



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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68-111 1-1-79

Mrs. Lou Jean Findlay
Field Representative to Congressman
Gunn McKay
Federal Building - Room 1017
324 25th Street
Ogden, Utah 84401

Dear Mrs. Findlay:

I am pleased to respond to your inquiry of February 8, 1979, regarding a letter from Mr. Dennis H. Byington concerning the assessment of fees by the U.S. Nuclear Regulatory Commission for routine health and safety inspections.

The Commission's inspection program is based on the precept that nuclear quality requirements are mandatory and enforceable under Federal law. The inspection program is designed to provide reasonable assurance that licensees conduct programs involving the use of radioactive materials in a manner that adequately protects the health, safety, and security of the public and the environment in which they live.

The routine inspection program is structured so that certain elements of the licensee's authorized activities (involving personnel, procedures, operations, facilities, materials and equipment) are inspected at a prescribed frequency. The scheduling and frequency for inspection against the various requirements for each licensee depend upon the scope and complexity of the licensed program. Mr. Byington's letter refers to the \$980 inspection fee which the Commission assesses for licenses authorizing the use of radioisotopes in industrial radiography programs at temporary job sites of licensees anywhere in the United States where the Commission maintains licensing authority for the use of byproduct material. In the case of licenses issued to users of radioisotopes for industrial radiography programs, the program is normally inspected at a frequency of once per year. If the licensee is not inspected during this period, no fee is assessed. On the other hand, if the licensee's program is inspected more than once per year, the licensee would be required to pay for one inspection only (\$980).

The Commission assesses fees for applications, licenses, and inspections, pursuant to Title V of the Independent Offices Appropriations Act of 1952. Title V provides in pertinent part:

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It is the sense of Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, or issued by any Federal Agency to or for any person shall be self-sustaining to the full extent possible and...each Federal Agency is authorized by regulation...to prescribe therefor such fee, charge, or price, if any, as he shall determine...to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts....

On May 2, 1977, the Commission published a revised schedule of fees which proposed charges for special benefits rendered to identifiable recipients measured by the "value to the recipient" of the agency service. "Special benefits" include services rendered at the request of a recipient and, all services necessary to assist a recipient in complying with statutory obligations or obligations under the Commission's regulations. Where the identification of the ultimate beneficiaries of an NRC activity is obscure, the cost of the activity is not included in the cost basis for the fees. In developing the current schedule of fees, approximately 80 percent of the Commission's activities and their associated costs were excluded from fee computation.

Inspection fees take into account the manpower expended to actually conduct the on-site inspection, the inspector's time for review of the license and file in order to prepare for the inspection, and the time to prepare the inspection report. Enclosed is a copy of NUREG-0268 which shows how the fee for each category of Commission license was developed.

On January 12, 1978, after consideration of all comments received, the Commission adopted the revised schedule of license fees and published it in the Federal Register on February 21, 1978. The amended rule became effective March 23, 1978. A copy of the revised rule is enclosed.

In commenting on the proposed revised fee schedule, several persons suggested that fees be related to revenues earned by the licensee, or the number of employees, or the volume of the licensee's business. The Commission was unable to use these factors in developing the fee schedule because of the Court of Appeals decision that the value conferred standard means that there must be a reasonable connection between fees and the costs of rendering the service. Accordingly, fees based on revenues or volume of business would not conform to the Court's standard. We know, of course, that fees do have an impact on small businesses that use radioisotopes. Accordingly, in the development of the final rule

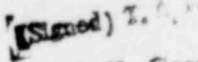
Mrs. Lou Jean Findlay

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and revised schedule every effort was made to develop an equitable schedule. We believe that the fees assessed by the Commission under its revised schedule are fair and equitable in accord with the guidance provided by Congress and the Courts.

If I can be of further assistance, please let me know.

Sincerely,


Lee V. Goodrich
Executive
for

Enclosures:

1. Incoming Letter
2. Notice
3. NUREG-0268

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Congress of the United States
House of Representatives
Washington, D.C. 20515

February 8, 1979

Office of Congressional Affairs
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

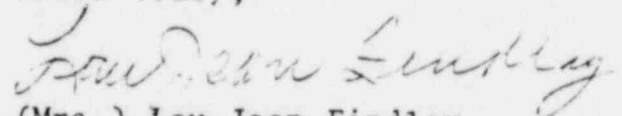
Gentlemen:

I am enclosing herewith, a copy of a letter from my constituent, Mr. Dennis Byington. who feels as though the an assessment of fees for routine health and safety inspections on licensees is excessive.

