



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

January 27, 1997

Appalachian Geophysical Surveys  
ATTN: Craig B. Clemmens, Managing Partner,  
Radiation Safety Officer  
276 PA Route 366-Mamont  
Apollo, PA 15613

Dear Mr. Clemmens:

I am responding to your December 30, 1996, letter and January 9, 1996 (sic), letter, which is postmarked January 14, 1997, concerning annual fees assessed for your License 37-19798-01.

In your first letter you indicate you paid your annual fee and enclosed a copy of your cancelled Check No. 3558 for \$400 and Certification of Small Entity Status for FY 1996 which you submitted for Invoice No. AM0200-96. You also enclosed the final notice dated December 20, 1996, for the FY 1997 annual fee Invoice AM0152-97. You stated that you surmised we incorrectly credited this fee and requested we correct our records.

In your second letter you referred to a recent telephone conversation in which NRC staff explained that Invoice AM0152-97 is for fiscal year (FY) 1997 whereas Invoice No. AM0200-96 is for FY 1996; however you expressed your dissatisfaction with our methodology of assessing annual fees--specifically with regard to the conversion from issuing all annual fee invoices at once, upon issuance of the final fee rule, to issuing them monthly based on the anniversary date of the license.

Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), enacted November 5, 1990, requires that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the Department of Energy (DOE) administered NWF, for FYs 1991 through 1995 by assessing fees. OBRA-90 was amended in 1993 to extend the NRC's 100 percent fee recovery requirement through FY 1998.

On January 30, 1996, the NRC published in the *Federal Register* (61 FR 2948) for public comment a proposed rule to establish the licensing, inspection, and annual fees necessary for the NRC to recover approximately 100 percent of its budget authority for FY 1996, less the appropriation received from the Nuclear Waste Fund. Several changes were proposed by the NRC to the fees to be assessed for FY 1996. These changes were highlighted in the proposed rule, and in the January 29, 1996, notice enclosing the proposed rule which was mailed to all NRC licensees. The major proposed changes to 10 CFR Part 171 (annual fees) were summarized in the notice to licensees as follows:

1. Stabilize 10 CFR Part 171 annual fees by adjusting all annual fees downward by about 6 percent. This change is consistent with the NRC's intention, stated in the FY 1995 final rule, that annual fees would be stabilized, beginning in FY 1996, by adjusting the FY 1995 annual fees by the percent change (plus or minus) in the NRC budget authority taking into consideration the estimated collections from 10 CFR Part 170 fees and the number of licensees paying fees;

2. Assess 10 CFR Part 171 annual fees of less than \$100,000 to materials licensees on the anniversary date of the license. This change continues the streamlining of fees and allows the NRC to make the billing process more efficient by distributing the billing and collection of annual fees over the entire year. The current practice is to bill over 6,000 materials licensees at the same time during the fiscal year;
3. Eliminate the materials "flat" renewal fees in 10 CFR 170.31 and include the costs of the renewals in the annual fees in 10 CFR 171.16(d) for the affected licensees. This change continues the simplification of fees initiated in FY 1995 and is consistent with NRC's recent Business Process Reengineering initiatives to extend the duration of certain materials licenses (61 FR 1109; January 16, 1996).

Commenters supported the NRC's proposal to invoice materials annual fees of less than \$100,000 on the anniversary date of the license. Commenters stated that, while helping to assist NRC in its billing efforts, it will also provide some relief to entities who have several licenses. They also stated that the proposed system will allow these licensees to distribute their cash outlays over a longer period of time easing the financial stresses caused by a single payment period.

Consistent with the comments, the change to the billing methodology was incorporated in the final rule, which was published in the *Federal Register* on April 12, 1996 (61 FR 16203). A copy of the April 11, 1996, notice of the final rule which was mailed to all NRC licensees is enclosed for your convenience. A new paragraph, S171.19(d), was added to read as follows:

For FYs 1996 through 1998, annual fees of less than \$100,000 must be paid as billed by the NRC. Beginning in FY 1996, materials license annual fees that are less than \$100,000 will be billed on the anniversary of the license. The materials licensees that would be billed on the anniversary date of the license are those covered by fee categories 1.C. and 1.D.; 2.A.(2) through 2.C.; 3.A. through 3.P.; 4.B. through 9.D.; and 10.B. For annual fee purposes, the anniversary date of the license is considered to be the first day of the month in which the original license was issued by the NRC. During the transition year of FY 1996, licensees with license anniversary dates falling between October 1 and the effective date of the FY 1996 final rule would receive an annual fee bill payable on the effective date of the final rule, and licensees with license anniversary dates that fall on or after the effective date of the final rule would be billed on the anniversary of their license. Starting with the effective date of the FY 1996 final rule, licensees that are billed on the license anniversary date would be assessed the annual fee in effect on the anniversary date of the license.

