



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

February 23, 2022

Ms. Kristine Arboleda
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Ms. Arboleda:

On February 23, 2022, the U.S. Nuclear Regulatory Commission (NRC) published the fiscal year (FY) 2022 proposed fee rule in the *Federal Register* for public comment (87 FR 10081; February 23, 2022), which is enclosed. The FY 2022 proposed rule proposes revisions to the fee requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 170, "Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended" and 10 CFR Part 171, "Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC." These proposed amendments are necessary to implement the Nuclear Energy Innovation and Modernization Act (NEIMA).

Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its total budget authority for the fiscal year, less the budget authority for excluded activities through fees. Under Section 102(b)(1)(B) of NEIMA, "excluded activities" include any fee-relief activity as identified by the Commission, generic homeland security activities, waste incidental to reprocessing activities, Nuclear Waste Fund activities, advanced reactor regulatory infrastructure activities, Inspector General services for the Defense Nuclear Facilities Safety Board, research and development at universities in areas relevant to the NRC's mission, and a nuclear science and engineering grant program. In FY 2022, the fee-relief activities identified by the Commission are consistent with prior final fee rules and include Agreement State oversight, regulatory support to Agreement States, medical isotope production infrastructure, fee exemptions for non-profit educational institutions, costs not recovered from small entities under 10 CFR 171.16(c), generic decommissioning/reclamation activities, the NRC's uranium recovery program and unregistered general licenses, potential U.S. Department of Defense Program Memorandum of Understanding activities (Military Radium-226), and non-military radium sites. In addition, the resources for import and export licensing activities are identified as a fee-relief activity to be excluded from the fee recovery requirement.

The FY 2022 proposed fee rule is based on the FY 2022 budget request as further described in the NRC's FY 2022 Congressional Budget Justification (NUREG-1100, Volume 37, (Agencywide Documents Access and Management System Accession No. ML21181A336) because a full-year appropriation has not yet been enacted for FY 2022. The amount used for total budget authority in this proposed rule is \$887.7 million, an increase of \$43.3 million when compared to FY 2021. As explained previously, certain portions of the NRC's total budget authority for the fiscal year are excluded from NEIMA's fee-recovery requirement under Section 102(b)(1)(B) of NEIMA. Based on the FY 2022 budget request, these exclusions total \$131.0 million, an increase of \$8.0 million when compared to FY 2021. These excluded

activities consist of \$91.5 million for fee-relief activities, \$23.1 million for advanced reactor regulatory infrastructure activities, \$14.3 million for generic homeland security activities, \$1.0 million for waste incidental to reprocessing activities, and \$1.1 million for Inspector General services for the Defense Nuclear Facilities Safety Board. By law, the NRC is required to collect all fees by September 30, 2022.

After accounting for the exclusions from the fee-recovery requirement and net billing adjustments (i.e., for FY 2022 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2022 for prior year invoices), the NRC must recover approximately \$752.2 million in fees in FY 2022. Of this amount, the NRC estimates that \$188.9 million will be recovered through 10 CFR Part 170 service fees and approximately \$563.3 million will be recovered through 10 CFR Part 171 annual fees.

The proposed amendments to 10 CFR Part 170 revise the professional hourly rate and flat license application fees charged to licensees and applicants. The hourly rate used to assess 10 CFR Part 170 fees increases from \$288 in FY 2021, to \$291 in FY 2022.

Compared to FY 2021, the NRC is proposing to decrease 10 CFR Part 171 annual fees for fuel facilities and the non-U.S. Department of Energy (DOE) uranium recovery licensee. The NRC is proposing to increase annual fees for operating power reactors, spent fuel storage/reactor decommissioning activities, non-power production or utilization facilities, for the DOE Uranium Mill Tailings Radiation Control Act Program, for DOE transportation activities, and for 44 materials users fee categories. While the operating power reactors annual fee is increasing in FY 2022, it does not exceed the cap established by NEIMA. Generally, 10 CFR Part 171 annual fees are impacted by changes to the budget, fees for services, the number of licensees, the results of the biennial review of fees, and other factors. Additionally, the FY 2022 proposed fee rule includes five administrative changes. Please feel free to reach out to me if you have any questions regarding the proposed fee rule.

Sincerely,



Jason E. Shay, Budget Director
Division of Budget
Office of the Chief Financial Officer

Enclosure:
Federal Register Notice

cc: Christine McDonald, OMB

SUBJECT: FISCAL YEAR 2022 PROPOSED FEE RULE LETTER TO THE OFFICE OF MANAGEMENT AND BUDGET, DATED FEBRUARY 23, 2022

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