



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

February 10, 1994

Syed Mahmood Ali Khan, M.D.
1777 Axtell Road
Suite 104
Troy, Michigan 48084

Dear Dr. Khan:

I am responding to your letters of June 23 and August 17, 1993, in which you seek relief from payment of the annual fees for FY 1991 (AM05663-91), FY 1992 (AM04747-92) and FY 1993 (AM05025-93) for License No. 21-24362-01. I am also responding to your September 27, 1993, letter which submitted small entity certifications and requested an installment plan for the FY 1991 and FY 1992 annual fees, and your December 20, 1993, follow-up letter.

For FY 1991, the final rule revising 10 CFR 170 and 10 CFR 171 provided an opportunity for licensees who wished to relinquish their licenses, and who were capable of permanently ceasing licensed operations by September 30, 1991, to avoid the FY 1991 annual fee if the licensee notified the Commission in writing within the 30-day period prior to the effective date of the rule (56 FR 31475 and 31485; July 10, 1991). As stated in the Federal Register notice and the notice which was mailed with the invoice, the effective date of the rule was August 9, 1991.

For FY 1992, due to the number of termination requests filed and not processed, the Commission extended the filing deadline period from October 1, 1991, to December 31, 1991, for purposes of filing a request for termination to avoid the FY 1992 annual fee.

For FY 1993, Footnote 1 of 10 CFR 171.16 provides that the annual fee is waived where a license is terminated prior to October 1 of each fiscal year. The NRC has exempted from the FY 1993 annual fee those licensees, and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage only licenses prior to October 1, 1992, and were capable of permanently ceasing licensed activities entirely by September 30, 1992. An amendment request filed after October 1 of each fiscal year to cancel a license does not cancel the annual fee invoice. In addition, 10 CFR 171.17 provides that licenses revoked, suspended, or for which the licensee has requested an amendment to permanently withdraw operating authority during the fiscal year will not result in any refund of the annual fee or any portion thereof.

The bases for your requests are: 1) you never had a nuclear medicine laboratory in your office on West Big River Road which was completely destroyed by fire in November 1990; 2) you also never had a nuclear medicine laboratory in your new office on Axtell Road since you moved in December 1990; and 3) if applicable laws allow you to maintain a license without maintaining a nuclear medicine laboratory, you would be willing to pay the minimum required license fee and no more. The NRC does not issue licenses for

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credential purposes. If you do not have a facility for conducting nuclear medicine activities, and do not intend to have one in the near future, the NRC cannot issue a license to you authorizing such use.

Annual fees are assessed based on whether a licensee holds a valid NRC license that authorizes possession and use of radioactive material. Whether or not a licensee is actually conducting operations using the material is a matter of licensee discretion. Your License No. 21-24362-01 was active until December 24, 1992, when it was revoked based on the November 25, 1992, Order Revoking License which was issued due to your failure to pay the FY 1991 annual fee. Since the license was valid through December 24, 1992, you were assessed annual fees for FY 1992 and FY 1993 in accordance with the current regulations in 10 CFR Part 171.

Based on the above, I find no unique circumstances to warrant granting an exemption from the annual fees for FY 1991 and FY 1992. However, since the Commission did not issue the Order Revoking License until November 24, 1992, more than one year after the FY 1991 fee became delinquent, the FY 1993 annual fee is waived, and Invoice No. AM05025-93 is being cancelled. The FY 1991 and FY 1992 annual fees (Invoices AM05663-91 and AM04747-92) remain due and payable. Since you failed to pay the FY 1991 and FY 1992 annual fees, the delinquent debts were referred to our debt collection contractor, PAYCO-General American Credits, Inc. (PAYCO). By contract, PAYCO is required to receive payment for those invoices plus their applicable collection fee of 15.1%. We acknowledge receipt of your completed small entity certifications, NRC Forms 526, and have advised PAYCO that the amounts due for FY 1991 and FY 1992 should be reduced accordingly. Your September 27, 1993, and December 20, 1993, requests for an installment plan have been forwarded to PAYCO. They will be contacting you concerning your request for an installment plan and to advise you of the amounts currently due.

Since License 21-24362-01 was revoked, it cannot be terminated as requested in your September 27, 1993, letter. If you need further information, please contact Ms. Leah Tremper on (301) 492-8741.

Sincerely, Original signed by
 James M. Taylor
 James M. Taylor
 Executive Director
 for Operations

cc w/inc.
 PAYCO-General American Credits, Inc.
 5626 Frantz Road
 Dublin, OH 43017

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DISTRIBUTION:

10 CFR 171 Exemption File FY 1991 and FY 1992 (w/orig. inc.)	JHolloway
License File 21-24362-01	EDO GFehst
Material Annual Fee Correspondence File	OC-93-414 LF-92-1199
Invoice File AM05663-91; AM04747-92; AM05025-93	DAF R/F LF-92-906
NUDOCS (ML61) PDR GJackson	DDandois LF-92-708
EBlack DWeiss LNaval	LTremper LFDCB R/F (2)

OFFICE:	LFDCB	LFDCB	LFDCB	LFDCB	DAF	DAF
NAME:	GJackson	DWeiss	LTremper	DDandois	EBlack	LHoller
DATE:	2/4/94	2/4/94	2/4/94	2/4/94	2/4/94	2/4/94
OFFICE:	OC	OC	OC	NMSS	OGC	EDO
NAME:	JHolloway	JFunches	RScroggins	JGlenn	T Rothschild	JM Taylor
DATE:	2/11/94	2/16/94	1/17/94	1/19/94	1/12/94	2/18/94