Fiscal Year 2024 U. S. Nuclear Regulatory Commission Small Entity Compliance Guide

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I. Background

The U.S. Nuclear Regulatory Commission (NRC) is committed to ensuring that all major rulemakings concerning fees afford small entities the ability to compete in the nuclear energy industry through the licensing and regulation efforts of the NRC. In order to minimize the financial impact on small entities as it relates to competition within the nuclear industry, the NRC has established definitions and size standards under Part 2 of the *Code of Federal Regulations* (10 CFR), ''Agency Rules of Practice and Procedure,'' in Section 2.810, ''NRC size standards.'' These size standards are based on Small Business Administration regulations and are used to determine if licensees qualify as small entities for reduced annual fees. The purpose of this guide is to assist businesses, organizations, educational institutions, and governmental jurisdictions in determining whether they qualify as small entities by providing the qualifying factors that make up the NRC's definition of "small entity," and the small entity fee listing.

II. Small Entity Definition

The NRC defines a "small entity" as follows:

(a) *Small business*—is a for-profit concern and is a—(1) concern that provides a service or a concern that is not engaged in manufacturing with average gross receipts of $8.0 million or less over its last 5 completed fiscal years; or (2) manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months;

(b) *Small organization*—is a not-for-profit organization which is independently owned and operated and has annual gross receipts of $8.0 million or less;

(c) *Small governmental jurisdiction*—is a government of a city, county, town, township, village, school district, or special district with a population of less than 50,000; and

(d) *Small educational institution*—is one that is—(1) supported by a qualifying small governmental jurisdiction; or (2) not State or publicly supported and has 500 or fewer employees.[1]

The NRC uses size standards to reduce the impact of annual fees on small entities by establishing a licensee's eligibility to qualify for a small entity fee. The NRC standards are based on the Small Business Administration's most current receipts-based size standards and, employee-based size standards for business concerns that are manufacturing entities. Where there is a direct conflict between the Small Business Administration's regulations and NRC's regulations on the subject, NRC's regulations are applicable to NRC licensees.

Most recently, the NRC published a final rule amending the small business size standards (87 FR 8943; February 17, 2022). In the final rule, the NRC increased the receipts-based small entity size standards from $7.0 million to $8.0 million for small businesses and small, not-for-profit organizations. In addition, the NRC also amended the average gross-receipts calculation process to change from a 3-year averaging period to a 5-year averaging period, as required by SBA regulations and in response to the Small Business Runway Extension Act of 2018. Further, and analogous to the inflation adjustment in 10 CFR 2.810, the NRC amended 10 CFR 171.16(c), ''Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC,'' to increase the upper-tier

[1] An educational institution referred to in the size standards is an entity whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

receipts-based small entity size standard from $7.0 million to $8.0 million for small businesses and small, not-for-profit organizations. Likewise, the NRC increased the lower-tier receipts-based size standard from $485,000 to $555,000, based upon the percent change in the upper tier. The changes are reflected in the sections below.

The following guidelines are provided to licensees to determine if they qualify as a small entity which are generally based on the Small Business Administration's regulations (13 CFR Part 121, "Small Business Size Regulations).

(1) A small business concern is an independently owned and operated entity which is not considered dominant in its field of operations.

(2) The number of employees means the total number of employees in the parent company, any subsidiaries and/or affiliates, including both foreign and domestic locations (i.e., not solely the number of employees working for the licensee or conducting NRC-licensed activities for the company).

(3) Gross annual receipts include all revenue received or accrued from any source, including receipts of the parent company, any subsidiaries and/or affiliates, and account for both foreign and domestic locations. Receipts include all revenues from sales of products and services, interest, rent, fees, and commissions from whatever sources derived (i.e., not solely receipts from NRC-licensed activities).

(4) A licensee who is a subsidiary of a large entity, including a foreign entity, does not qualify as a small entity.

III. Small Entity Fees

Licensees should review the table below to determine their small entity classification as defined by NRC regulations and their eligibility to pay the reduced FY 2023 annual fees assessed under 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." The NRC has established two tiers of annual fees for those materials licensees who qualify as small entities under the NRC's size standards. The fees are as follows:

NRC Small Entity Classification	Maximum Annual Fee Per Licensed Category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 5 completed fiscal years):	
$555,000 to $8 million	$5,200
Less than $555,000	$1,000
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$555,000 to $8 million	$5,200
Less than $555,000	$1,000
Manufacturing Entities that Have an Average of 500 Employees or Fewer:	
35 to 500 employees	$5,200
Fewer than 35 employees	$1,000
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 49,999	$5,200
Fewer than 20,000	$1,000
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer:	
35 to 500 employees	$5,200
Fewer than 35 employees	$1,000

Licensees who meet the NRC's size standards for a small entity must submit a completed NRC Form 526, "Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171," to qualify for the reduced annual fee. This form can be accessed on the NRC's Web site at http://www.nrc.gov/reading-rm/doc-collections/forms/ by selecting NRC Form 526. In addition, Licensees who have signed up for eBilling may access the NRC Form 526 through the NRC's Website for the eBilling portal at https://ebilling.nrc-gateway.gov/welcome to submit the request for their annual invoice. Licensees who have not yet registered can view the brochure to sign-up for eBilling on the NRC's Web site at

http://www.nrc.gov/about-nrc/regulatory/licensing/fees.html#ebilling by selecting Sign-Up for eBilling. To obtain information regarding NRC Form 526, please contact the License Fee Billing Help Desk at (301) 415-7554 or by e-mail at: SmallEntity.Resource@nrc.gov.

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