

September 18, 2012

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

FROM: Marian Zabler */RA/*
Acting General Counsel

SUBJECT: FOUR-YEAR REVIEW—FY2012 ADJUSTMENT OF CIVIL PENALTIES
FOR INFLATION

At least once every four years, the NRC must review and, as appropriate, adjust its civil monetary penalties for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), as amended by the Debt Collection Improvement Act of 1996 (DCIA).¹ The two civil monetary penalties under the NRC's jurisdiction are: the penalty for violations of the Atomic Energy Act of 1954 (AEA)² or any regulation or order issued under the AEA; and the penalty for violations of the Program Fraud Civil Remedies Act (PFCRA).³ The NRC's implementing regulations for these statutes are found in 10 C.F.R. Parts 2 and 13, respectively. The NRC last reviewed these penalties for inflation adjustment in FY2008; the NRC repeated the exercise this year (FY2012).⁴

For the current four-year review period, FY2008 to FY2012, the percentage change in inflation is not large enough to meet the statutory criteria for adjusting the NRC's two civil monetary penalties. As a result, the NRC has no basis to amend the amount specified in its civil monetary penalty regulations (10 C.F.R. §§ 2.205 and 13.3) this year. The NRC must again review and, if appropriate, adjust its civil monetary penalties for inflation by the end of FY2016. In FY2016, the NRC's adjustment calculations will carry back to 2008, the last year in which the NRC made civil monetary penalty inflation adjustments as appropriate under the FCPIAA.

cc: EDO OPA OE OIP
OCFO OCAA SECY ASLBP

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¹ 28 U.S.C. § 2461, note, §§ 1-6.

² 42 U.S.C. § 2011 *et seq.*; 10 C.F.R. § 2.205.

³ 31 U.S.C. §§ 3801-3812; 10 C.F.R. § 13.3.

⁴ 73 Fed. Reg. 54,671 (Sept. 23, 2008).

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