



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

April 8, 1994

Fairway Laboratories, Inc.
ATTN: Michael P. Tyler, President
2900 Fairway Drive
P.O. Box 1925
Altoona, Pennsylvania 16603

Gentlemen:

I am responding to your letter of January 12, 1994, requesting an exemption from the FY 1993 annual fee assessed for License No. 37-17542-01 (AM02470-93).

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.

The bases for your request are: (1) on August 31, 1993, you purchased Fairway Laboratories, Inc. from Mr. Gene W. Critzer; (2) Mr. Critzer indicated that in June 1993 he completed the required forms to properly dispose of the electron capture detector to avoid subsequent fees; (3) NRC subsequently terminated the license; (4) you later received the FY 1993 annual fee Invoice AM02470-93, for \$2,165.08; (5) being a small company of 6 employees making less than \$350,000, you would like to be considered for the \$400 rate or an exemption from the fee; (6) Fairway paid approximately \$4,000 in license fees in the past two years despite doing less than that in actual business with the instrument.

Based on the information provided, the Commission concludes: (1) that Fairway Laboratories, Inc. had a valid license in FY 1993 (October 1, 1992-September 30, 1993); (2) that the licensed unit was used as late as March 3, 1993; and (3) that Fairway Laboratories Inc. was still liable for the FY 1993 annual fee regardless of the sale of the company on August 31, 1993, from Mr. Critzer to you. Accordingly, Invoice AM02470-93 is due and payable. The amount due through April 8, 1994, including interest, penalty, and administrative charges, is \$2,333.40. However, due to the delay in finalizing our response, I will waive interest, penalty and administrative charges if payment of the invoiced amount of \$2,120 is received within 30 days of the date of this letter.

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Fairway Laboratories, Inc.

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Unfortunately, it does not appear from the information you provided that Fairway would qualify for the lower tier small entity fee of \$400 but may qualify for the \$1,800 reduced fee. If you determine you qualify as a small entity under NRC's size standards and so certify by completing and returning the enclosed NRC Form 526, the fee would be reduced accordingly.

If payment in one lump sum would create a financial hardship, an installment payment plan can be arranged (including interest and administrative charges). Please contact Leah Tremper at (301) 492-8741 if you wish to discuss an installment payment plan.

Sincerely

Original signed by
James M. Taylor

James M. Taylor
Executive Director
for Operations

Enclosure:
as stated

DISTRIBUTION:

- 10 CFR 171 Exemption File (w/orig. inc.)
- License File 37-17542-01 w/cy of back-up
- Materials Annual Fee Correspondence File
- Invoice File AM02470-93 w/cy of back-up
- NUDOCS (ML61) w/copy inc.
- PDR
- JHolloway, OC (w/copy inc.)
- EBlack, DAF
- DDandois, LFDCB
- GJackson, LFDCB
- DWeiss, LFDCB
- LTremper, LFDCB (2)
- GFehst, OGC
- EDO
- LFDCB R/F (2)
- DAF R/F
- OC-93-506
- LF-92-625

OFFICE: LFDCB	LFDCB	LFDCB	LFDCB	DAF
NAME: DDandois	GJackson	DWeiss	LTremper	EBlack
DATE: 3/20/94	3/16/94	3/28/94	3/26/94	3/28/94
OFFICE: DAF	OC	OC	OC	OGC <i>mk for TDR</i>
NAME: LHiller	CJHolloway	JFunches	RScraggins	EDD
DATE: 3/28/94	3/29/94	4/4/94	4/1/94	TRothschild JTaylor
				3/30/94

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