

Rules and Regulations

Federal Register

Vol. 81, No. 122

Friday, June 24, 2016

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 9, 170, and 171

[NRC-2015-0223]

RIN 3150-AJ66

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2016

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees and, for the first time, the NRC is recovering its costs when it responds to third-party demands for information in litigation where the United States is not a party ("Touhy requests"). These amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA-90), which requires the NRC to recover approximately 90 percent of its annual budget through fees.

DATES: This final rule is effective on August 23, 2016.

ADDRESSES: Please refer to Docket ID NRC-2015-0223 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0223. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. For the convenience of the reader, the ADAMS accession numbers and instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section of this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michele Kaplan, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-5256, email: Michele.Kaplan@nrc.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background; Statutory Authority
- II. Discussion
- III. Opportunities for Public Participation
- IV. Public Comment Analysis
- V. Regulatory Flexibility Certification
- VI. Regulatory Analysis
- VII. Backfitting and Issue Finality
- VIII. Plain Writing
- IX. National Environmental Policy Act
- X. Paperwork Reduction Act
- XI. Congressional Review Act
- XII. Voluntary Consensus Standards
- XIII. Availability of Guidance
- XIV. Availability of Documents

I. Background; Statutory Authority

The NRC's fee regulations are primarily governed by two laws: (1) The Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 9701), and (2) OBRA-90. The OBRA-90 statute requires the NRC to recover approximately 90 percent of its budget authority through fees; this fee-recovery requirement excludes amounts appropriated for Waste Incidental to

Reprocessing, generic homeland security activities, and Inspector General (IG) services for the Defense Nuclear Facilities Safety Board, as well as any amounts appropriated from the Nuclear Waste Fund. The OBRA-90 statute first requires the NRC to use its IOAA authority to collect user fees for NRC work that provides specific benefits to identifiable applicants and licensees (such as licensing work, inspections, special projects). The regulations at part 170 of title 10 of the *Code of Federal Regulations* (10 CFR) authorize these fees. But, because the NRC's fee recovery under the IOAA (10 CFR part 170) does not equal 90 percent of the NRC's budget authority, the NRC also assesses generic "annual fees" under 10 CFR part 171 to recover the remaining fees necessary to achieve OBRA-90's 90-percent fee recovery. These annual fees recover regulatory costs that are not otherwise collected through 10 CFR part 170.

II. Discussion

FY 2016 Fee Collection—Overview

The NRC is issuing the FY 2016 final fee rule based on the Consolidated Appropriations Act, 2016 (Pub. L. 114-113), amount of \$1,002.1 million, which is a decrease of \$13.2 million from FY 2015. As explained previously, certain portions of the NRC's total budget are excluded from the NRC's fee-recovery amount—specifically, these exclusions include: \$1.3 million for waste-incidental-to-reprocessing activities, \$1.0 million for IG services for the Defense Nuclear Facilities Safety Board, and \$18.8 million for generic homeland security activities. Additionally, 10 percent of the NRC's budget is recovered through a congressional appropriation. After accounting for the OBRA-90 exclusions, this 10-percent appropriation, and net billing adjustments—*i.e.*, the sum of unpaid current year invoices (estimated) minus payments for prior year invoices and the prior year billing credit issued to the U.S. Department of Energy (DOE) for the transportation fee class—the NRC must collect \$883.4 million in FY 2016 from its licensees. Of this amount, the NRC will recover \$332.7 million through 10 CFR part 170 user fees, and the remaining \$550.7 million through 10 CFR part 171 annual fees. Table I summarizes the fee-recovery amounts for the FY 2016 final fee rule using the

enacted budget, and taking into account adjustments (individual values may not
excluded activities, the 10-percent sum to totals due to rounding).
appropriation, and net billing

