactors Fee		Stor/ReactorDecomm Fee Class		Stor/ReactorDecomm Fee Class FTE		Fuel Facility Fee Class (\$,K)		Fuel Facility Fee Class FTE		Materials Fee Class (\$,K)		Materials Fee Class FTE		Transportation Fee Class (\$,K)		HOURLY RATE (\$,K)	HOURLY RATE FTE	FEE-RELIEF (\$,K)
			Total (\$,K)	Total FTE	Power Reactors Fee Class (\$,K)	Power Reactors Fee Class FTE	Stor/ReactorDecomm Fee Class (\$,K)	Stor/ReactorDecomm Fee Class FTE	Fuel Facility Fee Class (\$,K)	Fuel Facility Fee Class FTE	Materials Fee Class (\$,K)	Materials Fee Class FTE	Materials Fee Class (\$,K)	Materials Fee Class FTE	Transportation Fee Class (\$,K)	Transportation Fee Class FTE					
Corporate Support	Corporate Support	Human Resource Mgmt	503	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	503	3	0
		Human Resource Mgmt.	72	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	72	0	0
		Information Mgmt.	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
		Information Technology	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
Nuclear Reactor Safety	New Reactors	Support Staff	0	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	0
		Oversight	6	2	6	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Travel (PL)	6	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Oversight	196	17	190	17	2	0	0	0	0	0	0	0	0	0	0	0	0	2	0
Nuclear Materials and Waste Safety	Operating Reactors	Travel (PL)	105	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	105	0	0
		Oversight	10	3	0	0	0	0	10	3	0	0	0	0	0	0	0	0	0	0	0
		Travel (PL)	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	10	0	0
		Oversight	17	10	0	0	1	1	0	0	0	15	9	0	0	0	0	0	0	0	1
Grand Total	Users	Travel (PL)	79	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	79	0	0
			1,006	40	196	18	3	1	10	3	15	9	1	777	10	3					

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF INVESTIGATIONS**

Office		OIS		Values			
						FY 11 HOURLY RATE (\$,K)	FY 11 HOURLY RATE FTE
Program	Business Lines	Product Lines	Total FY 11 (\$,K)	Total FY 11 FTE			
Corporate Support	Corporate Support	Administrative Services	0	0		0	0
		Human Resource Mgmt.	0	0		0	0
		Information Mgmt.	6,473	55		6,473	55
		Information Technology	55,395	80		55,395	80
		Travel (PL)	115	0		115	0
	Office Support	Administrative Services	0	0		0	0
		Financial Mgmt.	0	7		0	7
		Human Resource Mgmt.	432	3		432	3
		Information Technology	0	1		0	1
		Support Staff	0	41		0	41
Nuclear Reactor Safety	New Reactors	Licensing	0	0		0	0
Grand Total			62,415	187		62,415	187

**FY 2011 BUDGET RESOURCES FOR  
ATOMIC SAFETY AND LICENSING BOARD**

Office

ASLBP

Values

Program	Business Lines	Product Lines	Total (\$,K)	Total FTE	Power Reactors Fee Class (\$,K)	Power Reactors Fee Class FTE	Fuel Facility Fee Class (\$,K)	Fuel Facility Class FTE	Materials Fee Class (\$,K)	Materials Fee Class FTE	Uranium Recovery Fee Class (\$,K)	Uranium Recovery Fee Class FTE	HOURLY RATE (\$,K)	HOURLY RATE FTE	FEE-RELIEF (\$,K)
Corporate Support	Corporate Support	Administrative Services	883	1	0	0	0	0	0	0	0	0	883	1	0
	Office Support	Human Resource Mgmt.	125	0	0	0	0	0	0	0	0	0	125	0	0
		Support Staff	0	6	0	0	0	0	0	0	0	0	0	6	0
Nuclear Reactor Safety	New Reactors	Licensing	821	16	821	16	0	0	0	0	0	0	0	0	0
		Travel (PL)	161	0	0	0	0	0	0	0	0	0	161	0	0
	Operating Reactors		154	7	85	7	0	0	0	0	0	0	69	0	0
	Decommissioning & LLW														
Nuclear Materials and Waste Safety		Licensing	10	1	0	0	0	0	0	0	10	1	0	0	0
		Travel (PL)	78	0	0	0	0	0	0	0	0	0	78	0	0
	Fuel Facilities	Licensing	60	4	0	0	60	4	0	0	0	0	0	0	0
		Travel (PL)	55	0	0	0	0	0	0	0	0	0	55	0	0
	Nuclear Materials Users														
		Licensing	81	2	0	0	0	0	78	2	0	0	0	0	3
		Travel (PL)	90	0	0	0	0	0	0	0	0	0	90	0	0
Grand Total			2,518	37	906	23	60	4	78	2	10	1	1,461	7	3



