

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN: 3150-AG50

Revision of Fee Schedules; 100% Fee Recovery, FY 2000

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed 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) 2000, less amounts appropriated from the Nuclear Waste Fund (NWF) and the General Fund. The amount to be recovered for FY 2000 is approximately \$447.0 million.

DATES: The comment period expires (Insert date 30 days after publication). Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered. Because OBRA-

~~Glenda~~  
→ Glenda  
- My comments  
- Will read Reg Flex  
Analysis [7500-00-01]  
- Didn't read the  
fee tables  
Jesse  
3/14  
Jesse Funches  
Comments, 3/14/00

and inspection fees and 10 CFR Part 171 annual fees. The total amount to be recovered in fees for FY 2000 is \$2.6 million less than the total amount estimated for recovery in the NRC's FY 1999 fee rule.

The NRC's budget to be recovered through fees has decreased from approximately \$504.0 million in FY 1995 to approximately \$447.0 million in FY 2000, a reduction of more than 12 percent. In constant 1993 dollars, the NRC's budget has decreased by \$\_\_\_\_\_ million, or approximately\_\_\_\_\_ percent, since FY 1993, as shown in the following table:

Fiscal Year (FY)	1993	1994	1995	1996	1997	1998	1999	2000
Budget (\$ millions, constant 1993 dollars)	540.0	522.4	498.7	439.7	434.1	427.0	412.5	
Difference from FY1993 (\$ millions)		17.6	41.3	100.3	105.9	113.0	127.5	

The NRC estimates that approximately \$106.0 million will be recovered in FY 2000 from Part 170 fees and other offsetting receipts. The remaining \$341.0 million would be recovered through the Part 171 annual fees.

The NRC also estimates a net adjustment for FY 2000 of approximately \$5.7 million for the small entity subsidy, for FY 2000 <sup>invoices</sup> bills that would not be paid in FY 2000, and for payments received in FY 2000 for FY 1999 invoices. <sup>These adjustments are \$1</sup> This is approximately \$1.6 million more than in FY 1999. In addition, there are approximately 530 fewer licenses subject to annual fees in FY 2000 than in FY 1999, due primarily to Ohio becoming an Agreement State in August, 1999.

As a result of these changes, the proposed FY 2000 annual fees would increase slightly, by approximately 1.4 percent, compared to the FY 1999 actual (prior to rounding) annual fees. As a result of rounding, the proposed FY 2000 annual fees for several fee categories are the same as the final (rounded) FY 1999 annual fees. The change to the annual fees is described in more detail in Section B. The following examples illustrate the changes in annual fees:

<u>Class of Licensees</u>	<u>FY 1999 Annual Fee</u>	<u>FY 2000 Proposed Annual Fee</u>
Power Reactors (Including Spent Fuel Storage/Reactor Decommissioning fee	\$2,776,000	\$2,815,000
Spent Fuel Storage/Reactor Decommissioning	206,000	209,000
Nonpower Reactors	85,900	87,100
High Enriched Uranium Fuel Facility	3,281,000	3,327,000
Low Enriched Uranium Fuel Facility	1,100,000	1,116,000
UF <sub>6</sub> Conversion Facility	472,000	478,000

legislation to the Congress which would reduce the fee recovery amount to 98 percent for FY 2001, and further reduce the fee recovery amount by an additional two percent per year beginning in FY 2002 until the fee recovery requirement is reduced to 90 percent by FY 2005.

~~In developing this proposed rule, the Commission considered the NRC Office of the Inspector General Audit Report dated December 14, 1999, entitled "NRC'S LICENSE FEE DEVELOPMENT PROCESS NEEDS IMPROVEMENT."~~

→ However, The NRC announced in FY 1998 that, as a cost-saving measure, it planned to discontinue mailing the final rule to all licensees. Accordingly, the NRC does not plan to mail the FY 2000 final rule, or future final rules, to all licensees. However, the NRC will send the final rule to any licensee or other person upon request. To request a copy, contact the License Fee and Accounts Receivable Branch, Division of Accounting and Finance, Office of the Chief Financial Officer, at 301-415-7554, or e-mail us at [fees@nrc.gov](mailto:fees@nrc.gov). It is our intent to publish the final rule in late May or early June of 2000. As a matter of courtesy, the NRC plans to continue to mail the proposed fee rules to all licensees.

In addition to publication in the Federal Register, the final rule will be available on the internet at <http://ruleforum.llnl.gov>.

The NRC is also proposing to make other changes to 10 CFR Parts 170 and 171 as discussed in Sections A. and B. below:

A. Amendments to 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.

The NRC is proposing to revise the hourly rates used to calculate fees and to adjust the 10 CFR Part 170 fees based on the revised hourly rates. The NRC is also proposing the make an administrative amendment to §170.12(c) to clarify that the site to which a resident inspector is assigned will not be assessed Part 170 fees for time spent by the resident inspector in support of activities at another site. The proposed amendments are as follows:

1. Hourly Rates.

The NRC is proposing to revise the two professional hourly rates for NRC staff time established in §170.20. These proposed rates would be based on the number of FY 2000 <sup>program</sup> direct full time equivalents (FTEs) and the FY 2000 NRC budget, excluding direct program support costs and NRC's appropriations from the NWF and the General Fund. These rates are used to determine the Part 170 fees. The proposed hourly rate for the reactor program is \$144 per hour (\$255,844 per direct FTE). This rate would be applicable to all activities for which fees are based on full cost under §170.21 of the fee regulations. The proposed hourly rate for the nuclear materials and nuclear waste program is \$143 per hour (\$253,450 per direct FTE). This rate would be applicable to all activities for which fees are based on full cost under §170.31 of the fee regulations. In the FY 1999 final fee rule, these rates were \$141 and \$140, respectively. The proposed increase is primarily due to the Government-wide pay increase in FY 2000.

recovered through Part 170 fees for services. The costs of these activities are now included in the Part 171 annual fees assessed to materials licensees.

While the annual fees increased for most materials licensees as a result of these changes, the NRC's annual fees assessed to small entities have not been adjusted to include the additional costs. As a result, small entities are currently paying a smaller percentage of the total NRC regulatory costs related to them than they did in FY 1991 and FY 1992 when the small entity fees were established.

Based on the changes that have occurred since FY 1991, the NRC has reanalyzed its maximum small entity annual fee. As part of the reanalysis, the NRC considered the 1999 fees assessed by Agreement States, the NRC's FY 1999 fee structure, and the increase in the Consumer Price Index between FY 1991 and FY 1999. The reanalysis and alternatives considered by the NRC for revising the small entity annual fees are described in the Regulatory Flexibility Analysis, which is Appendix A to this proposed rule.

*In the future,*

1. The NRC plans to re-examine the small entity fees each year that annual fees are rebaselined. ✓

### 3. Administrative Amendments.

a. The NRC is proposing to revise § 171.5, Definitions, to specifically include Certificates of Compliance (Certificates) issued under Part 76. The NRC issued two Certificates of Compliance under Part 76 to the United States Enrichment Corporation (USEC) for the