TABLE I—BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

| | FY 2015 final rule | FY 2016 final rule | Percentage change |
|---|-----------------------|-----------------------|----------------------|
| Total Budget Authority | \$1,015.3 | \$1,002.1 | – 1.3 |
| Less Excluded Fee Items | – 20.3 | – 21.1 | 3.8 |
| Balance | \$995.0 | \$981.0 | – 1.4 |
| Fee Recovery Percent | 90 | 90 | 0.0 |
| Total Amount to be Recovered: | \$895.5 | \$882.9 | – 1.4 |
| 10 CFR Part 171 Billing Adjustments: | 0.0 | 0.0 | 0.0 |
| Unpaid Current Year Invoices (estimated) | 2.8 | 6.3 | 125.0 |
| Less Prior Year Billing Credit for Transportation Fee Class | 0.0 | – 0.2 | 100 |
| Less Payments Received in Current Year for Previous Year Invoices (estimated) | – 9.6 | – 5.6 | – 41.7 |
| Subtotal | – 6.8 | 0.5 | – 107.4 |
| Amount to be Recovered through 10 CFR Parts 170 and 171 Fees | \$888.7 | \$883.4 | – 0.6 |
| Less Estimated 10 CFR Part 170 Fees | – 321.7 | – 332.7 | 3.4 |
| Less Prior Year Unbilled 10 CFR Part 170 Fees | – 0.0 | – 0.0 | 0.0 |
| 10 CFR Part 171 Fee Collections Required | \$567.0 | \$550.7 | – 2.9 |

FY 2016 Fee Collection—Hourly Rate

The NRC uses an hourly rate to assess fees for specific services provided by the NRC under 10 CFR part 170. The hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). For FY 2016, the NRC's hourly rate is \$265, a decrease of \$3 from the hourly rate in the FY 2015 final rule. This rate is applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC derives its hourly rate by dividing the sum of recoverable budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and 3) agency support—which includes corporate support, office support (FY 2015 only), and the IG. In FY 2016, the

agency eliminated the office support category for budgetary resources. Created in FY 2011, office support included indirect resources that sustained an individual office—such as supervisory, administrative assistant, and other support staff FTE hours. In FY 2015, the agency contracted with E&Y (formerly Ernst and Young) to study the NRC's budget structure in comparison with peer agencies. Based on E&Y's recommendations (and starting in FY 2016), the NRC reclassified resources formerly budgeted in office support into either mission-indirect program support or corporate support, depending upon whether the resources were budgeted in support of a program office or a corporate support office.

The mission-direct FTE hours are the product of the mission-direct FTE

multiplied by the estimated annual hours per direct FTE. The only budgeted resources excluded from the hourly rate are those for contract activities related to mission-direct and fee-relief activities. Billable contract activities are included as a separate line item on the 10 CFR part 170 invoice.

The hourly rate decrease is the result of an increase in estimated direct hours worked per mission-direct full-time equivalent (FTE) during the year and reduced budget. The FY 2016 estimated annual direct hours per staff is 1,440 hours, which is up from 1,420 hours in FY 2015. Assuming a constant budget, as the FTE hours per staff increases, the hourly rate decreases. Table II shows the hourly rate calculation methodology. The FY 2015 amounts are provided for comparison purposes.

TABLE II—HOURLY RATE CALCULATION

[Dollars in millions]

| | FY 2015 final rule | FY 2016 final rule | Percentage change |
|--|-----------------------|-----------------------|----------------------|
| Mission-Direct Program Salaries & Benefits | \$365.6 | \$369.6 | 1.1 |
| Mission-Indirect Program Support | \$67.7 | \$140.6 | 107.6 |
| Agency Support (Corporate Support, Office Support * and the IG) | \$422.7 | \$314.0 | – 25.7 |
| Subtotal | \$856.0 | \$824.2 | – 3.7 |
| Less Offsetting Receipts | – \$0.0 | – \$0.1 | 41.5 |
| Total Budget Included in Hourly Rate | \$856.0 | \$824.1 | – 3.7 |
| Mission-Direct FTE (Whole numbers) | 2,250 | 2,157 | – 4.1 |
| Mission-Direct FTE hours | 1,420 | 1,440 | 1.4 |
| FTE Converted to Hours (Mission-Direct FTE multiplied by Mission-Direct FTE hours worked annually) (In Millions) | 3.2 | 3.1 | – 2.8 |

TABLE II—HOURLY RATE CALCULATION—Continued
[Dollars in millions]

| | FY 2015 final rule | FY 2016 final rule | Percentage change |
|---|-----------------------|-----------------------|----------------------|
| Professional Hourly Rate (Total Budget Included in Hourly Rate Divided by FTE Converted to Hours) (Whole Numbers) | \$268 | \$265 | – 1.0 |

* FY 2015 only.