**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF HUMAN RESOURCES**

Office: HR

			Values																	
Program	Business Lines	Product Lines	Power Reactors Fee Class		Power Reactors Fee Class		Sterile Reactor Decommissioning		Research		Fuel Facility		Materials		Transportation Uranium Recovery Fee Class		HOURLY		FEE RELIEF	
			FY 11 (\$K)	FY 11 FTE	FY 11 (\$K)	FY 11 FTE	Contract (\$K)	(\$K)	Contract (\$K)	(\$K)	Fee (\$K)	FTE	(\$K)	(\$K)	Fee (\$K)	Class (\$K)	RATE (\$K)	RATE FTE	Contract (\$K)	FTE
Corporate Support	Corporate Support	Administrative Services	1,076	0	0	0	0	0	0	0	0	0	0	0	0	0	1,076	0	0	0
		Financial Mgmt.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Human Resource Mgmt.	7,785	54	0	0	0	0	0	0	0	0	0	0	0	0	7,785	54	0	0
		Information Mgmt.	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
		Information Technology	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Office Support	Outreach	9,717	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9,717	1
		Travel (PL)	877	0	0	0	0	0	0	0	0	0	0	0	0	0	877	0	0	0
		Administrative Services	310	0	0	0	0	0	0	0	0	0	0	0	0	0	310	0	0	0
		Financial Mgmt.	170	3	0	0	0	0	0	0	0	0	0	0	0	0	170	3	0	0
		Human Resource Mgmt.	140	0	0	0	0	0	0	0	0	0	0	0	0	0	140	0	0	0
		Information Technology	50	0	0	0	0	0	0	0	0	0	0	0	0	0	50	0	0	0
		Support Staff	0	21	0	0	0	0	0	0	0	0	0	0	0	0	0	21	0	0
		Travel (PL)	10	0	0	0	0	0	0	0	0	0	0	0	0	0	10	0	0	0
		International Activities	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Nuclear Reactor Safety	New Reactors	Oversight	222	2	217	2	0	1	0	0	0	0	0	0	0	0	0	0	0	0
		Training	7,030	11	6,894	11	0	18	0	0	0	0	0	0	0	0	0	0	0	0
		Travel (PL)	92	0	0	0	0	0	0	0	0	0	0	0	0	0	92	0	0	0
	Operating Reactors	Oversight	640	3	627	3	0	2	0	0	0	0	0	0	0	0	0	0	0	0
		Training	1,535	22	1,505	22	0	4	0	0	0	0	0	0	0	0	0	0	0	0
		Travel (PL)	182	0	0	0	0	0	0	0	0	0	0	0	0	0	182	0	0	0
	Decommissioning & LLW	Training	77	0	6	0	12	0	21	0	2	3	2	0	0	0	0	31	0	0
Nuclear Materials and Waste Safety																				
	Nuclear Materials Users	Training	1,788	2	137	0	276	0	486	1	38	64	57	0	0	0	0	730	1	1
Grand Total			31,701	121	9,386	38	288	25	507	1	40	67	59	10,692	79	10,478	2			

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF ADMINISTRATION**

Office ADM

		Values									
Program	Business Lines	Product Lines	Total (\$,K)	Total FTE	Power Reactors Fee Class (\$,K)	Power Reactors Fee Class FTE	HOURLY RATE (\$,K)	HOURLY RATE FTE	FEE-RELIEF (\$,K)		
Corporate Support	Corporate Support	Administrative Services	71,002	79	0	0	71,002	79	0		
		Financial Mgmt.	3,569	41	0	0	3,569	41	0		
		Human Resource Mgmt.	0	0	0	0	0	0	0		
		Information Mgmt.	272	0	0	0	272	0	0		
		Information Technology	0	0	0	0	0	0	0		
	Office Support	Travel (PL)	56	0	0	0	56	0	0		
		Financial Mgmt.	0	3	0	0	0	3	0		
		Human Resource Mgmt.	156	1	0	0	156	1	0		
		Information Mgmt.	0	1	0	0	0	1	0		
		Information Technology	172	0	0	0	172	0	0		
		Support Staff	0	33	0	0	0	33	0		
		Travel (PL)	2	0	0	0	2	0	0		
		Licensing	11,203	1	11,203	1	0	0	0		
Nuclear Reactor Safety	Operating Reactors	International Activities	78	0	0	0	0	0	78		
<b>Grand Total</b>			<b>86,510</b>	<b>159</b>	<b>11,203</b>	<b>1</b>	<b>75,229</b>	<b>158</b>	<b>78</b>		

**FY 2011 BUDGET RESOURCES FOR  
OFFICE OF INFORMATION SERVICES**

Office		Values								
Program	Business Lines	Product Lines	Total (\$,K)	Total FTE	Power Reactors Fee Class (\$,K)	Power Reactors Fee Class FTE	Materials Fee Class FTE	HOURLY RATE Contract (\$,K)	HOURLY RATE FTE	
Corporate Support	Office Support	Human Resource Mgmt.	51	0	0	0	0	0	51	0
		Information Technology	0	0	0	0	0	0	0	0
		Support Staff	0	10	0	0	0	0	0	10
Nuclear Reactor Safety	New Reactors	Oversight	0	1	0	0	1	0	0	0
		Travel (PL)	44	0	0	0	0	44	0	0
	Operating Reactors	Oversight	85	24	85	24	0	0	0	0
		Travel (PL)	403	0	0	0	0	403	0	0
Nuclear Materials and Waste Safety	Nuclear Materials Users	Oversight	0	6	0	0	6	0	0	0
		Travel (PL)	145	0	0	0	0	145	0	0
Grand Total			728	41	85	25	6	643	10	

# Omnibus Budget Reconciliation Act of 1990 (OBRA-90)

Referenced throughout the proposed rule

This document is provided as supplemental information. The proposed amendments to 10 CFR Parts 170 and 171 are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended. The OBRA-90, as amended, requires that the NRC recover approximately 90 percent of its budget authority in fiscal year 2010, less the amounts appropriated from the Nuclear Waste Fund, amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities.

# Court Decision, 1993

## *Allied Signal, Inc. v. NRC and Combustion Engineering v. NRC*

This document is provided as supplemental information. In 1990 Congress required the NRC to collect annual charges and user fees approximating 100 percent of the agency's budget, effective for fiscal year 1991. NRC's FY 1991 fee rule imposed annual charges against virtually all of the agency's licensees in an effort to be more fair and equitable. Previously, it had levied annual charges only on operating nuclear power reactors, which constitute the most significant group of NRC licensees.

On July 10, 1991 (56 FR 31472), the NRC published a final rule in the *Federal Register* that established the Part 170 professional hourly rate and the materials licensing and inspection fees, as well as the Part 171 annual fees, to be assessed to recover approximately 100 percent of the FY 1991 budget. In addition to establishing the FY 1991 fees, the final rule established the underlying basis and methodology for determining both the Part 170 hourly rate and fees and the Part 171 annual fees. The FY 1991 rule was challenged in Federal court by *Allied Signal, Inc. v. NRC* and *Combustion Engineering v. NRC*.

