

**§ 766.100**

section 1801 of the Atomic Energy Act of 1954, as amended.

*Oak Ridge Operations Office* means the Oak Ridge Operations Office of the Department of Energy in Oak Ridge, Tennessee.

*Special Assessment* means the Special Assessment levied on domestic utilities for payments into the Fund.

*SWU* means a separative work unit, the common measure by which uranium enrichment services are sold.

*TESS* means the Toll Enrichment Services System, which is the database that tracks uranium enrichment services transactions of the DOE Oak Ridge Operations Office for the purpose of planning, toll transaction processing, customer invoicing and historical tracking of SWU deliveries.

*Use and burnup charges* mean lease charges for the consumption of SWUs and natural uranium.

**Subpart B—Procedures for Special Assessment**

**§ 766.100 Scope.**

This subpart sets forth the procedures for the Special Assessment of domestic utilities for funds to be deposited in the Fund.

**§ 766.101 Data utilization.**

DOE shall use the records from the Toll Enrichment Services System (TESS) and other records maintained by the Oak Ridge Operations Office in order to determine the total SWUs purchased from DOE for all purposes. DOE shall use records from TESS, relevant records of domestic utilities, and such other information as DOE deems to be reliable and probative in determining the number of SWUs that were purchased by each domestic utility prior to October 24, 1992. A domestic utility shall be considered to have purchased a SWU from DOE if the SWU was produced by DOE but purchased by the domestic utility from another source. DOE shall consider a purchase to have occurred upon the delivery of a SWU to the domestic utility purchasing the SWU. A domestic utility shall not be considered to have purchased a SWU from DOE if the SWU was purchased by the domestic utility but subsequently sold to another source.

**10 CFR Ch. III (1-1-05 Edition)**

**§ 766.102 Calculation methodology.**

(a) *Calculation of Domestic Utilities' Annual Assessment Ratio to the Fund.* Domestic utilities shall be assessed annually for their share of the Fund. The amount of the assessment shall be determined by the ratio of SWUs produced by DOE and purchased by domestic utilities prior to October 24, 1992, to the total number of SWUs produced by DOE for all purposes (including SWUs produced for defense purposes). All calculations will be carried out to the fifth significant digit. This ratio is expressed by the following hypothetical example:

SWUs purchased by all domestic utilities		Total SWUs produced—all purposes		Special assessment ratio
12345	÷	45678	=	.27026

(b) *Calculation of the Baseline Total Annual Special Assessment for Domestic Utilities.* The Annual Special Assessment ratio calculated in paragraph (a) of this section shall be multiplied by \$480 million, yielding the total amount of the Baseline Total Annual Special Assessment as of October 1992. In the event that this amount is in excess of \$150 million, the Baseline Total Annual Special Assessment shall be capped at \$150 million. All calculations will be carried out to the fifth significant digit. The Baseline Total Annual Special Assessment is determined as shown in the following hypothetical example:

Total fund		Annual assessment ratio		Baseline total annual special assessment
\$480,000,000	×	0.27026	=	\$129,724,800

(c) *Calculation of Baseline Total Annual Special Assessment per Utility.* The ratio of the total number of SWUs purchased by an individual domestic utility for commercial electricity generation, to the total number of SWUs purchased by all domestic utilities for commercial electricity generation, multiplied by the Baseline Total Annual Special Assessment calculated in paragraph (b) of this section, determines an individual utility's share of

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the Baseline Total Annual Special Assessment. All calculations will be carried out to the fifth significant digit. A

hypothetical example of such a calculation follows:

Single utility SWUs		All utility SWUs		Utility ratio		Baseline total annual special assessment		Individual utility special Assessment
300	+	12345	=	.02430	×	\$129,724,800		\$3,152,312.64

(d) *Calculation of Inflation Adjustment.* The Baseline Total Annual Special Assessment billed to domestic utilities shall be adjusted for inflation using the most recently published monthly CPI-U and the CPI-U for October 1992. All calculations will be carried out to the fifth significant digit. A hypothetical example of such a calculation follows:

CPI-U (Mar 93)		CPI-U (Oct 92)		Adjustment multiplier
150	+	141.8	=	1.05783

Utility special Assessment		Adjustment multiplier		Adjusted utility assessment
\$3,152,312.64	×	1.05783	=	\$3,334,610.88

(5) Such other information as may be appropriate.

(c) With regard to any fiscal year after Fiscal Year 1993, DOE shall enclose a summary SWU transaction statement with Special Assessment invoices that will include updated information regarding adjustments to Special Assessments resulting from the reconciliation and appeals process under Section 766.104.

(d) The date of each Annual Special Assessment invoicing will be set on or about October 1 with payment due 30 calendar days from the date of invoice starting with the Fiscal Year 1995 Special Assessment.

**§ 766.103 Special Assessment invoices.**

(a) DOE shall issue annually a Special Assessment invoice to each domestic utility. This invoice will specify itemized quantities of enrichment services by reactor. In each Special Assessment invoice, DOE shall require payment, on or before 30 days from the date of each invoice, of that utility's prorated share of the Baseline Total Annual Special Assessment, as adjusted for inflation using the most recently published monthly CPI-U data.

(b) DOE shall enclose with the Fiscal Year 1993 Special Assessment invoice a sealed, business confidential, summary SWU transaction statement including:

- (1) TESS information which documents, by reactor, the basis of the utility's assessment;
- (2) A list of domestic utilities subject to the Special Assessment;
- (3) The total number of SWUs purchased from DOE by all domestic utilities for all purposes prior to October 24, 1992.
- (4) The total number of SWUs purchased from DOE for all purposes prior to October 24, 1992, including SWUs purchased or produced for defense purposes; and

**§ 766.104 Reconciliation, adjustments and appeals.**

(a) A domestic utility requesting an adjustment shall, within 30 days from the date of a Special Assessment invoice, file a notice requesting an adjustment. Such notice shall include an explanation of the basis for the adjustment and any supporting documents, and may include a request for a meeting with DOE to discuss its invoice. If more time is needed to gather probative information, DOE will consider utility requests for up to 90 days additional time, providing that the initial notice requesting an adjustment was timely filed. The notice shall be filed at the address set forth in the Special Assessment invoice, and filing of this notice is complete only upon receipt by DOE. Domestic utilities are considered to have met the filing requirements upon DOE's receipt of the notice requesting an adjustment without regard to DOE's acceptance of supporting documentation. The filing of a notice for an adjustment shall not stay the obligation to pay.

(b) DOE may request additional information from domestic utilities and may acquire data from other sources.