FY 2016 Fee Collection—Flat Application Fee Changes

The NRC amends the flat application fees that it charges to applicants for import and export licenses, applicants for materials licenses and other regulatory services, and holders of materials, import, and export licenses in its schedule of fees in §§ 170.21 and 170.31 to reflect the revised hourly rate of \$265. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2016. The NRC analyzes the actual hours spent performing licensing actions and then estimates the average professional staff hours that are needed to process licensing actions as part of its biennial review of fees, which is required by Section 902 of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(8)). The NRC performed this review in FY 2015 and will perform this review again in FY 2017. The lower hourly rate of

\$265 is the primary reason for the decrease in application fees.

The NRC rounds these flat fees in such a way that ensures both convenience for its stakeholders and that any rounding effects are minimal. Accordingly, fees under \$1,000 are rounded to the nearest \$10, fees between \$1,000 and \$100,000 are rounded to the nearest \$100, and fees greater than \$100,000 are rounded to the nearest \$1,000.

The licensing flat fees are applicable for import and export licensing actions (see fee categories K.1. through K.5. of § 170.21), as well as certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Applications filed on or after the effective date of the FY 2016 final fee rule will be subject to the revised fees in the final rule.

FY 2016 Fee Collection—Fee-Relief and Low-Level Waste (LLW) Surcharge

As previously noted, Congress provides 10 percent of the NRC's recoverable budget authority through an appropriation. The NRC applies this 10-percent congressional appropriation to offset certain budgeted activities—see Table III for a full listing. These activities are referred to as “fee-relief” activities. Any difference between the 10-percent appropriation and the budgeted amount of these fee-relief activities results in a fee adjustment (either an increase or decrease) to all licensees' annual fees, based on their percentage share of the NRC's budget.

In FY 2016, the NRC's budgeted fee-relief activities fall below the 10-percent appropriation threshold—therefore, the NRC assessed a fee-relief credit to decrease all licensees' annual fees based on their percentage share of the budget. Table III summarizes the fee-relief activities for FY 2016. The FY 2015 amounts are provided for comparison purposes.

TABLE III—FEE-RELIEF ACTIVITIES
[Dollars in millions]

| Fee-relief activities | FY 2015 budgeted costs | FY 2016 budgeted costs | Percentage change |
|---|------------------------------|------------------------------|----------------------|
| 1. Activities not attributable to an existing NRC licensee or class of licensee: | | | |
| a. International Assistance activities | \$9.3 | \$12.6 | 35.5 |
| b. Agreement State oversight | 12.0 | 12.6 | 5.0 |
| c. Scholarships and Fellowships | 18.9 | 18.2 | – 3.7 |
| d. Medical Isotope Production Infrastructure | 4.9 | 1.0 | – 79.6 |
| 2. Activities not assessed under 10 CFR part 170 licensing and inspection fees or 10 CFR part 171 annual fees based on existing law or Commission policy: | | | |
| a. Fee exemption for nonprofit educational institutions | 10.3 | 10.1 | – 2.5 |
| b. Costs not recovered from small entities under 10 CFR 71.16(c) | 8.8 | 8.5 | – 3.7 |
| c. Regulatory support to Agreement States | 18.5 | 16.5 | – 10.8 |
| d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes) | 16.4 | 15.2 | – 7.1 |
| e. <i>In Situ</i> leach rulemaking and unregistered general licensees | 1.4 | 1.6 | 21.4 |
| f. Potential Department of Defense remediation program MOU activities | 0.0 | 1.7 | 100 |
| Total fee-relief activities | 100.5 | 98.0 | – 2.4 |
| Less 10 percent of the NRC's total FY budget (less non-fee items) | – 99.5 | – 98.1 | – 1.4 |
| Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees | 1.0 | – 0.1 | – 107.0 |

Table IV shows how the NRC allocates the – \$0.1 million fee-relief

adjustment (credit) to each license fee class.

