

In the FY 2001 final rule (66 FR 32478; June 14, 2001), the NRC revised § 171.19 to establish a quarterly billing schedule for the Class I and Class II licensees, regardless of the annual fee amount. Therefore, as provided in § 171.19(b), if the amounts collected in the first three quarters of FY 2003 exceed the amount of the revised annual fee, the overpayment will be refunded; if the amounts collected in the first three quarters are less than the final revised annual fee, the remainder will be billed after the FY 2003 final fee rule is published. The remaining categories of Title II facilities are subject to billing based on the anniversary date of the license as provided in § 171.19(c).

*c. Power Reactors.* The approximately \$308.8 million in budgeted costs to be recovered through FY 2003 annual fees assessed to the power reactor class, which includes NRC's budgeted costs for homeland security activities related to power reactors, would be divided equally among the 104 power reactors licensed to operate. This results in a proposed FY 2003 annual fee of \$2,969,000 per reactor. Additionally, each power reactor licensed to operate would be assessed the proposed FY 2003 spent fuel storage/reactor decommissioning annual fee of \$309,000. This would result in a total FY 2003 annual fee of \$3,278,000 for each power reactor licensed to operate.

*d. Spent Fuel Storage/Reactor Decommissioning.* For FY 2003, budgeted costs of approximately \$37.3 million for spent fuel storage/reactor decommissioning are to be recovered through annual fees assessed to part 50 power reactors, and to part 72 licensees who do not hold a part 50 license. Those reactor licensees that have ceased operations and have no fuel onsite are not subject to these annual fees. The costs would be divided equally among the 121 licensees, resulting in a proposed FY 2003 annual fee of \$309,000 per licensee.

*e. Non-power Reactors.* Approximately \$273,000 in budgeted costs is to be recovered through annual fees assessed to the non-power reactor class of licenses for FY 2003. This amount would be divided equally among the four non-power reactors subject to annual fees. This results in a proposed FY 2003 annual fee of \$68,300 for each licensee.

*f. Rare Earth Facilities.* The FY 2003 budgeted costs of approximately \$377,000 for rare earth facilities to be recovered through annual fees would be divided equally among the two licensees who have a specific license for receipt and processing of source material. Prior to the beginning of FY

2003, one rare earth facility permanently ceased operations and requested that its license be amended to authorize decommissioning activities only. Consequently, this license is no longer subject to annual fees. The result is a proposed FY 2003 annual fee of \$189,000 for each of the two remaining rare earth facilities.

*g. Materials Users.* To equitably and fairly allocate the \$23.9 million in FY 2003 budgeted costs to be recovered in annual fees assessed to the approximately 5,000 diverse materials users and registrants, the NRC has continued to use the FY 1999 methodology to establish baseline annual fees for this class. The annual fees are based on the part 170 application fees and an estimated cost for inspections. Because the application fees and inspection costs are indicative of the complexity of the license, this approach continues to provide a proxy for allocating the generic and other regulatory costs to the diverse categories of licenses based on how much it costs the NRC to regulate each category. The fee calculation also continues to consider the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses. The annual fee for these categories of licenses is developed as follows:

$$\text{Annual fee} = \text{Constant} \times [\text{Application Fee} + (\text{Average Inspection Cost divided by Inspection Priority})] + \text{Inspection Multiplier} \times (\text{Average Inspection Cost divided by Inspection Priority}) + \text{Unique Category Costs.}$$

The constant is the multiple necessary to recover approximately \$18.0 million in general costs and is 1.18 for FY 2003. The inspection multiplier is the multiple necessary to recover approximately \$4.5 million in inspection costs for FY 2003, and is 0.92 for FY 2003. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2003, approximately \$65,300 in budgeted costs for the implementation of revised part 35, Medical Use of Byproduct Material (unique costs), has been allocated to holders of NRC human use licenses.

The annual fee assessed to each licensee also includes a share of the \$800,000 in surcharge costs allocated to the materials user class of licenses and, for certain categories of these licenses, a share of the approximately \$500,000 in LLW surcharge costs allocated to the class. The proposed annual fee for each fee category is shown in § 171.16(d).

*h. Transportation.* Off the approximately \$5.0 million in FY 2003

budgeted costs to be recovered through annual fees assessed to the transportation class of licenses (including homeland security costs), approximately \$1.4 million would be recovered from annual fees assessed to DOE based on the number of part 71 Certificates of Compliance that it holds. Of the remaining \$3.6 million, approximately 25 percent would be allocated to the 89 quality assurance plans authorizing use only and the 40 quality assurance plans authorizing use and design/fabrication. The remaining 75 percent would be allocated only to the 40 quality assurance plans authorizing use and design/fabrication. This results in a proposed annual fee of \$7,000 for each of the holders of quality assurance plans that authorize use only, and a proposed annual fee of \$75,000 for each of the holders of quality assurance plans that authorize use and design/fabrication.

## 2. Small Entity Annual Fees

The NRC stated in the FY 2001 fee rule (66 FR 32452; June 14, 2001), that it would re-examine the small entity fees every two years, in the same years in which it conducts the biennial review of fees as required by the CFO Act. Accordingly, the NRC has re-examined the small entity fees, and does not believe that a change to the small entity fees is warranted for FY 2003. The revision to the small entity fees in FY 2000 (65 FR 36946; June 12, 2000) was based on the 25 percent increase in average total fees assessed to other materials licensees in selected categories since the small entity fees were first established and changes that had occurred in the fee structure for materials licensees over time.

Unlike the annual fees assessed to other licensees, the small entity fees are not designed to recover the agency costs associated with particular licensees. Instead, the reduced fees for small entities are designed to provide some fee relief for qualifying small entity licensees while at the same time recovering from them some of the agency's costs for activities that benefit them. The costs not recovered from small entities for activities that benefit them must be recovered from other licensees. Given the reduction in annual fees and the relative low inflation rates, the NRC has determined that the current small entity fees of \$500 and \$2,300 continue to meet the objective of providing relief to many small entities while recovering from them some of the costs that benefit them.

Therefore, the NRC is proposing to retain the \$2,300 small entity annual fee and the \$500 lower tier small entity