

*Issue -
Any comments
on attached
DRAFT Public
Announcement
J*

*AE49-2
PDR*

NOTE FOR JIM HOLLOWAY, OC

Attached, as you requested, is a draft public announcement of the final revisions to Parts 170 and 171 for fiscal year 1993. As usual, let me have your comments and/or at your earliest convenience.

Frank Ingram - OPA
7/2/93 504-2240

NRC REVISES FEE SCHEDULES; RESPONDS TO COURT DECISION

The Nuclear Regulatory Commission is revising its licensing, inspection and annual fees to recover approximately 100 percent of its fiscal year 1993 budget and, at the same time, is responding to a March 16 ruling by the U.S. Court of Appeals for the District of Columbia circuit remanding issues related to the fiscal year 1991 fee schedule.

The revisions implement requirements of the Omnibus Budget Reconciliation Act of 1990 which require the Commission to recover approximately 100 percent of its budget authority, less appropriations from the Nuclear Waste Fund, for fiscal years 1991 through 1995 by assessing license and annual fees. The amount to be recovered in fiscal year 1993 is \$540 million, less approximately \$21.1 million appropriated from the Nuclear Waste Fund.

In its March 16 decision, the Court of Appeals remanded to the Commission, for further consideration, its decision to exempt nonprofit educational institutions from the fee schedule on the grounds, in part, that they are unable to pass through the costs of the fees to their customers.

The Court also remanded the Commission's earlier decision to allocate the generic costs associated with low-level radioactive management activities by groups of licensees rather than by individual licensees.

In response, the Commission is, retroactive to fiscal year 1991, revoking the ^{generic} exemption from annual fees for nonprofit

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educational institutions and is changing the method of allocating the budgeted cost for low-level radioactive ^{waste} management activities. under the revised method, ^Δ

~~In addition,~~ the Commission is dividing all licensees into two classes--those which generate large amounts of low-level radioactive wastes (power reactors and large fuel cycle facilities) and those which generate smaller amounts of low-level radioactive wastes (all other licensees generating low-level radioactive wastes). For licensees in the large generator group, the fiscal year 1993 fee will be \$61,100 and the retroactive fees for fiscal years 1992 and 1991, respectively, will be ^{61,700} ~~\$60,200~~ and ^{62,300} ~~\$60,800~~. The equivalent fees for licensees in the small generator group will be \$1,100 for fiscal year 1993 and ^{1,000} ~~\$1,600~~ for fiscal year 1992 and ^{\$970} ~~\$1,400~~ for fiscal year 1991.

Since the NRC's fiscal year 1993 budget has increased compared to fiscal years 1991 and 1992, the fees for most licensees represent increases over previous years. The revised fees include an increase in the amount of annual fees assessed licensees operating nuclear power plants from about \$3.1 million to about \$3.2 million. For some fee categories, the revised fees also increase because there are now fewer licensees from whom to recover relatively fixed generic costs.

Inson 7P on p. 1
~~to reflect the new budget authority for FY 1993,~~
skt In addition, the revisions include:

-- an increase in the agency-wide professional hourly rate, which is used to determine Part 170 licensing and inspection fees, from \$123 to \$132 per hour;

*Changes to the 1993 annual fees
to reflect the new budget authority*

-- a change in the flat license and inspection fees to reflect the most recent average number of professional staff hours per licensing action or inspection;

~~establishment of a single inspection fee instead of different fees for routine and nonroutine inspections;~~

-- ^{the} ~~exempt~~ ¹⁰¹ from fiscal year 1993 annual fees those licensees and holders of certificates, registration and approvals who either filed for termination of their license or approval, or for a possession only/storage license before October 1, 1992, and were capable of permanently ceasing licensed activities before October 1, 1992; and

-- continuation of a maximum annual fee of \$1,800 per licensed category for those licensees who qualify as a small entity under the NRC's size standards and a ~~lower tier small~~ *lower tier small* entity fee for licensees ~~with what would be~~ *with what would be* certain gross receipts or population. The final amendments to Parts 170 and 171 of the Commission's regulations will become effective on (date).

*Changes,
Singer*

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in
P.1 (Contd.)*

The Commission has concluded that by
eliminating the exemption for nonprofit educational
institutions and by reducing the low-level
waste surcharge ^{for FY 1991 and FY 1992}, refunds are appropriate
for payment of the annual fees paid by operating
power reactors and large and small waste
generators. The NRC, upon request, will ^{make} refunds
~~payments~~ to these licensees, ~~based on~~