The court remanded two issues to the NRC for further consideration. Despite the remand, the court did not vacate the rule. One of the remanded issues related to the exemption from annual fees for nonprofit educational institutions. The second remand issue dealt with LLW disposal costs.

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▷

Effective: November 19, 2005

United States Code Annotated Currentness

Title 42. The Public Health and Welfare

Chapter 23. Development and Control of Atomic Energy (Refs & Annos)

☐ Division A. Atomic Energy

☐ Subchapter XIII. General Authority of Commission (Refs & Annos)

→ § 2214. NRC user fees and annual charges

(a) Annual assessment

(1) In general

Except as provided in paragraph (3), the Nuclear Regulatory Commission (in this section referred to as the "Commission") shall annually assess and collect such fees and charges as are described in subsections (b) and (c) of this section.

(2) First assessment

The first assessment of fees under subsection (b) of this section and annual charges under subsection (c) of this section shall be made not later than September 30, 1991.

(3) Last assessment of annual charges

The last assessment of annual charges under subsection (c) of this section shall be made not later than September 20, 2005.

(b) Fees for service or thing of value

Pursuant to section 9701 of Title 31, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

(c) Annual charges

(1) Persons subject to charge

Except as provided in paragraph (4), any licensee or certificate holder of the Commission may be required to pay, in addition to the fees set forth in subsection (b) of this section, an annual charge.

(2) Aggregate amount of charges

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(A) In general

The aggregate amount of the annual charges collected from all licensees and certificate holders in a fiscal year shall equal an amount that approximates the percentages of the budget authority of the Commission for the fiscal year stated in subparagraph (B), less--

- (i) amounts collected under subsection (b) of this section during the fiscal year; and
- (ii) amounts appropriated to the Commission from the Nuclear Waste Fund for the fiscal year.

(B) Percentages

The percentages referred to in subparagraph (A) are--

- (i) 98 percent for fiscal year 2001;
- (ii) 96 percent for fiscal year 2002;
- (iii) 94 percent for fiscal year 2003;
- (iv) 92 percent for fiscal year 2004; and
- (v) 90 percent for fiscal year 2005 and fiscal year 2006.

(3) Amount per licensee

The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among licensees. To the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees.

(4) Exemption

(A) In general

Paragraph (1) shall not apply to the holder of any license for a federally owned research reactor used primarily for educational training and academic research purposes.

(B) Research reactor

For purposes of subparagraph (A), the term "research reactor" means a nuclear reactor that--

- (i) is licensed by the Nuclear Regulatory Commission under section 2134(c) of this title for operation at a thermal power level of 10 megawatts or less; and

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(ii) if so licensed for operation at a thermal power level of more than 1 megawatt, does not contain--

(I) a circulating loop through the core in which the licensee conducts fuel experiments;

(II) a liquid fuel loading; or

(III) an experimental facility in the core in excess of 16 square inches in cross-section.

(d) "Nuclear Waste Fund" defined

As used in this section, the term "Nuclear Waste Fund" means the fund established pursuant to section 10222(c) of this title.

#### CREDIT(S)

(Pub.L. 101-508, Title VI, § 6101, Nov. 5, 1990, 104 Stat. 1388-298; Pub.L. 102-486, Title XXIX, § 2903(a), Oct. 24, 1992, 106 Stat. 3125; Pub.L. 103-66, Title VII, § 7001, Aug. 10, 1993, 107 Stat. 401; Pub.L. 105-245, Title V, § 505, Oct. 7, 1998, 112 Stat. 1856; Pub.L. 106-60, Title VI, § 604, Sept. 29, 1999, 113 Stat. 501; Pub.L. 106-377, § 1(a)(2) [Title VIII], Oct. 27, 2000, 114 Stat. 1441, 1441A-86; Pub.L. 109-103, Title IV, Nov. 19, 2005, 119 Stat. 2283.)

#### AMENDMENT OF SUBSEC. (A).

<Pub.L. 109-58, Title VI, § 637(a)(1), (c), Aug. 8, 2005, 119 Stat. 791, provided that, effective Oct. 1, 2006, subsec. (a) of this section is amended:>

<by striking "Except as provided in paragraph (3), the" and inserting "The" in paragraph (1): and>

<by striking paragraph (3).>

#### AMENDMENT OF SUBSEC. (C).

<Pub.L. 109-58, Title VI, § 637(a)(2), (c), Aug. 8, 2005, 119 Stat. 791, provided that, effective Oct. 1, 2006, subsec. (c) of this section is amended:>

<by striking "and" at the end of paragraph (2)(A)(i);>

<by striking the period at the end of paragraph (2)(A)(ii) and inserting a semicolon;>

<by adding at the end of paragraph (2)(A) the following new clauses:>

<(iii) amounts appropriated to the Commission for the fiscal year for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; and>

<(iv) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 2169 of this title and the costs of conducting security inspections.>



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<by amending paragraph (2)(B)(v) to read as follows:>

<(v) 90 percent for fiscal year 2005 and each fiscal year thereafter.>

## HISTORICAL AND STATUTORY NOTES

### Revision Notes and Legislative Reports

1990 Acts. House Report No. 101-881, House Conference Report No. 101-964, and Statement by President, see 1990 U.S. Code Cong. and Adm. News, p. 2017.

1992 Acts. House Report No. 102-474(Parts I to IX). House Conference Report No. 102-1018, and Statement by President, see 1992 U.S. Code Cong. and Adm. News, p. 1953.

1993 Acts. House Report No. 103-111 and House Conference Report No. 103-213, see 1993 U.S. Code Cong. and Adm. News, p. 378.

