



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555-0001

January 25, 1994

CFO

30-32723

The Honorable John Glenn
United States Senate
Washington, DC 20510-3501

Dear Senator Glenn:

I am responding to your letter of December 17, 1993, written on behalf of your constituent, Mr. Martin H. Gold, regarding NRC's fee structure for nuclear devices used by the Columbus BreastCare Center, Inc.

As you noted, the Omnibus Budget Reconciliation Act of 1990 (OBRA-90) requires that the Commission recover 100 percent of its budget authority, less appropriations from the Department of Energy (DOE) administered Nuclear Waste Fund, for Fiscal Years 1991 through 1998 by assessing license and annual fees. To recover the budget, the NRC assesses licensing and inspection fees under 10 CFR Part 170 and annual fees under 10 CFR Part 171. Fees assessed under 10 CFR Part 170 include license application fees, amendment fees, renewal fees, and inspection fees. Columbus BreastCare was assessed these types of fees for its application for a license and the NRC inspections. Annual fees are to recover NRC's generic and other costs that are not recovered as identifiable services to specific licensees and applicants under 10 CFR Part 170. The annual fees allocate the generic costs that are attributable to a given class of licensee to that class. Columbus BreastCare was assessed an annual fee in FY 1993 to recover the generic costs for regulating medical licensees.

The NRC has reduced the impact of fees on licensees by establishing maximum annual fees for small entities. For licensees with gross receipts between \$250,000 and \$3,500,000, a maximum annual fee of \$1,800 has been established. A lower-tier small entity fee of \$400 has been established for small businesses and non-profit organizations with gross annual receipts of less than \$250,000 and for small governmental jurisdictions with populations of less than 20,000. The Commission recognizes that this fee structure does not eliminate all economic impacts, but strikes a balance between the requirements of the Public Law to collect 100 percent of the budget and the Regulatory Flexibility Act to consider the impact of small entities.

The following is a discussion of the specific fees assessed. Columbus BreastCare Center, Inc. applied for a new license under fee Category 7C and submitted an application fee of \$1,000 in March 1992. The actual new application fee was \$710 and they were issued a \$290 refund. The FY 1993 annual fee for the license issued to them was \$5,220. However, they certified they were a small business and paid a reduced fee of only \$1,800. During the period June 23, 1992, through July 23, 1992, they were inspected and appropriately billed \$1,000 for the inspection. Multiple safety violations were noted during this inspection. The licensed facility was subsequently inspected again on October 22, 1993. The latest inspection is subject to the revised FY 1993 fee schedule and the bill will be issued in the near future for \$2,100.

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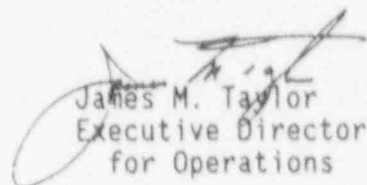
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The FY 1993 10 CFR Part 170 fees for inspections are higher than prior year's fees. The increases for FY 1993 resulted primarily from the requirement of the Chief Financial Officers Act to conduct a biennial review of fees and other charges to ensure that the fees and charges reflect the cost of the services. The NRC biennial review indicated that the NRC needed to modify the average number of hours on which the current licensing and inspection flat fees are based in order to recover the cost of providing the licensing and inspection services. During the past years, the NRC's inspection program has changed significantly. In some program areas, for example, NRC management guidance has emphasized that inspections be more thorough and in-depth so as to improve health and safety. The amount of the inspection fee is based on the average cost of conducting inspections of licensed activities for licenses in fee Category 7C. The cost of the inspection includes time spent in preparing for the inspection, the on-site inspection time, and documenting the inspection results.

The NRC understands your concern and is sensitive to the increase in the fees. Every effort is made by the NRC to ensure that the budget that must be recovered in accordance with the requirements of OBRA-90 is the minimum needed to provide adequate protection of the public health and safety, the NRC mission. We realize, of course, that fees do have a financial impact on NRC licensees, particularly on smaller programs. Accordingly, in developing the Commission's fee schedules, every effort is made to establish fees that are fair and equitable.

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

Sincerely,


James M. Taylor
Executive Director
for Operations