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

June 16, 1999

MEMORANDUM TO: Those on the Attached List
FROM: James Turdici, Director
Division of Accounting and Finance
Office of the Chief Financial Officer
SUBJECT: NOTICE OF FINAL RULEMAKING -- 100 PERCENT FEE
RECOVERY -- FY 1999

On June 3, 1999, the Chief Financial Officer signed a final rule that will establish the fees necessary to recover approximately 100 percent of the NRC's FY 1999 budget. The final rule was published in the Federal Register on June 10, 1999 (64 FR 31448), and becomes effective August 9, 1999.

The amount of the FY 1999 budget to be recovered from fees is \$449.6 million, which is \$5.2 million less than the fee recovery amount for FY 1998. We estimate that approximately \$107.7 million will be recovered in FY 1999 from fees assessed under 10 CFR Part 170 and other receipts, compared to \$94.6 million in FY 1998. In addition, we anticipate a net adjustment of \$2.1 million for payments received in FY 1999 for FY 1998 invoices. The remaining \$339.8 million in FY 1999 is to be recovered through the 10 CFR Part 171 annual fees. The total amount to be recovered through annual fees in FY 1999 is approximately \$20.4 million less than in FY 1998.

The major changes to 10 CFR Part 171 (annual fees), and 10 CFR Part 170 (licensing and inspection fees) are as follows:

1. Part 171

- (a) Establish a new spent fuel storage/reactor decommissioning annual fee to be assessed to those Part 72 licensees who do not hold a Part 50 license and to all Part 50 power reactor licensees, except those that have permanently ceased operation and have no fuel onsite. The current annual fee for Part 72 licensees for independent spent fuel storage will be eliminated. This final change will give equivalent fee treatment to both wet storage (e.g., spent fuel pool), and dry storage (i.e., independent spent fuel storage installations (ISFSIs)).
- (b) Use revised matrixes for determining the annual fees for the fuel facility and uranium recovery classes of licensees.

- (c) Rebaseline annual fees for FY 1999. As a result of rebaselining, annual fees for operating power reactors and some categories of materials licensees will decline. For other categories of materials licensees the annual fees will increase. For some materials fee categories, the increases will be significant. Therefore, two optional annual fee methods for FY1999 were presented in the proposed rule for public comment: 1) rebaseline without a cap, or 2) rebaseline with a cap so that no licensee's annual fee increases more than 50 percent from FY 1998. The comments received on the proposed rule did not provide overwhelming support for establishing annual fees with a cap. The Commission has decided to establish FY 1999 annual fee without a cap on fee increases.

The FY 1998 and FY 1999 annual fees for representative classes of licensees are as follows:

<u>Class of Licensees</u>	<u>FY 1998 Annual Fee</u>	<u>FY 1999 Annual Fee</u>
Operating Power Reactors	\$2,976,000	\$2,776,000 ¹
Spent fuel storage/reactor decommissioning	N/A	206,000
Nonpower Reactors	57,300	85,900
High Enriched Uranium Fuel Facility	2,604,000	3,281,000
Low Enriched Uranium Fuel Facility	1,278,000	1,100,000
UF ₆ Conversion Facility	648,000	472,000
Uranium Mills	61,700	131,000
Solution Mining	34,900	109,000
Transportation		
Users and Fabricators	78,800	66,700
Users Only	1,000	2,200
<u>Typical Materials Licenses</u>		
Radiographers	14,000	14,700
Well loggers	8,200	9,900
Distribution of radiopharmaceuticals	4,400	3,800
Gauge users	1,700	2,600
Broad scope medical	23,500	27,800
Broad scope manufacturers	16,600	26,000

¹ Includes spent fuel storage/reactor decommissioning annual fee

2. Part 170

- (a) Expand the scope of Part 170 to include the following additional activities for cost recovery through Part 170 fees rather than through Part 171 fees: incident investigations, performance assessments and evaluations (except those for which the licensee volunteers at NRC's request and which NRC accepts), reviews of reports and other submittals such as responses to Confirmatory Action Letters, and full cost recovery for time expended by Project Managers, except time spent on generic activities such as rulemaking, and leave time.
- (b) Eliminate 10 CFR 170.31 amendment fees for small materials licenses that are based on the average time to complete the review ("flat" fees) and include the amendment processing costs in the Part 171 annual fees assessed to the small materials licensees;
- (c) Revise the two professional hourly rates for NRC staff time established in Section 170.20 to reflect \$141 per hour for the reactor program, and \$140 per hour for the nuclear materials and nuclear waste program, up from \$124 and \$121 respectively in the FY 1998 fee rule. The hourly rate increases reflect the correction to a coding error in NRC's FY 1998 budget, which is used in the development of fees, that contributed to the hourly rate decrease for FY 1998;
- (d) Adjust current fees at Sections 170.21 and 170.31 to reflect both the changes in the revised hourly rates and the results of the biennial review of Part 170 fees required by the Chief Financial Officers Act (CFO Act). As required by the Act, an evaluation was performed of historical professional staff hours used to process a new license application for those materials licensees whose fees are based on the average cost method (flat fees); and new license and amendment applications for import and export licenses. As a result of the review, the revised fees reflect increases in average time in some cases, and decreases in average time in other cases.

Copies of the final rule are being provided to all branch chiefs and above in the headquarters and regional offices as part of the standard distribution process for rulemaking. In addition, a copy of the final rule and a summary of the changes will be mailed to all licensees within the next few days.

We recommend that you provide this information to those members of your staff most likely to come in contact with licensees (e.g., project managers, section leaders, team leaders, and inspectors).

If you or your staff have questions concerning implementation of the final rule, please contact Glenda Jackson on 301-415-6057.

CC: Jesse L. Funches, CFO
Peter J. Rabideau, DCFO

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Addresses - Memorandum Dated June 16, 1999
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SUBJECT: NOTICE OF PROPOSED RULEMAKING -- 100 PERCENT FEE
RECOVERY -- FY 1999

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