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(3) Any other relevant matter that the licensee believes shows that the annual fee was not based on a fair and equitable allocation of NRC costs.

[56 FR 31505, July 10, 1991, as amended at 57 FR 32714, July 23, 1992; 58 FR 38695, July 20, 1993; 59 FR 12543, Mar. 17, 1994; 59 FR 36924, July 20, 1994; 67 FR 42634, June 24, 2002; 70 FR 30548, May 29, 2005]

§ 171.13 Notice.

The annual fees applicable to any NRC licensee subject to this part and calculated in accordance with §§171.15 and 171.16, will be published as a notice in the FEDERAL REGISTER as soon as possible but no later than the third quarter of the fiscal year. The annual fees will become due and payable to the NRC as indicated in §171.19. Quarterly payments of the annual fee of \$100,000 or more will continue during the fiscal year and be based on the applicable annual fees as shown in §§171.15 and 171.16 until a notice concerning the revised amount of the fees for the fiscal year is published by the NRC. If the NRC is unable to publish a final fee rule that becomes effective during the current fiscal year, fees would be assessed based on the rates in effect for the previous fiscal year.

[64 FR 31475, June 10, 1999]

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

(a) Each person holding an operating license for a power, test, or research reactor; each person holding a combined license under part 52 of this chapter after the Commission has made the finding under §52.103(g); each person holding a part 50 or part 52 power reactor license that is in decommissioning or possession only status, except those that have no spent fuel onsite; and each person holding a part 72 license who does not hold a part 50 or part 52 license shall pay the annual fee for each license held at any time during the Federal fiscal year in which the fee is due. This paragraph does not apply to test and research reactors exempted under §171.11(a).

(b)(1) The FY 2008 annual fee for each operating power reactor which must be collected by September 30, 2008, is \$4,032,000.

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(2) The FY 2008 annual fee is comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (surcharges). The activities comprising the FY 2008 spent storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2008 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 2008 base annual fee for operating power reactors are as follows:

(i) Power reactor safety and safeguards regulation except licensing and inspection activities recovered under part 170 of this chapter and generic reactor decommissioning activities.

(ii) Research activities directly related to the regulation of power reactors, except those activities specifically related to reactor decommissioning.

(iii) Generic activities required largely for NRC to regulate power reactors (e.g., updating part 50 or 52 of this chapter, operating the Incident Response Center, new reactor regulatory infrastructure). The base annual fee for operating power reactors does not include generic activities specifically related to reactor decommissioning.

(c)(1) The FY 2008 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession only status and has spent fuel onsite, and each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license is \$135,000.

(2) The FY 2008 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section), and an additional charge (surcharge). The activities comprising the FY 2008 surcharge are shown in paragraph (d)(1) of this section. The activities comprising the FY 2008 spent fuel storage/reactor decommissioning rebaselined annual fee are:

(i) Generic and other research activities directly related to reactor decommissioning and spent fuel storage; and

(ii) Other safety, environmental, and safeguards activities related to reactor

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decommissioning and spent fuel storage, except costs for licensing and inspection activities that are recovered under part 170 of this chapter.

(d)(1) The surcharge allocated to annual fees includes the budgeted resources for the activities listed in paragraph (d)(1)(i) of this section, plus the total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (d)(1)(iii) of this section as reduced by the appropriations NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (d)(1)(ii) and (d)(1)(iii) of this section for a given FY, a negative surcharge (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2008 surcharge are as follows:

(i) Low-level waste disposal generic activities;

(ii) Activities not attributable to an existing NRC licensee or class of licenses (e.g., international cooperative safety program and international safeguards activities, support for the Agreement State program); and

(iii) Activities not currently subject to 10 CFR part 170 licensing and inspection fees based on existing law or Commission policy (e.g., reviews and inspections conducted of nonprofit educational institutions, costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, regulatory support for Agreement States, generic decommissioning/reclamation activities for fee classes other than power reactors and spent fuel storage/reactor decommissioning, the in-situ leach rule-making, activities for unregistered general licensees).

(2) The total FY 2008 surcharge allocated to the operating power reactor class of licenses is -\$5.9 million, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2008 operating power reactor surcharge to be assessed to each operating power reactor is approximately -\$57,000. This amount is calculated by dividing the total operating power reactor surcharge (-\$5.9

million) by the number of operating power reactors (104).

(3) The FY 2008 surcharge allocated to the spent fuel storage/reactor decommissioning class of licenses is -\$258,000. The FY 2008 spent fuel storage/reactor decommissioning surcharge to be assessed to each operating power reactor, each power reactor in decommissioning or possession only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license is approximately -\$2,097. This amount is calculated by dividing the total surcharge costs allocated to this class by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

(e) The FY 2008 annual fees for licensees authorized to operate a test and research (non-power) reactor licensed under part 50 of this chapter, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor	\$76,500
Test reactor	76,500

[72 FR 31426, June 6, 2007, as amended at 72 FR 49566, Aug. 28, 2007; 73 FR 32407, June 6, 2008]

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

(a)(1) The provisions of this section apply to person(s) who are authorized to conduct activities under—

(i) 10 CFR part 30 for byproduct material;

(ii) 10 CFR part 40 for source material;

(iii) 10 CFR part 70 for special nuclear material;

(iv) 10 CFR part 71 for packaging and transportation of radioactive material; and

(v) 10 CFR part 76 for uranium enrichment.

(2) Notwithstanding the other provisions in this section, the regulations in