In the final rule, Section III, Final Action, (refer to pages 25 and 26 of the enclosed notice), the NRC further explained the change and its effect as follows:

Billing most materials licenses on the anniversary date of the license will allow the NRC to improve the efficiency of its billing process; under this final rule an average of approximately 500 annual fee invoices will be sent to materials licensees each month. The current practice of billing over 6,000 materials licensees simultaneously each fiscal year is eliminated. For annual fee purposes, the anniversary date of the materials license is considered to be the first day of the month in which the original materials license was issued. For example, if the original materials license was issued on June 17 then, for annual fee purposes, the anniversary date of the materials license is June 1 and the licensee will be billed in June of each fiscal year for the annual fee in effect on June 1. This final change to the billing system means that during the transition period of FY 1996 affected materials licensees with an anniversary date falling between October 1, 1995, and the effective date of the FY 1996 fee rule will receive a bill payable on the effective date of the FY 1996 final rule. Affected materials licensees with license anniversary dates falling on or after the effective date of the FY 1996 final rule will be billed during their anniversary month of their license. Under this final rule, some materials licensees will unavoidably receive two annual fee bills during the 12 month transition period. For example, a materials licensee who paid its FY 1996 annual fee bill in May 1996, the planned effective date of the FY 1996 fee rule, will receive a bill six months later in November 1996 (FY 1997) if November is the anniversary month of that materials license. In this example, the licensee will pay the same annual fee in FY 1997 (November) as he paid in FY 1996 (May). Materials licensees will continue to pay fees at the FY 1996 rate in FY 1997 until such time as the FY 1997 final fee rule becomes effective. Each bill would be for a different fiscal year, therefore, no double billing would occur.

The NRC believes that the efficiencies gained by billing certain materials annual fees throughout the year as well as having materials licensees know exactly when they will be billed each year for the annual fee outweigh the inconveniences that may be caused during the transition period.

In accordance with the final rule, for FY 1996 those affected materials licensees with a license anniversary date between October and June were billed June 11, 1996, the effective date of the final FY 1996 fee rule, and those whose license anniversary date was on or after the effective date of the final FY 1996 fee rule were billed during the anniversary month of the license. For FY 1997, all affected materials licensees have been or will be billed during the anniversary month of the license, based on the annual fee in effect at the time of billing. Under the current fee regulation, this method will be

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used each fiscal year; accordingly, the future annual fees for License 37-19798-01 will be assessed during October, the anniversary month.

Based on the final rule and the October anniversary date of License 37-19798-01, you were billed for the FY 1996 annual fee (AM0200-96) on June 11, 1996, and for the FY 1997 annual fee (AM0152-97) on October 19, 1996. You filed a Certification of Small Entity Status for FY 1996 and paid a reduced small entity fee of \$400 for Invoice No. AM0200-96 on July 3, 1996. Based on your January 14, 1997, Certification of Small Entity Status for FY 1997, which we received and processed on January 22, 1997, the FY 1997 annual fee (AM0152-97) was also reduced to \$400. Your \$400 payment for Invoice AM0152-97 was received from you by our lockbox bank on January 17, 1997, and the invoice is paid in full. Under the current regulations, the FY 1998 annual fee will be assessed in October 1998.

I am enclosing an additional copy of the Materials Annual Fee Handbook, which was enclosed with the FY 1997 annual fee invoice, for your reference. If you have any further questions about our fee policy, please contact me at 301-415-6057.

Sincerely,

~~Signed by~~

Glenda C. Jackson, Chief  
License Fee Section  
License Fee and Accounts Receivable Branch  
Division of Accounting and Finance  
Office of the Controller

Enclosure: April 11, 1996, Notice  
Materials Annual Fee Handbook

Distribution:

D. Dandois, OC/DAF  
G. Jackson, OC/DAF  
License File 37-19798-01  
Invoice Files AM0200-96; AM0152-97  
OC/DAF/LFARB RF  
OC/DAF RF (DAF-7-016) ML61  
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