1998 Acts. House Conference Report No. 105-749, see 1998 U.S. Code Cong. and Adm. News, p. 457.

1999 Acts. Statement by President, see 1999 U.S. Code Cong. and Adm. News, p. 93.

2000 Acts. House Conference Report No. 106-988, see 2000 U.S. Code Cong. and Adm. News, p. 1217.

2005 Acts. House Conference Report No. 109-190, see 2005 U.S. Code Cong. and Adm. News, p. 448.

Statement by President, see 2005 U.S. Code Cong. and Adm. News, p. S17.

### References in Text

Section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, referred to in subsec. (c)(2)(A)(iii), is Pub.L. 108-375, Div. C, Title XXXI, § 3116, Oct. 28, 2004, 118 Stat. 2162, which is set out as a note under 50 U.S.C.A. § 2601.

### Codifications

Amendment by Pub.L. 106-377, directing the substitution of "September 20, 2005" for "September 30, 1999" was executed by substituting "September 20, 2005" for "September 30, 2000", as the probable intent of Congress, in light of prior amendment by section 604 of Pub.L. 106-60 which struck out "September 30, 1999" and inserted "September 30, 2000". See 1999 Amendments note set out under this section.

Section 6101(e) of Pub.L. 101-508, omitted from this section. amended section 2213 of this title.

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1990, not as part of the Atomic Energy Act of 1954, which comprises this chapter.

### Amendments

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2005 Amendments. Subsec. (a)(1). Pub.L. 109-58, § 637(a)(1)(A), struck out "Except as provided in paragraph (3), the" and inserted "The".

Subsec. (a)(3). Pub.L. 109-58, § 637(a)(1)(B), struck out par. (3), which formerly read:

**"(3) Last assessment of annual charges**

"The last assessment of annual charges under subsection (c) of this section shall be made not later than September 20, 2005."

Subsec. (c)(2)(A)(i). Pub.L. 109-58, § 637(a)(2)(A), struck out "and" at the end of cl. (i).

Subsec. (c)(2)(A)(ii). Pub.L. 109-58, § 637(a)(2)(B), struck out the period at the end of cl. (ii) and inserted a semicolon.

Subsec. (c)(2)(A)(iii), (iv). Pub.L. 109-58, § 637(a)(2)(C), added cls. (iii) and (iv).

Subsec. (c)(2)(B)(v). Pub.L. 109-103, Title IV, in cl. (v), inserted "and fiscal year 2006" after "for fiscal year 2005".

Pub.L. 109-58, § 637(a)(2)(D), rewrote cl. (v), which, prior to the amendment made by Pub.L. 109-103, formerly read: "(v) 90 percent for fiscal year 2005."

2000 Amendments. Subsec. (a)(3). Pub.L. 106-377, § 1(a)(2) [Title VIII, (1)], substituted "September 20, 2005" for "September 30, 1999". See Codifications note set out under this section.

Subsec. (c)(1). Pub.L. 106-377, § 1(a)(2) [Title VIII, (2)(A)], substituted "any licensee or certificate holder of the Commission" for "any licensee of the Commission".

Subsec. (c)(2). Pub.L. 106-377, § 1(a)(2) [Title VIII, (2)(B)], rewrote par. (2), which formerly read:

**"(2) Aggregate amount of charges**

"The aggregate amount of the annual charge collected from all licensees shall equal an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) of this section in such fiscal year."

1999 Amendments. Subsec. (a)(3). Pub.L. 106-60, § 604, struck "September 30, 1999" and inserted "September 30, 2000". See Codifications note set out under this section.

1998 Amendments. Subsec. (a)(3). Pub.L. 105-245, § 505, substituted "September 30, 1999" for "September 30, 1998".

1993 Amendments. Subsec. (a)(3). Pub.L. 103-66, § 7001, extended latest date for last assessment of annual charges from Sept. 30, 1995, to Sept. 30, 1998.

1992 Amendments. Subsec. (c)(1). Pub.L. 102-486, § 2903(a)(1), substituted "Except as provided in paragraph (4), any licensee" for "Any licensee".

42 U.S.C.A. § 2214

Subsec. (c)(4). Pub.L. 102-486, § 2903(a)(2), added par. (4).

#### Effective and Applicability Provisions

2005 Acts. Pub.L. 109-58, Title VI, § 637(c), Aug. 8, 2005, 119 Stat. 791, provided that: "The amendments made by this section [amending this section and repealing 42 U.S.C.A. § 2213] take effect on October 1, 2006."

1992 Acts. Section 2903(b) of Pub.L. 102-486 provided that: "The amendments made [sic] subsection (a) [amending subsec. (c)] shall apply to annual charges assessed under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 [subsec. (c) of this section] for fiscal year 1992 or any succeeding fiscal year."

#### Policy Review

Section 2903(c) of Pub.L. 102-486 provided that: "The Nuclear Regulatory Commission shall review its policy for assessment of annual charges under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 [subsec. (c) of this section], solicit public comment on the need for changes to such policy, and recommend to the Congress such changes in existing law as the Commission finds are needed to prevent the placement of an unfair burden on certain licensees of the Commission, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes."

#### LIBRARY REFERENCES

American Digest System.

Licenses ☞ 28.

United States ☞ 53(6.1).

Key Number System Topic Nos. 238, 393.

