

AG 08-2
PDR

From: Victoria Ibarra
To: Glenda Jackson
Date: 5/28/99 7:33am
Subject: Concurrence Requested by Noon Today

Glenda,

Janice Dunn Lee, Acting Director, OIP, concurs without comment in J. Turdici's 5/26 memorandum, subject "Final Notice of Rulemaking -- 10 CFR Parts 170 and 171 -- 100 Percent Fee Recovery for FY 1999."

Thanks,
Vicki
415-1780

CC: Janice Dunn Lee, Rita Albright

AG08-2
PDR

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN: 3150-AG08

Revision of Fee Schedules; 100% Fee Recovery, FY 1999

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, and annual fees charged to its applicants and licensees. The amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, which mandates that the NRC recover approximately 100 percent of its budget authority in Fiscal Year (FY) 1999, less amounts appropriated from the Nuclear Waste Fund (NWF) and the General Fund. The amount to be recovered for FY 1999 is approximately \$449.6 million.

EFFECTIVE DATE: (60 days after publication in the Federal Register.)

May 26, 1999

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OFFICE	OCFO <i>✓</i>	<input checked="" type="checkbox"/>	OCFO:DAF	ADM	OGC	NMSS
NAME	GJackson, DDandois	JTurdici	MSpringer	TBRothschild	CJPaperiello	
DATE	5/26/99	/ / 99	/ / 99	/ / 99	/ / 98	

OFFICE	NRR	OIP	OE	EDO <i>✓</i>	DCFO	CFO
NAME	SCollins	JLee	JLieberman	<i>✓</i> PRabideau	PRabideau	JLFunches
DATE	/ / 99	/ / 99	/ / 99	<i>✓</i> 5/26/99	/ / 99	/ / 99

OFFICIAL RECORD COPY

From: Debra Corley
To: Diane Dandois, Glenda Jackson, James Turdici, P...
Date: 5/28/99 5:18pm
Subject: EDO has concurred on License Fee Rule

CC: Margo Bridgers

AG08-2
PDR

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN: 3150-AG08

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AGENCY: Nuclear Regulatory Commission.

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DATE	5/26/99	/ /99	/ /99	/ /99	/ /98

OFFICE	MRR	OIP	OE	EDO	DCFO	CFO
NAME	SCottins	JLee	JLieberman	WTravers	PRabideau	JLFunches
DATE	5/26/99	/ /99	/ /99	/ /99	/ /99	/ /99

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AG 08-2/PDR

Jesse Funder's
Comments 6/2/99
[7590-01-P]

NUCLEAR REGULATORY COMMISSION

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EFFECTIVE DATE: (60 days after publication in the Federal Register.)

Response. On April 11, 1995, the NRC promulgated a final rule after notice and comment rulemaking that established the small entity classification for those companies providing services having no more than \$5 million in average annual gross revenues over its last three completed fiscal years, or, for manufacturing concerns, an average of 500 employees during the preceding 12-month period (10 CFR 2.810). The NRC promulgated this rule pursuant to Section 3(a)(2) of the Small Business Act, which permits federal agencies to establish size standards via notice and comment rulemaking, subject to the approval of the SBA Administrator. The NRC rule, which the SBA approved, established a generic size standard for small businesses because NRC's regulatory scheme is not well suited to setting standards for each component of the regulated nuclear industry. Unlike the NRC, the SBA's Standard Industrial Classification System (SIC) establishes size standards based on types of economic activity or industry. Seven months after the NRC amended its size standards through notice and comment rulemaking, the SBA published amendments to its own SIC code standards. Among other things, these amendments added SIC Code 8744, Environmental Remediation Services.

The Commission ^{will further} is ~~currently~~ considering the issue raised by this commenter regarding its designation of small entities for reduced fee purposes. ^{still per Jones} However, because section 3(a)(2) of ~~the Small Business Act requires that size standards be promulgated through notice and comment rulemaking, the NRC cannot amend its size standards to conform to those of the SBA in this rulemaking.~~ ^{any amendments to - I - must be} Simply put, the NRC would first need to develop a proposal and solicit public comment on it before making a decision to amend its size standards. In the meantime however, individual licensees affected by the SBA's revised size standard may file for a partial

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merit

~~exemption from fees pursuant to 10 CFR 171.11.~~ The NRC will separately address the commenter's request for a partial annual fee exemption.

4. Comment. A few commenters indicated that the NRC has not provided sufficient information on which to evaluate the fees to be assessed for FY 1999. One commenter stated that the NRC violated the Administrative Procedure Act (APA) by failing to provide an explanation of how it arrived at its final determination of the annual fees.

Response. The NRC believes it has provided sufficient information concerning its proposed fee schedule to allow effective evaluation and constructive comment on the proposed rule. In Part II of the Statement of Consideration supporting the proposed rule, the NRC provided a detailed explanation of the FY 1999 budgeted costs for the various classes of licensees being assessed fees. In addition, the NRC workpapers pertinent to the development of the fees to be assessed were placed in the Public Document Room (PDR) on April 1, 1999, the first day of the public comment period. The workpapers provide additional information concerning the development and calculation of the fees, including NRC's FY 1999 budgeted resources at the subactivity level for the agency's major programs. The NRC has also made available in the PDR NUREG 1100, Vol. 4, "Budget Estimates for Fiscal Year 1999" (Feb. 1998), which discusses in detail NRC's budget for FY 1999. In addition, NRC staff always makes itself available either to meet with interested parties in person, or respond to telephone inquiries to explain its fee schedules.

B. Specific Comments - Part 170.

§171.17 Proration.

Annual fees will be prorated for NRC licensees as follows:

(a) Reactors and Part 72 licensees who do not hold Part 50 licenses. The annual fees for power and nonpower reactors and those Part 72 licensees who do not hold a Part 50 license that are subject to fees under this part and are granted a license to operate on or after October 1 of a Fiscal Year is prorated on the basis of the number of days remaining in the fiscal year. Thereafter, the full annual fee is due and payable each subsequent fiscal year. The base operating power reactor annual fee for operating reactor licensees who have requested amendment to withdraw operating authority permanently during the fiscal year will be prorated based on the number of days during the fiscal year the license was in effect before docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel or when a final legally effective order to permanently cease operations has come into effect. The spent fuel storage/reactor decommissioning annual fee for reactor licensees who permanently cease operations ~~during a fiscal year~~ ^{permanently removed from the site during the fiscal year} and have ~~no fuel on site~~ ^{both} will be prorated on the basis of the number of days remaining in the fiscal year after docketing of the certifications of permanent cessation of operations and permanent removal of fuel from the ~~reactor vessel or when a final legally effective order to permanently cease operations has come into effect.~~ ^{site.} The spent fuel storage/reactor decommissioning annual fee will be prorated for those Part 72 licensees who do not hold a Part 50 license who request termination of the Part 72 license and permanently cease activities authorized by the license during the fiscal year based on the number of days the license was in effect prior to receipt of the termination request.