In addition to the fee-relief adjustment, the NRC also assessed a generic LLW surcharge of \$3.3 million.

Disposal of LLW occurs at commercially operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. There are three existing low-level waste disposal facilities in the United States that accept various types of low-level waste. All are in Agreement States. The NRC allocates this surcharge to its licensees based on

data available in DOE's Manifest Information Management System. This database contains information on total LLW volumes and NRC usage information from four generator classes: Academic, industry, medical, and utility. The ratio of utility waste volumes to total LLW volumes over a period of time is used to estimate the

portion of this surcharge that should be allocated to the power reactors, fuel facilities, and materials fee classes. The materials portion is adjusted to account for the fact that a large percentage of materials licensees are licensed by the Agreement States rather than the NRC.

Table IV shows the surcharge, and its allocation across the various fee classes.

TABLE IV—ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE, FY 2016

[Dollars in millions]

| | LLW surcharge | | Fee-relief adjustment | | Total |
|--|---------------|-----|-----------------------|------|-------|
| | Percent | \$ | Percent | \$ | \$ |
| Operating Power Reactors | 31 | 1.0 | 86.1 | −0.1 | 1.0 |
| Spent Fuel Storage/Reactor Decommissioning | 0.0 | 0.0 | 3.6 | −0.0 | −0.0 |
| Research and Test Reactors | 0.0 | 0.0 | 0.4 | 0.0 | 0.0 |
| Fuel Facilities | 53 | 1.8 | 4.8 | −0.0 | 1.7 |
| Materials Users | 16 | 0.5 | 3.1 | 0.0 | 0.5 |
| Transportation | 0.0 | 0.0 | 0.6 | 0.0 | 0.0 |
| Rare Earth Facilities | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Uranium Recovery | 0.0 | 0.0 | 1.4 | 0.0 | 0.0 |
| Total | 100 | 3.3 | 100 | −0.1 | 3.2 |

FY 2016 Fee Collection—Revised Annual Fees

In accordance with SECY-05-0164, “Annual Fee Calculation Method,” dated September 15, 2005 (ADAMS Accession No. ML052580332), the NRC rebaselines its annual fees every year. Rebaselining entails analyzing the budget in detail and then allocating the budgeted costs to various classes or subclasses of licensees. It also includes

updating the number of NRC licensees in its fee calculation methodology.

The NRC revised its annual fees in §§ 171.15 and 171.16 to recover approximately 90 percent of the NRC's FY 2016 budget authority (less non-fee amounts and the amount to be recovered through 10 CFR part 170 fees). The total 10 CFR part 170 collections for this final rule are \$332.7 million, an increase of \$11.0 million

from the FY 2015 fee rule. The NRC, therefore, must recover approximately \$550.7 million through annual fees from its licensees, which is a decrease of \$16.3 million from the FY 2015 final rule.

Table V shows the rebaselined fees for FY 2016 for a representative list of categories of licensees. The FY 2015 amounts are provided for comparison purposes.

TABLE V—REBASELINED ANNUAL FEES

| Class/category of licenses | FY 2015 final annual fee | FY 2016 final annual fee | Percentage change |
|--|--------------------------------|--------------------------------|----------------------|
| Operating Power Reactors | \$4,807,000 | \$4,659,000 | −3.1 |
| + Spent Fuel Storage/Reactor Decommissioning | 223,000 | 197,000 | −11.7 |
| Total, Combined Fee | 5,030,000 | 4,856,000 | −3.5 |
| Spent Fuel Storage/Reactor Decommissioning | 223,000 | 197,000 | −11.7 |
| Research and Test Reactors (Nonpower Reactors) | 83,500 | 81,500 | −2.4 |
| High Enriched Uranium Fuel Facility | 8,473,000 | 7,867,000 | −7.2 |
| Low Enriched Uranium Fuel Facility | 2,915,000 | 2,736,000 | −6.1 |
| UF ₆ Conversion and Deconversion Facility | 1,731,000 | 1,625,000 | −6.1 |
| Conventional Mills | 36,100 | 38,900 | 7.8 |
| Typical Materials Users: | | | |
| Radiographers (Category 3O) | 25,800 | 26,000 | 0.8 |
| Well Loggers (Category 5A) | 14,400 | 14,500 | 0.7 |
| Gauge Users (Category 3P) | 8,000 | 7,900 | −1.3 |
| Broad Scope Medical (Category 7B) | 37,500 | 37,400 | −0.3 |