#### NOTES OF DECISIONS

##### Exemptions 1

##### 1. Exemptions

Low enriched uranium (LEU) manufacturing licensee was entitled to exemption from Nuclear Regulatory Commission (NRC) rule apportioning Omnibus Reconciliation Act (OBRA) fees on per license basis where licensee owned and operated two LEU facilities, each separately licensed, which in the aggregate were operationally equivalent to a single-plant, single-license facility. Allied-Signal, Inc. v. U.S. Nuclear Regulatory Com'n. C.A.D.C. 1993, 988 F.2d 146, 300 U.S.App.D.C. 198. Electricity ☞ 10

42 U.S.C.A. § 2214, 42 USCA § 2214

42 U.S.C.A. § 2214

Current through P.L. 109-169, P.L. 109-173 approved 02-15-06

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2 of 13 DOCUMENTS

**Allied-Signal, Inc., Petitioner v. U. S. Nuclear Regulatory Commission and the  
United States of America, Respondents Combustion Engineering, Inc., Petitioner v.  
U. S. Nuclear Regulatory Commission and the United States of America,  
Respondents Combustion Engineering, Inc., Petitioner v. U. S. Nuclear Regulatory  
Commission and the United States of America, Respondents Allied-Signal, Inc.,  
Petitioner v. U. S. Nuclear Regulatory Commission, Respondent**

No. 91-1407, No. 91-1435, No. 92-1001, No. 92-1019

**UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA  
CIRCUIT**

*300 U.S. App. D.C. 198; 988 F.2d 146; 1993 U.S. App. LEXIS 4684*

November 5, 1992, Argued  
March 16, 1993, Decided

**PRIOR HISTORY:** **[\*\*1]** Petitions for Review of An Order of the U.S. Nuclear Regulatory Commission.

**COUNSEL:** John Hoff, with whom Leonard A. Miller was on the brief, for petitioner Allied Signal, Inc. in Nos. 91-1407 and 92-1019.

Harold F. Reis, with whom Michael F. Healy was on the brief, for petitioner Combustion Engineering, Inc. in Nos. 91-1435 and 92-1001.

L. Michael Rafky, with whom William C. Parler, General Counsel, John F. Cordes, Sr., Solicitor, and E. Leo Slaggie, Deputy Solicitor, U.S. Nuclear Regulatory Commission, and Katherine Adams, Attorney, Department of Justice, were on the brief, for respondents.

**JUDGES:** Before: Silberman, Williams and D.H. Ginsburg, Circuit Judges. Opinion for the Court filed by Circuit Judge Williams.

**OPINION BY: WILLIAMS**

**OPINION:**

[\*148] Williams, *Circuit Judge*:

Congress has directed the Nuclear Regulatory Commission to recover 100% of its costs from those who

receive its regulatory "services" and to allocate the costs "fairly and equitably" among those recipients. Petitioners Allied Signal and Combustion Engineering challenge an NRC rule making that allocation; they also attack the NRC's denial of various requested exemptions from the fees. They allege that the Commission's **[\*\*2]** actions did not satisfy Congress's "fair[] and equitable" standard and also were arbitrary and capricious. We agree in part and remand the case to the Commission.

Under authority granted in the Independent Offices Appropriation Act of 1952 ("IOAA"), 31 U.S.C. § 9701, the Commission has long charged fees to any person who received a "service or thing of value" from the Commission. (That term includes, perhaps oxymoronomically, "regulatory services" such as permit processing.) In 1986, Congress expanded the NRC's recovery authority in the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), Pub. L. No. 99-272, 100 Stat. 147, and authorized it to recover 33% of its total annual budget through fees. Because IOAA fees could not generate that sum, Congress allowed the NRC to assess fees not only for the service-specific costs covered by IOAA but also for the Commission's *generic* costs of operation (e.g., costs associated with rulemaking proceedings or safety research). Later acts raised the budget recovery level to 45% for the years 1988 through 1990. n1 In carrying out the 33% and 45% recovery mandates, the Commission imposed fees for **[\*\*3]** generic costs only on licensees who operated nuclear

power reactors, reasoning that they absorbed the most regulatory resources. See *Florida Power and Light Co. v. United States*, 269 U.S. App. D.C. 377, 846 F.2d 765 (D.C. Cir. 1988).

n1 See *Omnibus Budget Reconciliation Act of 1987*, Pub. L. No. 100-203, 101 Stat. 1330-275; *Omnibus Reconciliation Act of 1989*, Pub. L. No. 101-239, 103 Stat. 2132.

In the 1990 Omnibus Reconciliation Act ("1990 OBRA"), Pub. L. No. 101-508, 104 Stat. 1388-299, Congress raised the recovery mandate for 1991-95 to 100% of the Commission's budget, see Pub. L. No. 101-508, § 6101 (codified at 42 U.S.C. § 2214), and told the Commission to promulgate a rule apportioning the generic fees "fairly and equitably" among licensees. *Id.* at § 6101(c)(3) (codified at 42 U.S.C. § 2214(c)(3)). The legislation further said that "to the maximum extent practicable, the charges [assessed by the rule] shall have a reasonable [\*\*4] relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees." *Id.* After notice and comment, the Commission issued a rule purporting to carry out these directions. In doing so, it imposed fees on virtually all licensees. See *Revision of Fee Schedules; 100% Fee Recovery (the "Final Rule")*, 56 *Fed. Reg.* 31,472 (July 10, 1991) (codified at 10 CFR §§ 52, 71, 170, and 171).

[\*149] I

Allied, a uranium hexafluoride (UF) converter, first complains about the Commission's failure to consider the inability of UF converters to "pass through" OBRA fees to customers--i.e., to recoup them in whole or in part by raising prices. Allied asserts that the Commission's treatment of the issue was inconsistent with OBRA and also with the NRC's treatment of other licensees' passthrough capability.

Allied's claim rests on simple facts. It explains that domestic UF converters compete with foreign UF converters who are not subject to NRC licensing and thus are not required to pay NRC fees. Competition, it says, is stiff; success in bidding on UF conversion contracts often turns on [\*\*5] differentials as small as one cent per pound. Fees imposed under the Final Rule, however, add up to almost five cents per pound of UF. Because adding

the fee to their prices will drive customers to foreign converters, domestic UF converters cannot pass the costs forward. Allied draws a sharp contrast between UF converters and other NRC licensees such as electric utilities, which it says are readily able to pass the costs on to customers. The Commission disputes none of these assertions.

Allied's statutory theory rests both on the 1990 OBRA and on the legislative history of 1986 COBRA--the latter being explicitly linked to the 1990 OBRA via its legislative history. Section 6201(c)(3) of the 1990 OBRA (codified at 42 U.S.C. § 2214(c)(3)), provides that

the Commission shall establish, by rule, a schedule of charges *fairly and equitably* allocating the aggregate amount of charges ... [necessary to recoup 100% of the Commission's budget].

