

or a licensee's economic status, or a licensee's inability to "pass through" the costs to its customers.

Inevitably, were the Commission to exempt uranium recovery licensees from NRC fees, other licensees—both those forced to subsidize the NRC's regulation of the uranium recovery industry and those claiming economic hardship of their own—would also demand fee relief. Widespread and frequent reevaluation of fee schedules based on licensees' various economic situations and indeterminate market conditions has the potential to entangle the Commission's statutorily-required user fee program in constant controversy, and ultimately to unravel the program altogether. This is one reason why, in connection with the Allied-Signal remand, the Commission refused to establish a system to consider each licensee's ability to "pass through" NRC fees to customers.

Developing fee schedules based on licensees' current economic circumstances, in any case, is not workable as a practical matter. An economics-driven approach would make NRC fee schedules overly complex and difficult to establish. On July 20, 1993, the Commission implemented the Allied Signal remand of the FY 1991 and 1992 final fee rules by addressing the remanded issues in the statement of considerations accompanying its FY 1993 fee rule (58 FR 38666). In this document, the Commission explained that the NRC "is not a financial regulatory agency, and does not possess the knowledge or resources necessary to continuously evaluate purely business factors" (58 FR 38667; July 20, 1993). The Commission further explained that it recognizes licensees dislike paying user fees; however, such fees must be taken into account in running a business. The Commission then noted that it has neither the expertise nor the information needed to undertake the complex inquiry into whether, in a market economy, particular licensees are able to recoup their user fee payments. The Commission expressed concern that if this sort of inquiry became part of its mission, the agency would have to hire financial specialists which could lead to higher fees charged to pay for an expanded NRC. The Commission further noted as part of any such review it would have to examine tax returns, financial statements, and commercial data that some licensees might be reluctant to provide. See a

more detailed discussion of this issue in the subject final rule (58 FR 38665, 38667–69; July 20, 1993). In addition, the Commission might have to look at the overall corporate structures of licensees to see, for example, if a corporate parent or subsidiary could equitably pay the fees imposed on a temporarily distressed enterprise.

The Commission is further concerned that a detailed examination of economic factors would destabilize the NRC's fee schedules because changing economic circumstances and inevitable shifts in economic cycles could result in significant, unexpected fee increases for some classes of licensees. Thus, consideration of economic factors would not bring greater fairness and equity to the NRC's fee schedules because some classes of licensees would unexpectedly, and on short notice, be required to subsidize other classes of licensees based on indeterminate shifts in industry markets.

6. The Commission does not intend to conduct a 10 CFR part 41 rulemaking, which would be a comprehensive set of regulations governing the uranium recovery industry. The Commission has concluded that its current regulations are adequate, but has directed the NRC staff to issue revised guidance to its uranium recovery licensees. Thus, the Commission need not address the issue of whether the uranium recovery industry should bear the costs of developing a new 10 CFR part 41.

The Commission notes that Congress, in the Energy and Water Development Appropriations Act for FY 2001, has given NRC licensees fee relief in the requirement that the NRC collect approximately 100 percent of its budget authority (minus funds appropriated from the Nuclear Waste Fund and General Fund). That percentage is being annually reduced by two percent for five years, so that only 90 percent of the agency's budget authority will have to be collected in fees in FY 2005. Additionally, the NRC staff is reexamining the issue of fee assessment to uranium recovery facilities in standby status.

For the reasons cited in this document, the NRC denies this petition.

Dated at Rockville, Maryland, this 27th day of June, 2002.

For the Nuclear Regulatory Commission,  
**Annette L. Vietti-Cook,**  
*Secretary of the Commission.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Federal Housing Enterprise Oversight

#### 12 CFR Part 1720

RIN 2550-AA22

#### Safety and Soundness; Correction

**AGENCY:** Office of Federal Housing Enterprise Oversight, HUD.

**ACTION:** Proposed rule; correction.

**SUMMARY:** This document corrects the preamble to a proposed rule published in the **Federal Register** of June 21, 2002, regarding the safety and soundness of the Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac). The correction inserts inadvertently omitted language in the preamble of the proposed rule.

**FOR FURTHER INFORMATION CONTACT:** Kathleen McLees, Federal Register Liaison Officer, telephone (202) 414–3836 (not a toll-free number), Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

#### Correction

In the preamble of the proposed rule, FR Doc. 02–15678, beginning on page 42200 in the issue of June 21, 2002, make the following correction in the Supplementary Information section. On page 42201, in the second column, on line 16, after the words "in a policy guidance will", add the word "not". The sentence should read: "Compliance with the minimum standards articulated in a policy guidance will not preclude the agency from finding that an Enterprise is otherwise engaged in a specific unsafe or unsound practice or is in an unsafe or unsound condition, or requiring corrective or remedial action with regard to such practice or condition."

Dated: June 27, 2002.

**Kathleen K. McLees,**  
*Federal Register Liaison Officer, Office of Federal Housing Enterprise Oversight.*  
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