PDR

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

OCT 10 1980

The Honorable Dick Cheney
United States House of Representatives
Washington, DC 20515

Dear Congressman Cheney:

I am pleased to respond to your inquiry of September 23, 1980, regarding a letter from Dr. Thomas V. Toft, Pathologist at Clinical Laboratories Cheyenne in Cheyenne, Wyoming, concerning the assessment of a fee for an inspection performed by a representative of the U.S. Nuclear Regulatory Commission.

The Commission assesses fees for the review of permits, licenses and routine health, safety and safeguards inspections pursuant to Title V of the Independent Offices Appropriation Act of 1952 (IOAA). Title V provides in pertinent part:

> 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....

The fee in question is designed to cover the Commission's cost of performing a routine inspection of a private practioner's use of radioactive material in a medical program. The inspection program is based on the precept that nuclear quality requirements are mandatory and enforceable under Federal law. Dr. Toft's radioisotope program is one of more than 8,000 Commission licensed programs that are inspected on a continuing basis. The purpose of the inspection is to provide reasonable assurance that licensees conduct activities involving the use of radioactive materials in a manner that adequately protects the health, safety, and security of the public.

The routine inspection 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 depends upon the scope and complexity of the licensed program. In the case of licenses issued to private practitioners authorizing the use of radioisotopes in humans, the program is normally inspected at a frequency of once every three years, for which a one-time fee of $330 is assessed upon completion

of the first inspection conducted within each three-year period. If the licensee is inspected more than once during a three-year period, the Commission would assess a fee for one inspection only during the period.

Enclosed is a copy of NUREG-0268 which shows how the fee for each category of Commission license was developed. The fees are designed to cover the Commission's costs of reviewing applications, requests, or performing routine inspections of a licensee's program. In determining the cost of performing an inspection, the Commission took into account the manpower expended, on the average, to conduct the on-site inspection, the inspector's time for review of the license and supporting data to prepare for the inspection, and the time to prepare the inspection report.

We believe that the charges assessed by the Commission under its schedule of fees in order to cover its costs are fair and equitable and are in accord with the guidance provided by Congress and judicial interpretations of the IOAA.

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

Sincerely,

(Signed) T. A. Rehm

for William J. Dircks
Executive Director
for Operations

Enclosures:
1. Revised Rule (10 CFR 170)
2. NUREG-0268