The work papers (ADAMS Accession No. ML16161A886) that support this final rule show in detail how the NRC allocated the budgeted resources for each class of licenses and how the fees are calculated. The work papers are

available as indicated in Section XIV, “Availability of Documents.”

Paragraphs a. through h. of this section describe budgetary resources allocated to each class of licensees and the calculations of the rebaselined fees. For more information about detailed fee

calculations for each class, please consult the accompanying work papers.

a. Fuel Facilities

The NRC will collect \$31.6 million in annual fees from the fuel facility class.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES
[Dollars in millions]

| Summary fee calculations | FY 2015 final | FY 2016 final | Percentage change |
|--|------------------|------------------|----------------------|
| Total budgeted resources | \$42.8 | \$40.5 | –5.4 |
| Less estimated 10 CFR part 170 receipts | –11.5 | –11.7 | 1.7 |
| Net 10 CFR part 171 resources | 31.3 | 28.8 | –8.0 |
| Allocated generic transportation | 0.8 | 1.1 | 37.5 |
| Fee-relief adjustment/LLW surcharge | 2.1 | 1.7 | –19.1 |
| Billing adjustments | –0.3 | 0.0 | –100.0 |
| Total remaining required annual fee recovery | 33.9 | 31.6 | –6.8 |

In FY 2016, the fuel facilities budgetary resources decreased due to continued construction delays at multiple sites, which caused delays in NRC operational readiness reviews and NRC inspections. These delays further caused the estimated 10 CFR part 170 billings for FY 2016 to remain stable compared to FY 2015. Specifically, significant construction delays are noted

for the Mixed Oxide Fuel Fabrication Facility, the International Isotopes facility, and the AREVA NC facility.

As for the annual fees, the NRC allocates annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31447; June 10, 1999). To briefly recap, that matrix groups licensees into various

categories. The NRC's fuel facility project managers determine the effort levels associated with regulating each category. This is done by assigning separate effort factors for the safety and safeguards activities associated with each category (for more information about this matrix, see the work papers). These effort levels are reflected in Table VII.

TABLE VII—EFFORT FACTORS FOR FUEL FACILITIES, FY 2016

| Facility type (fee category) | Number of facilities | Effort factors (percent of total) | |
|---|-------------------------|-----------------------------------|------------|
| | | Safety | Safeguards |
| High-Enriched Uranium Fuel (1.A.(1)(a)) | 2 | 88 (44.0) | 96 (56.5) |
| Low-Enriched Uranium Fuel (1.A.(1)(b)) | 3 | 70 (35.0) | 26 (15.3) |
| Limited Operations (1.A.(2)(a)) | 0 | 0 (0.0) | 0 (0.0) |
| Gas Centrifuge Enrichment Demonstration (1.A.(2)(b)) | 1 | 3 (1.5) | 15 (8.8) |
| Hot Cell (1.A.(2)(c)) | 1 | 6 (3.0) | 3 (1.8) |
| Uranium Enrichment (1.E.) | 1 | 21 (10.5) | 23 (13.5) |
| UF ₆ Conversion and Deconversion (2.A.(1)) | 1 | 12 (6.0) | 7 (4.1) |

For FY 2016, the total budgeted resources for safety activities are \$16.2 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percent of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources for safeguards

activities (\$13.7 million) to each fee category based on its percent of the total regulatory effort for safeguards activities. Finally, the fuel facility fee class' portion of the fee-relief adjustment/LLW surcharge—\$1.7 million—is allocated to each fee category based on its percent of the total

regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The fee for each facility is summarized in Table VIII.