(Emphasis added.) The Conference Report to the 1990 OBRA states that the Commission has "the discretion ... to assess annual charges against all of its licensees." H.R. Conf. Rep. No. 964, 101st Cong., [\*\*6] 2d Sess. (1990), at 961. At the same time, however, the Report expressly "reaffirms the statement of the [floor] managers [of 1986 COBRA] on the present authority" of the NRC to assess fees. *Id.* That statement in turn declared that it was the "intention of the conferees that, because certain Commission licensees, such as universities, hospitals, research and medical institutions, and uranium producers have *limited ability to pass through the costs of these charges* to the ultimate consumer, the Commission should *take this factor into account* in determining whether to modify [its] current fee schedule for such licensees." 132 Cong. Rec. H3797/3 (March 6, 1986) (emphases added).

The statutory language and legislative history do not, in our view, add up to an inexorable mandate to protect classes of licensees with limited ability to pass fees forward. Even the 1986 legislative history, written in the context of COBRA's less-demanding 33% recovery mandate, only directed the Commission to "take ... account" of passthrough considerations, which would not necessarily entail that those considerations control. Moreover, the 1990 Conference Report explicitly said that Congress preserved [\*\*7] NRC's discretion to impose fees on "one or more classes of

non-power-reactor licensees if the Commission believes it can fairly, equitably, and practicably do so." H.R. Conf. Rep. No. 964, 101st Cong., 2d Sess. (1990), at 961. Even if we were to give the legislative history great weight, we could not conclude that Congress has "directly spoken" to whether the Commission must spare licensees that cannot pass the fees forward. See *Chevron v. Natural Resources Defense Council*, 467 U.S. 837, 842, 81 L. Ed. 2d 694, 104 S. Ct. 2778 (1984). The question therefore is whether the Commission's interpretation is reasonable. See *id.* at 845; *Chemical Manufacturers Ass'n v. EPA*, 287 U.S. App. D.C. 49, 919 F.2d 158, 162-63 (D.C. Cir. 1990).

The Commission offered two justifications for its decision to disregard the passthrough concerns of UF converters. First, it argued that it could not adjust fees based on competitive impact because the 100% recovery mandate of 1990 OBRA [\*150] would require any abatement of fees for one class of licensees to be recouped from others. See Final Rule, 56 Fed. Reg. at 31,476; Letter of NRC Denying Allied Exemption [\*\*8] Request at 3-4. However, while one could argue that it is unfair to charge any regulatee more than its pro rata share of generic costs (and not unfair to excuse some regulatees from paying all of their pro rata share when less than 100 percent must be recovered), that potential explanation does not carry the day here. The Commission's willingness to make an exemption for nonprofit educational institutions belies the assertion that it will not charge any regulatee more than its pro rata share.

Nonetheless, the Commission also pointed to an entirely legitimate concern--the difficulty of assessing the ability of its 9000 licensees to pass through costs. See NRC Denial of Allied Exemption Request at 4. A firm's ability to pass through a burden to its customers depends on the price elasticities of supply and demand. "Inelastic suppliers and demanders pay taxes." Donald N. McCloskey, *The Applied Theory of Price* 324 (1982). (While the fees are technically not taxes, the same principle applies to costs generally.) Because these elasticities are typically hard to discover with much confidence, the Commission's refusal to read the statute as a rigid mandate to do so is not only understandable [\*\*9] but reasonable.

It does not follow, however, that the Commission's application of the statute was in every respect reasonable. If capacity to pass the fees through can be determined with reasonable accuracy and at reasonable cost for

specific classes of licensees, there appears no reason why the Commission should not do so. In fact, the Commission has made such a determination for another class of licensees, even though that class's claim seems no better founded than the claim of the domestic UF converters.

Specifically, in the Final Rule the Commission exempted nonprofit educational institutions from payment of certain 1990 OBRA fees. See 56 Fed. Reg. at 31,487/1-2, 31,491/1-2; 10 CFR § 171.11(a). This appears to be based at least in part on the rationale that such institutions "have a limited ability to pass the[] costs on to others." Final Rule, 56 Fed. Reg. at 31,477/1-2 (1991). n2 See also 56 Fed. Reg. at 31,487/2 (speaking of educational institutions' "limited ability to pass regulatory costs through to their clients").

n2 This passage relates to the service-specific fees, but no independent justification for the exemption from generic costs appears, and the Commission here seems to assume that the explanation extends to the generic. See Commission Brief at 8, 19-20.

[\*\*10]

The Commission nowhere explains how it was able to make this finding for non-profits but is not able to resolve the elasticity claim one way or the other for domestic UF converters. The Commission does not so much as hint at data relating to the markets in which educational institutions serve their "clients". n3 Neither does the Commission explain why a demand elasticity calculation was any easier or less costly to complete for educational institutions than for UF converters. Thus the Commission's denial of relief for UF converters, both at the rulemaking and the exemption stages, cannot be viewed as reasoned decision-making.

n3 We note that for educational institutions with certain types of licenses, the exemption is unavailable with respect to activities such as "remunerated services ... [performed for] other persons" and "activities performed under a Government contract". See 10 CFR § 171.11(a)(2) & (4). This exclusion from the exemption, however, is limited to specific types of licenses, namely "byproduct, source or special

nuclear material licenses."

[\*\*11]

An inadequately supported rule, however, need not necessarily be vacated. See, e.g., *International Union, UMW v. FMSHA*, 287 U.S. App. D.C. 166, 920 F.2d 960, 966-67 (D.C. Cir. 1990); *Maryland People's Counsel v. FERC*, 247 U.S. App. D.C. 333, 768 F.2d 450, 455 (D.C. Cir. 1985); *ICORE, Inc. v. FCC*, 985 F.2d 1075, Slip op. at 12 (D.C. Cir. 1993). The decision whether to vacate depends on "the seriousness of the order's deficiencies (and thus the extent of doubt whether the agency chose correctly) and the disruptive consequences of an interim [\*151] change that may itself be changed." *International Union*, 920 F.2d at 967.