Would you be kind enough to check into the concerns of Mr. Byington, and respond back to me.

Thanks you.

Yours truly,



(Mrs.) Lou Jean Findlay
Field Representative to
Congressman Gunn McKay
Federal Building - Room 1017
324 25th Street
Ogden, Utah 84401

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I have been advised by friends and associates that the U. S. Nuclear Regulatory Commission has revised it's regulations to include assessment of fees for routine health and safety inspections of all licensees. This has imposed a severe hardship on small companies utilizing radioactive materials for radiography operations, a service that is vital to our community and the nation as a whole.

As I understand it, the fee for the annual health and safety inspection is \$980.00. Most of the licensees in our area are small companies employing less than ten people and utilizing only three or four radioactive sources in their entire operation. An inspection of a company this size takes only about three or four hours to perform.

I am not opposed to health and safety inspections. I feel that where potentially hazzardous materials are being used, some sort of policing action is necessary. However, in times like these when all of us are being asked to keep the lid on inflation, I fail to understand how the Commission can justify imposing such an unreasonable fee on small companies struggling for their very existance.

I hope that you will take this matter into immediate consideration and arrive at a fair and equitable solution to the problem.

Sincerely,

Dennis H. Byington

Dennis H. Byington,
Concerned Citizen

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

February 28, 1978

I M P O R T A N T

THIS NOTICE RELATES TO A REVISED LICENSE FEE
SCHEDULE FOR NRC FACILITY AND MATERIALS LICENSES

On May 2, 1977, the U.S. Nuclear Regulatory Commission published in the Federal Register for public comment a Notice of Proposed Rule Making which would amend its schedule of fees for facilities and materials applications and licenses.

After consideration of comments received, the Commission has adopted a revised schedule of fees as set forth in the enclosed amendment to 10 CFR Part 170. The revised schedule was published in the Federal Register on February 21, 1978, and will become effective March 23, 1978. The revised rule would establish for the first time fees for (1) requests filed by vendors and architect-engineers for standardized design approvals; (2) license amendments and renewals; (3) routine safety and safeguards inspections; (4) special projects and reviews (examples include, but are not limited to, topical reports, waste solidification facilities, fuel reprocessing facilities, and amendment or renewal of standardized reference design approvals); (5) requests for approval of spent fuel casks and shipping containers; and (6) requests for approval of sealed sources and devices containing or utilizing byproduct material, source material, or special nuclear material.

Based on comments, the final rule differs significantly in several respects from the May 2, 1977 proposed rule. A summary statement of each change may be found in the enclosure beginning on page 7216 (items 1 through 25).

We wish to draw your attention to the amended Section 170.12, which specifies requirements for payment of fees. It should be noted that where a fee is required to accompany an application, no application will be accepted for filing or processed prior to payment of the fee.

It should be noted that in cases where no fees are presently being charged, i.e., prior to March 23, 1978, the Commission will exempt from fees applications which are found to be complete and acceptable provided they were filed prior to the effective date of the amended rule. This exemption covers applications or requests filed prior to March 23, 1978, for (1) approval of nuclear steam supply systems and balance of plant

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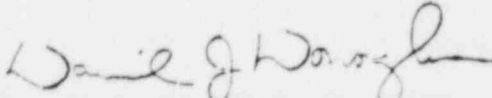
reference designs, (2) special projects, (3) evaluation of casks, packages, and containers used in transportation of radioactive material, (4) approval of standardized spent fuel facility designs, and (5) license amendments and renewals. Inspections which begin prior to March 23, 1978 will also be exempt from inspection fees.

In the case of Part 50 construction permits, manufacturing licenses, and operating licenses, where the permit or license review is completed on or after March 23, 1978, the revised schedule of fees will apply.

No additional license fees will be imposed for applications for Part 30, 40 or 70 licenses where the application was filed prior to March 23, 1978, and the prescribed fee was paid under the present schedule.

Questions regarding the revised license fee schedule should be submitted in writing to:

License Fee Management Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555


Daniel J. Donoghue, Director
Office of Administration

Enclosure:
Notice of Rule Making

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**U. S. NUCLEAR REGULATORY COMMISSION
DETERMINATION OF PROPOSED LICENSE FEES
FOR FISCAL YEAR 1977**

**References Federal Register
No. 42 FR 22149**

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**Office of Administration
U. S. Nuclear Regulatory Commission**