TABLE VIII—ANNUAL FEES FOR FUEL FACILITIES

| Facility type (fee category) | FY 2015 final annual fee | FY 2016 final annual fee | Percentage change |
|---|-----------------------------|-----------------------------|----------------------|
| High-Enriched Uranium Fuel (1.A.(1)(a)) | \$8,473,000 | \$7,867,000 | –7.2 |
| Low-Enriched Uranium Fuel (1.A.(1)(b)) | 2,915,000 | 2,736,000 | –6.1 |
| Limited Operations (1.A.(2)(a)) | 0.0 | 0.0 | 0.0 |
| Gas Centrifuge Enrichment Demonstration (1.A.(2)(b)) | 1,640,000 | 1,539,000 | –6.2 |
| Hot Cell (and others) (1.A.(2)(c)) | 820,000 | 770,000 | –6.1 |
| Uranium Enrichment (1.E.) | 4,009,000 | 3,762,000 | –6.2 |
| UF ₆ Conversion and Deconversion (2.A.(1)) | 1,731,000 | 1,625,000 | –6.1 |

b. Uranium Recovery Facilities

The NRC will collect \$0.9 million in annual fees from the uranium recovery

facilities fee class, a small decrease from FY 2015.

TABLE IX—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES
[Dollars in millions]

| Summary fee calculations | FY 2015 final | FY 2016 final | Percentage change |
|---|---------------|---------------|-------------------|
| Total budgeted resources | \$11.3 | \$12.3 | 8.9 |
| Less estimated 10 CFR part 170 receipts | – 10.1 | – 11.4 | 12.9 |
| Net 10 CFR part 171 resources | 1.2 | 0.9 | – 19.8 |
| Allocated generic transportation | N/A | N/A | N/A |
| Fee-relief adjustment | 0.0 | 0.0 | 0.0 |
| Billing adjustments | – 0.1 | 0.0 | – 100.0 |
| Total required annual fee recovery | 1.1 | 0.9 | – 18.2 |

The budgetary resources for uranium recovery increased due to additional work expected for the Uranerz Energy-Jane Doe and Strata Energy-Kenderick expansions, increased inspection activities for Strata Energy-Ross (a new licensee to fleet), and increased hearing activities. Although—in comparison to FY 2015—the total required amount for annual fee recovery decreased, annual fees for this fee class increased because there are less licensees paying annual fees in FY 2016 (two licensees, Moore Ranch and Crownpoint, were not included in the calculation for annual fees because they were licensed but not

constructed and, per current NRC policy, are not required to pay annual fees).

The NRC computes the annual fee for the uranium recovery fee class by dividing the total annual fee recovery amount among DOE and the other licensees in this fee class. The annual fee increase for fee categories 2.A.(2)(a-c), 2.A.(4), and 2.A.(5) is mainly due to the increase in budgetary resources for increased hearing activities and a reduction in the number of licensees over which to spread the budget. The NRC regulates DOE's Title I and Title II activities under UMTRCA.¹ The annual

fee assesses to DOE the costs specifically budgeted for the NRC's UMTRCA Title I and II activities, as well as 10 percent of the remaining budgeted costs for this fee class. The DOE's UMTRCA annual fee decreased because of an increase in estimated 10 CFR part 170 billings for DOE's UMTRCA site at Monument Valley. This decrease caused the total overall fee recovery amount to decrease for this fee class. The NRC assesses the remaining 90 percent of its budgeted costs to the rest of the licensees in this fee class, as described in the work papers. This is reflected in Table X as follows:

TABLE X—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FEE CLASS

| Summary of costs | FY 2015 final annual fee | FY 2016 final annual fee | Percentage change |
|--|--------------------------|--------------------------|-------------------|
| DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses: | | | |
| UMTRCA Title I and Title II budgeted costs less 10 CFR part 170 receipts | \$622,898 | \$503,708 | – 19.1 |
| 10 percent of generic/other uranium recovery budgeted costs | 41,986 | 41,157 | – 2.0 |
| 10 percent of uranium recovery fee-relief adjustment | 1,251 | – 94 | – 107.5 |
| Total Annual Fee Amount for DOE (rounded) | 666,000 | 545,000 | – 18.2 |
| Annual Fee Amount for Other Uranium Recovery Licenses: | | | |
| 90 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for Title I and Title II activities | 377,874 | 370,415 | – 2.0 |
| 90 percent of uranium recovery fee-relief adjustment | 11,255 | – 844 | – 272.4 |
| Total Annual Fee Amount for Other Uranium Recovery Licenses | 389,129 | 369,571 | – 18.3 |

Further, for the non-DOE licensees, the NRC continues to use a matrix to determine the effort levels associated with conducting the generic regulatory actions for the different (non-DOE) licensees in this fee class; this is similar to NRC's approach for fuel facilities, described previously.

The matrix methodology for uranium recovery licensees first identifies the

licensee categories included within this fee class (excluding DOE). These categories are: Conventional uranium mills and heap leach facilities; uranium *In Situ* Recovery (ISR) and resin ISR facilities; mill tailings disposal facilities; and uranium water treatment facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each

activity's relative weight (for more information, see the work papers). Table XI displays the benefit factors per licensee and per fee category, for each of the non-DOE fee categories included in the uranium recovery fee class as follows:

¹ The Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from uranium milling. The UMTRCA Title I program is for remedial action

at abandoned mill tailings sites where tailings resulted largely from production of uranium for the weapons program. The NRC also regulates DOE's UMTRCA Title II program, which is directed

toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

TABLE XI—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

| Fee category | Number of licensees | Benefit factor per licensee | Total value | Benefit factor percent total |
|--|---------------------|-----------------------------|-------------|------------------------------|
| Conventional and Heap Leach mills (2.A.(2)(a)) | 1 | 150 | 150 | 11 |
| Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b)) | 5 | 190 | 950 | 67 |
| Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c)) | 1 | 215 | 215 | 15 |
| 11e.(2) disposal incidental to existing tailings sites (2.A.(4)) | 1 | 85 | 85 | 6 |
| Uranium water treatment (2.A.(5)) | 1 | 25 | 25 | 2 |
| Total | 9 | 665 | 1,425 | 100 |

Applying these factors to the approximately \$369,571 in budgeted costs to be recovered from non-DOE uranium recovery licensees results in

the total annual fees for each fee category. The annual fee per licensee is calculated by dividing the total allocated budgeted resources for the fee

category by the number of licensees in that fee category, as summarized in Table XII.

TABLE XII—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

[Other than DOE]

| Facility type (fee category) | FY 2015 final annual fee | FY 2016 final annual fee | Percentage change |
|--|--------------------------|--------------------------|-------------------|
| Conventional and Heap Leach mills (2.A.(2)(a)) | \$36,100 | \$38,900 | 7.8 |
| Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b)) | 45,800 | 49,300 | 7.6 |
| Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c)) | 51,800 | 55,800 | 7.7 |
| 11e.(2) disposal incidental to existing tailings sites (2.A.(4)) | 20,500 | 22,000 | 7.3 |
| Uranium water treatment (2.A.(5)) | 6,000 | 6,500 | 8.3 |

c. Operating Power Reactors

The NRC will collect \$465.9 million in annual fees from the power reactor

fee class in FY 2016, as shown in Table XIII. The FY 2015 values and percentage change are shown for comparison.

TABLE XIII—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

| Summary fee calculations | FY 2015 final | FY 2016 final | Percentage change |
|---|---------------|---------------|-------------------|
| Total budgeted resources | \$762.1 | \$750.4 | – 1.5 |
| Less estimated 10 CFR part 170 receipts | – 284.1 | – 287.8 | 1.3 |
| Net 10 CFR part 171 resources | 478.0 | 462.6 | – 3.2 |
| Allocated generic transportation | 1.7 | 1.8 | 5.9 |
| Fee-relief adjustment/LLW surcharge | 2.1 | 1.0 | – 52.4 |
| Billing adjustment | – 5.9 | 0.6 | – 110.2 |
| Total required annual fee recovery | 475.9 | 465.9 | – 2.0 |

