

February 7, 2017

*** * * IMPORTANT NOTICE * * ***

Please read this notice carefully. It may substantially impact the fees you are assessed by the NRC. Please submit any comments on the proposed fee rule changes within the 30-day comment period.

TO: ALL 12 CFR PARTS 9, 30, 40, 50, 52, 61, 70, 71, 72, 73, 76 AND 110
LICENSEES, APPLICANTS, REACTOR VENDORS, AND OWNERS GROUPS

SUBJECT: PROPOSED REVISIONS TO 10 CFR PARTS 170 AND 171 ON LICENSE,
INSPECTION, SPECIAL PROJECT AND ANNUAL FEES FOR FISCAL YEAR
2017

The U.S. Nuclear Regulatory Commission (NRC) published a Notice of Proposed Rulemaking in the *Federal Register* for public comment on January 30, 2017 (82 FR 8696). The instructions for accessing the notice on the Internet are provided at the end of this notice.

The notice proposes revisions to the fee requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) part 170, "Fees for Facilities, Materials, Import and Export Licenses," and 10 CFR part 171, "Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses." The proposed revisions would implement the Omnibus Budget Reconciliation Act of 1990, as amended, which mandates that the NRC recover approximately 90 percent of its budget authority not including amounts appropriated for Waste Incidental to Reprocessing, Nuclear Waste Fund, Generic Homeland Security activities, Inspector General Services for the Defense Nuclear Facilities Safety Board, and advanced reactors research and development in Fiscal Year (FY) 2017.

The FY 2017 proposed fee rule is based on the FY 2017 Congressional Budget Justification, adjusted to reflect re-baselining reductions per Staff Requirements Memorandum-SECY-16-0009, in the amount of \$952.1 million, a decrease of \$50.0 million from the FY 2016 appropriation of \$1,002.1 million. For FY 2017, the NRC's required fee recovery amount is approximately \$834.0 million. After accounting for billing and collection adjustments, the total amount to be billed as fees is approximately \$833.4 million. The NRC estimates that approximately \$324.6 million will be billed for services assessed under 10 CFR Part 170, and \$508.8 million will be billed under 10 CFR Part 171 as annual fees.

The most significant proposed changes to 10 CFR 170 and 171 are:

10 CFR Part 170

Administrative Changes

- 1. Hourly Rate.** The NRC would establish a professional hourly rate of \$267 to recover the cost of activities. The increase in the FY 2017 hourly rate is due primarily to the decline in the number of mission direct full-time equivalent (FTE) compared to FY 2016. In FY 2017, the NRC is proposing to use 1,500 hours per direct, an increase of 60 hours from FY 2016, to calculate the hourly fees. The staff determined that this number better represents the increased productivity captured in NRC's time and labor system. The NRC's estimate of

direct hours per FTE is based on hours charged to mission direct activities. It excludes from the total available hours per FTE (2,080) time for paid leave (Federal holidays, annual leave, and sick leave) and time spent on training and administrative activities that do not directly support the NRC's programmatic mission (referred to as indirect hours). Because the intended purpose of the NRC's hourly rates is to estimate a cost per hour of mission direct time, it is appropriate to exclude indirect time from its estimate of hours per FTE. The NRC's new hourly rate is justified because it more accurately reflects the full cost of providing services under 10 CFR Part 170. The Office of Management and Budget (OMB) emphasizes that agency fees should reflect the full cost of providing services to identifiable beneficiaries, as stated in OMB Circular A-25, "User Charges." The proposed FY 2017 hourly rate is 0.8 percent higher than the FY 2016 hourly rate, which was offset by decreases in the budgetary resources and the rise in estimated annual hours per FTE (productive hours), inversely related.

2. **10 CFR Part 170 Flat Fees.** The NRC would revise the flat license application fees in 10 CFR 170.21 and 170.31 to reflect the new higher hourly rate for FY 2017.

10 CFR Part 171

Policy Change – None

Administrative Changes

1. **Revised Annual Fees.** The NRC would revise its annual fees in 10 CFR 171.15 and 171.16 using the rebaselined fee calculation method. This would result in decreased annual fees for most licensees compared to FY 2016. The FY 2017 rebaselined fees would decrease for operating reactors, spent fuel/reactor decommissioning, fuel facilities, and some materials users, and increase for research and test reactors, some materials users, DOE transportation activities, and for most uranium recovery licensees.
2. **Application of Fee Relief.** In FY 2017, the total budgeted resources for fee-relief activities are \$2.8 million less than the NRC's prescribed 10-percent fee relief. The NRC would distribute the \$2.8 million credit by decreasing all licensees' annual fees based on their percent of the budget.
3. **Small Entity Fees Change.** The NRC staff would amend the upper-tier small entity fee to \$4,100 and the lower-tier small entity fee to \$850 for FY 2017. The small entity fees are reviewed as part of the NRC's biennial review of fees. The next biennial review will be conducted for the FY 2019 fee rule. These fees would represent a 21-percent average percentage increase based on two prior biennial reviews of small entity fees. The staff believes these fees are reasonable and provide relief to small entities while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them. Licensees can determine if they meet the criteria for small entities by accessing "Fiscal Year 2017 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide," available in the NRC's Agencywide Documents Access and Management System at Accession No. ML16340A149, the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>, or the NRC Public Document Room (PDR) located at One White Flint North, Room O-1F22, 11555 Rockville Pike, Rockville, Maryland 20852.
4. **Fee Transformation.** As part of the "Project Aim 2020 Report and Recommendations" (ADAMS Accession No. ML15012A594), the NRC staff recommended that the OCFO undertake an effort to: (1) simplify how the NRC calculates its fees, (2) improve transparency, and (3) improve the timeliness of the NRC's communications about fee

changes. On August 15, 2016, the Chief Financial Officer submitted a Notation Vote, SECY-16-0097 (ADAMS Accession No. ML16194A365) to the Commission. This memorandum identified 14 process improvements in six categories that the staff would implement in FY 2017 and requested Commission approval to further analyze four improvements as policy issues. The Commission disapproved the policy issues with the exception of a voluntary pilot initiative to explore whether a flat fee structure could be established for routine licensing matters in the area of uranium recovery policy issues. The Commission also directed staff to accelerate the process improvements for future consideration including transition to an electronic billing system.

The comment period for the proposed rule expires 30 days after the publication date in the *Federal Register*. Please include Docket ID NRC-2016-0081 in the subject line of your comments. Comments submitted in writing or in electronic form will be made publicly available. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. You may submit comments by one of the following methods:

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID **NRC-2016-0081**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail Carol.Gallagher@nrc.gov.
- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677.
- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays.
- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

Also, please note that the NRC does not routinely mail the proposed or the final rule to licensees. However, the NRC will send a copy of the proposed or final rule to any licensee or other person upon specific request. To request a copy, contact the Division of Planning and Budget, License Fee Policy Team, Office of the Chief Financial Officer, on 301-415-5256 in addition to publication in the *Federal Register*, the rule will be available online in the NRC's Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Sincerely,

/RA/

L. Ben Ficks, Director
Division of Planning and Budget
Office of the Chief Financial Officer

