



CHIEF FINANCIAL
OFFICER

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

July 28, 2021

Mr. J. Paul Bastian, P.E.
Xcell Engineering, LLC
260 Laurel Lane
Chubbuck, ID 83202

Dear Mr. Bastian:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter, which was dated June 14, 2021 (Agencywide Documents Access and Management System Accession No. ML21168A013). In the letter, you suggested that there is an inherent unfairness in the NRC's fee policy for small entities and it would be better if the NRC's fees were based on the number of gauges rather than the gross income of the company.

The Nuclear Energy Innovation and Modernization Act (NEIMA) requires the NRC to recover, to the maximum extent practicable through the assessment and collection of service fees and annual fees, approximately 100 percent of the NRC's total budget authority for the fiscal year minus the budget authority for certain excluded activities. NEIMA requires the NRC to establish an annual fee schedule that fairly and equitably allocates annual fees among licensees and certificate holders. Annual fees are assessed to materials licensees based on the license authorization, not the licensee's actual use of licensed material.

The NRC small entity size standards were developed to provide small licensees with a fair and equitable reduction of annual fees based upon the gross revenue for companies providing services such as your company provides. These standards were developed by engaging in dialogue with licensees through surveys, analyzing survey results, publishing proposed rules for public comment, and addressing comments received. The NRC followed Federal requirements and received approval of the NRC small entity size standards from the Small Business Administration (SBA) to apply standards that were specific to the varied industries that make up nuclear materials licensees. Because the number of gauges a licensee possesses does not correspond to the amount of gross revenue earned, small entity size standards based on gross revenue provide a fair and equitable reduction of annual fees for certain small licensees, while being consistent with statutory requirements.

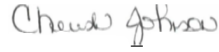
Periodically, NRC reviews its size standards in comparison to SBA and updates them through appropriate rulemaking. The agency is currently in the process of updating its small entity size standards, which are used to qualify an NRC licensee as a "small entity" for the purpose of reduced annual fees. This process included a recent survey of licensees as an opportunity to participate in that update. A proposed rule was published in the Federal Register (86 Fed. Reg. 39,980 (July 26, 2021)) and provides the public an opportunity to comment on the proposed rule that resulted from this process.

J. Bastian

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Please contact Mr. William Blaney, of my staff at (301) 415-5092 for any fee related questions.

Sincerely,

A handwritten signature in cursive script that reads "Cherish K. Johnson".

Signed by Johnson, Cherish
on 07/28/21

Cherish K. Johnson
Chief Financial Officer

SUBJECT: RESPONSE LETTER TO J. PAUL BASTIAN, XCELL ENGINEERING, LLC,
 REGARDING THE FEE POLICY FOR SMALL ENTITIES,
 DATED: July 28, 2021

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