

September 30, 2003. The law also requires that these fees be established through the rulemaking process. The NRC makes every effort to issue its proposed and final fee rules in a timely manner to afford licensees as much time as possible to plan for fee increases. However, the agency must ensure that it fully complies with all applicable legislation, regulations, and policies, as well as perform the required fee calculations, in a relatively short time each year to produce its fee rules. This year Congress did not enact NRC appropriations for FY 2003 until February 20, 2003. Because the NRC does not know in advance what its future budgets will be (*i.e.*, proposed budgets must be submitted to the Office of Management and Budget for its review before the President submits the budget to Congress for enactment), the agency believes it is not practicable to set fees based on future estimated budgets, nor would such an approach be consistent with its statutory mandate. The NRC will continue to strive to issue its fee regulations as early in the process as is practicable in order to give as much time as possible for licensees to plan for changes in fees.

III. Final Action

The NRC is amending its licensing, inspection, and annual fees to recover approximately 94 percent of its FY 2003 budget authority, including the budget authority for its Office of the Inspector General, less the appropriations received from the NWF. The NRC's total budget authority for FY 2003 is \$584.6 million, of which approximately \$24.7 million has been appropriated from the NWF. Based on the 94 percent fee recovery requirement, the NRC must recover approximately \$526.3 million in FY 2003 through part 170 licensing and inspection fees, part 171 annual fees, and other offsetting receipts. The total amount to be recovered through fees and other offsetting receipts for FY 2003 is \$46.8 million more than the amount estimated for recovery in FY 2002.

The NRC estimates that approximately \$127.5 million will be recovered in FY 2003 from part 170 fees and other offsetting receipts. For FY 2003, the NRC also estimates a net adjustment of approximately \$1.9 million for FY 2003 invoices that the NRC estimates will not be paid during the fiscal year, and for payments received in FY 2003 for FY 2002 invoices. The remaining \$396.8 million will be recovered through the part 171

annual fees, compared to \$345.6 million for FY 2002.

A primary reason for the increase in total fees, as well as the annual fee amount, for FY 2003 compared to FY 2002 is that the amount to be recovered for FY 2003 includes \$29.3 million for homeland security activities, whereas the FY 2002 funding for homeland security was excluded from fees. While the President's FY 2003 budget requested that NRC's funding for homeland security activities continue to be excluded from the fee base, the Energy and Water Development Appropriations Act, 2003, contained in the Consolidated Appropriations Resolution, 2003 (Pub. L. 108-7), included NRC's budget for homeland security activities in the fee base. Therefore, the FY 2003 fees include the \$29.3 million budgeted for NRC's homeland security activities. Other reasons for the fee increases include the 2003 Federal pay raise, and the increased workload for new reactor licensing activities and reactor license renewal.

Table I summarizes the budget and fee recovery amounts for FY 2003. Due to rounding, adding the individual numbers in the table may result in a total that is slightly different than the one shown.

TABLE I.—BUDGET AND FEE RECOVERY AMOUNTS FOR FY 2003

[Dollars in millions]

Total Budget Authority	\$584.6
Less NWF	– 24.7
Balance	\$559.9
Fee Recovery Rate for FY 2003	× 94.0%
Total Amount to be Recovered For FY 2003	\$526.3
Less Carryover from FY 2002	– 0
Amount to be Recovered Through Fees and Other Receipts	\$526.3
Less Estimated Part 170 Fees and Other Receipts	– 127.5
Part 171 Fee Collections Required	\$398.8
Part 171 Billing Adjustments:	
Unpaid FY 2003 Invoices (estimated)	2.4
Less Payments Received in FY 2003 for Prior Year Invoices (estimated)	– 4.3
Subtotal	– 1.9
Adjusted Part 171 Collections Required	\$396.8

The FY 2003 final fee rule is a “major” final action as defined by the Small Business Regulatory Enforcement Fairness Act of 1996. Therefore, the NRC's fees for FY 2003 will become effective 60 days after publication of the final rule in the **Federal Register**. The NRC will send an invoice for the amount of the annual fee to reactors and major fuel cycle facilities upon

publication of the FY 2003 final rule. For these licensees, payment will be due on the effective date of the FY 2003 final rule. Those materials licensees whose license anniversary date during FY 2003 falls before the effective date of the final FY 2003 rule will be billed for the annual fee during the anniversary month of the license at the FY 2002 annual fee rate. Those materials

licensees whose license anniversary date falls on or after the effective date of the final FY 2003 rule will be billed for the annual fee at the FY 2003 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

In accordance with its FY 1998 announcement, the NRC has discontinued mailing the final fee rule