It is conceivable that the Commission may be able to explain how the principles supporting an exemption for educational institutions do not justify a similar exemption for domestic UF converters. For example, the Commission may develop a reasoned explanation based on an alternative justification that it offered for the non-profit educational institutions' exemption--that "educational research provides an important benefit to the nuclear industry and the public at large and should not be discouraged." 56 Fed. Reg. at 31,477 [\*12] 12. While this reference is quite vague--the benefits of UF conversion can hardly be deprecated merely because the converters operate in a conventional market--perhaps the Commission's focus is on *education*, with the idea that education yields exceptionally large externalized benefits that cannot be captured in tuition or other market prices. We cannot tell at this point whether the exemption for educational institutions could be reasonably rooted in such a theory, but there is at least a serious possibility that the Commission will be able to substantiate its decision on remand.

At the same time, the consequences of vacating may be quite disruptive. Even assuming that we could merely vacate the rule insofar as it denies an exemption for UF converters, the Commission would need to refund all 1990 OBRA fees collected from those converters; in addition it evidently would be unable to recover those fees under a later-enacted rule. See *Bowen v. Georgetown University Hospital*, 488 U.S. 204, 208-09, 102 L. Ed. 2d 493, 109 S. Ct. 468 (1988) (rejecting retroactive application of rules even if operating only to cure defects in previously enacted rule). Therefore, because of the

possibility [\*13] that the Commission may be able to justify the Rule, and the disruptive consequences of vacating, we remand to the Commission for it to develop a reasoned treatment of exemption claims based on passthrough limitations.

Combustion Engineering also raised a related passthrough argument--that long-term fixed price contracts in its sector of the industry constrain its ability to pass through costs and therefore require some sort of gradual phase-in. See Comments of Combustion Engineering, May 13, 1991 at 2. On remand, the Commission must address this claim as well.

## II

Allied also argues that the Commission's apportionment of fees *within* the class of domestic UF converters violated the 1990 OBRA. Allied argues (again without dispute by the Commission) that it has required much less regulatory attention than the only other member of the UF converter class, the Sequoyah Fuels Corporation, because of the latter's environmental problems. See NRC Denial of Allied Exemption Request at 7. Thus, Allied says, allocation of the fees equally between the two UF converters violated the 1990 OBRA's directives that OBRA charges be apportioned "fairly and equitably" and that "to the maximum extent [\*14] practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services." Pub. L. No. 101-508, § 6101(c)(3) (codified at 42 U.S.C. § 2214(c)(3)). Allied contends that the Commission instead ought to have divided the class's fees either in proportion to the amount of NRC attention required by each converter or in proportion to the service-specific (IOAA) fees paid by the two converters.

Allied's argument fails because it disregards the premise that 1990 OBRA fees are not service-specific: they do not relate to identifiable services but rather constitute *generic* costs. See Final Rule, 56 Fed. Reg. at 31,472. Assuming that the Commission correctly classified the costs in question (and Allied does not contest the classification), there is a presumption that even regulatory effort precipitated by the circumstances of a single licensee of a given class will yield results, such as research findings or regulations, of roughly equal importance for all members of the same class.

[\*152] This conclusion is not undermined by the Commission's willingness to apportion 1990 OBRA fees



between groups [\*\*15] of licensees on the basis of the attention required by each group. See Final Rule, 56 Fed. Reg. at 31,476; Letter of NRC Denying Allied Exemption Request at 2, 4-5. First, the spillover of benefits seems far greater *within* a group of licensees than *between* groups. See *id.* at 5. Second, the administrative costs of group-level apportionment are obviously much lower than licensee-level apportionment because the number of licensees greatly exceeds the number of groups.

Here, neither of the measuring devices proposed by Allied was workable or accurate enough to warrant our holding the Commission's rejection of them arbitrary or capricious. Any correlation between a licensee's IOAA (licensee-specific) costs and its benefits from generic costs seems purely coincidental. And to use as a yardstick each member's tendency to precipitate regulatory effort would not only disregard spillover effects but would raise exceptional measurement problems. See NRC Denial of Allied Exemption Request at 4-8.

### III.

Allied makes a narrower attack on the Commission's rejection of intra-group apportionment, namely that the Commission was arbitrary and capricious in failing [\*\*16] to apportion the generic costs associated with the disposal of low level radioactive waste ("LLW") on the basis of each licensee's actual waste. See Final Rule, 56 Fed. Reg. at 31,497; 10 CFR § 171.16(e). At the class level, the Commission allocated costs in accordance with each class's contribution to the total quantity of LLW. Because materials licensees (a group that includes UF converters) collectively generate 40% of the nation's LLW, the Commission allocated 40% of its LLW costs to that class. See *id.* When it turned to apportionment of those fees among the materials licensees, however, the Commission abandoned that approach and simply assessed each large fuel facility (of which Allied is one) an identical charge of \$ 143,500. For explanation, the NRC offered only the conclusory statement that "the Commission ... believes ... the surcharge should be the same for all large fuel facility licensees." See Final Rule, 56 Fed. Reg. at 31,481.

The Commission provides no rationale for apportioning costs among classes of LLW producers on the basis of LLW output but refusing to apply that same yardstick in apportioning generic costs [\*\*17] within

classes, and no rationale is readily apparent. While it is conceivable that the real benefit of LLW disposal services is merely the availability of such services--in which case a flat fee would make sense--any such idea is inconsistent with the Commission's method of apportioning LLW fees among classes of licensees, which appears to assume that benefit is proportional to LLW quantity. If, on the other hand, any licensee's benefit from LLW disposal is directly proportional to its LLW disposal, apportioning even generic costs on the basis of output seems to make sense--not only as to classes but also as to individual licensees. Finally, assuming that the Commission calculated each class's quantity of LLW waste from data supplied by each licensee (as seems necessarily true), it is hard to see any administrative problem with apportioning the fees within the class on the basis of output; the data are available and the required computations would be rudimentary.

In applying the balancing of *International Union* and like cases, we here give little weight to the possibility that the Commission could pull a reasonable explanation out of the hat. Nonetheless, vacating the intra-class [\*\*18] apportionment of LLW costs would give licensees a peculiar windfall; even ones that *benefitted* from the Commission's choice would presumably be entitled to a refund, and, under *Georgetown University Hospital*, the LLW costs could be recovered from no one. To be sure, the costs are not great, absolutely or as a proportion of the Commission's \$ 465 [\*153] million budget for FY 1991--\$ 3.8 million. See 56 Fed. Reg. at 31,486, 31,497. But that alone is hardly a reason to create such a windfall. Accordingly, we refrain from vacating the rule. If on remand the Commission concludes that the apportionment must be in accordance with usage, then those firms whose burden is lower under a new, non-arbitrary, rule should be entitled to refunds of the difference.

If indeed the remand leads to replacement of the per-licensee allocation, and licensees enjoy only refunds for the difference between liability under the old rule and liability under the new (rather than total refunds), it might be argued that such a result allows the new rule to have "retroactive effect", in violation of *Georgetown University Hospital*. See 488 U.S. at 208. There [\*\*19] is, plainly, some retroactive effect. The effect, however, is only to define that aspect of the old rule that must be *cut away* as legally excessive. We do not read *Georgetown* as barring so limited a retroactive impact.

## IV

Finally, Combustion Engineering challenges the Commission's decision to allocate OBRA fees equally to each low enriched uranium ("LEU") manufacturing license instead of dividing the fees equally among the LEU manufacturing licensees. Combustion owns and operates two LEU facilities, each separately licensed, and Combustion asserts that in the aggregate the two are operationally equivalent to the single-plant, single-license, facilities of the other LEU manufacturers. At oral argument Combustion explained that it has two licenses for the facilities only because of historical chance; it bought a company with a separate license almost 20 years ago and until the Commission implemented the current OBRA fee schedule there has never been any reason to consolidate the licenses. As before, the Commission disputes none of these contentions.

Combustion attacks both the regulation imposing the "equal fee per license" rule and the Commission's denial of an exemption. [\*\*20] Both claims rest ultimately on the 1990 OBRA's direction that fees must be apportioned "fairly and equitably" and that "to the maximum extent practicable, ... charges shall have a reasonable relationship to the cost of providing regulatory services." Pub. L. No. 101-508, § 6101(c)(3) (codified at 42 U.S.C. § 2214(c)(3)). Although we find the first claim unconvincing, we agree that the Commission has not justified its refusal to give the requested exemption.

The argument that the "equal fee per license" rule is "unfair and inequitabl[e]" is persuasive only on the ground that the rule produced troubling results when applied to Combustion's circumstances--which Combustion itself asserts are unusual. We see no reason for requiring the Commission to attend to that rather rare situation in the rule itself, cf. *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 40 L. Ed. 2d 134, 94 S. Ct. 1757 (1974), especially as the generic rule allowed (generically) for exemption. n4

n4 Insofar as Combustion argues, in parallel with Allied, that § 6101(c)(3) of OBRA generally requires intra-group apportionment on the basis of factors such as the amount of attention a licensee requires, the competitive position of the licensee, and the safety risks posed by the licensee's

activities, we reject it for the reasons stated as to Allied.

[\*\*21]

Combustion's exemption argument, however, has merit. The Commission's own criteria call for an exemption if the licensee can show that "the assessment of the annual fee would result in a significantly disproportionate allocation of costs to the licensee." 10 CFR § 171.11(d). The double assessment against Combustion's two licenses increased its OBRA fees by \$ 836,500. Against this, the Commission is able to point to almost nothing by way of greater costs. Speaking to the issue in unusually murky, discursive language, the NRC in substance could point to only two additional burdens--the need to mail an extra copy of certain NRC publications to the second facility and the need for two different NRC regional offices to monitor and respond to [\*154] allegations about the two plants. See NRC Denial of Combustion Exemption Request at 5-6.

The double burden for Combustion, measured against *de minimis* additional burdens for the Commission, amply overcomes the hurdle established by 10 CFR § 171.11(d). n5 Thus the exemption denial is arbitrary and capricious. We therefore direct the Commission to grant an exemption for Combustion on the additional fees collected as a result of the double-licensing [\*\*22] of its operation. n6

n5 10 CFR § 171.11(d) also contains two other factors that the Commission shall consider when evaluating an exemption request. Although parts of § 171.11(d) are ambiguous regarding whether an applicant must fulfill all, or only one, of the factors, the fact that an applicant could not "fulfill" the criterion listed in § 171.11(d)(3)--"any other relevant matter that the licensee believes shows that the annual fee was not based on a fair and equitable allocation of NRC costs"--reveals that the "factors" should not be read as conjunctive requirements. The factors instead seem to be best understood as independent considerations which can support an exemption.

n6 We are not required to address Allied's fee exemption request because of our previous disposition of Allied's other claims. The aspects of Allied's request dealing with passthrough

ability and LLW fees are almost certain to stand or fall along with the remanded claims; and the aspect claiming that OBRA requires licensee-specific calibration of fees fails.

[\*\*23]

\* \* \*

We remand the case to the Commission for a

reasoned and coherent treatment of (1) licensees' claims for special treatment on the basis of inability to pass the burden of the fees through to customers and (2) the method of apportioning generic LLW disposal costs among materials licensees. In addition, we direct the Commission to grant an exemption to Combustion for the generic fees attributable to the double-licensing of its LEU operation.

*So ordered.*