In comparison to FY 2015, the operating power reactors budgetary resources decreased in FY 2016 due to a decrease in the budgeted activities for new-reactor activities. This decrease is attributable to delays in application submittals and a slowdown in requests for design certification renewal and construction permits. Accordingly, the FY 2016 operating power reactor annual fee decreased. In addition to decreased budgetary resources, an additional licensee (Watts Bar) was added to the operating fleet. This increases the

number of licensees paying this annual fee, which also, in turn, lowers annual fees compared to FY 2015.

Compared with FY 2015, 10 CFR part 170 estimated billings increased due to the design certification work for APR1400 Korea Hydro.

The recoverable budgeted costs are divided equally among the 100 licensed power reactors resulting in an annual fee of \$4,659,000 per reactor. Additionally, each licensed power reactor is assessed the FY 2016 spent fuel storage/reactor decommissioning

annual fee of \$197,000 (see the discussion that follows). The combined FY 2016 annual fee for power reactors is, therefore, \$4,856,000.

d. Spent Fuel Storage/Reactors in Decommissioning

The NRC will collect \$24.0 million in annual fees from 10 CFR part 50 power reactors and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license to collect the budgeted costs for spent fuel storage/reactor decommissioning.

TABLE XIV—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR IN DECOMMISSIONING FEE CLASS

[Dollars in millions]

| Summary fee calculations | FY 2015 final | FY 2016 final | Percentage change |
|---|---------------|---------------|-------------------|
| Total budgeted resources | \$32.4 | \$30.5 | –5.9 |
| Less estimated 10 CFR part 170 receipts | –5.9 | –7.5 | 27.1 |
| Net 10 CFR part 171 resources | 26.5 | 23.0 | –13.2 |
| Allocated generic transportation costs | 1.0 | 1.0 | –3.3 |
| Fee-relief adjustment | 0.0 | 0.0 | –106.5 |
| Billing adjustments | –0.3 | 0.0 | –109.7 |
| Total required annual fee recovery | 27.2 | 24.0 | –11.8 |

In comparison to FY 2015, the annual fee decreased due to a decline in budgetary resources for rulemaking security guidance and waste research. This decrease is partially offset by the slight increase in 10 CFR part 170 billings, due to work on the

consolidated storage facility with Waste Control Specialist and renewal work with Transnuclear. The required annual fee recovery amount is divided equally among 122 licensees, resulting in an FY 2016 annual fee of \$197,000 per licensee.

e. Research and Test Reactors (Nonpower Reactors)

The NRC will collect \$0.326 million in annual fees from the research and test reactor licensee class.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR RESEARCH AND TEST REACTORS

[Dollars in millions]

| Summary fee calculations | FY 2015 final | FY 2016 final | Percentage change |
|---|---------------|---------------|-------------------|
| Total budgeted resources | \$2.510 | \$3.799 | 51.4 |
| Less estimated 10 CFR part 170 receipts | –2.190 | –3.510 | 60.3 |
| Net 10 CFR part 171 resources | 0.320 | 0.289 | –9.6 |
| Allocated generic transportation | 0.032 | 0.034 | 6.3 |
| Fee-relief adjustment | 0.002 | 0.000 | –100.0 |
| Billing adjustments | –0.019 | 0.003 | –84.2 |
| Total required annual fee recovery | 0.334 | 0.326 | –2.3 |

In FY 2016, the annual fees decreased due to a decline in contract support for the non-power reactors and an increase in estimated 10 CFR part 170 billings for non-power production and utilization facility applications to produce molybdenum-99. The required annual fee-recovery amount is divided equally among the four research and test reactors subject to annual fees and

results in an FY 2016 annual fee of \$81,500 for each licensee.

f. Rare Earth

The agency received an application for a rare-earth facility in FY 2015. The NRC has allocated approximately \$460,000 in budgeted resources to this fee class. But, because all of these budgetary resources will be recovered

through 10 CFR part 170 fees, the NRC will not collect an annual fee in FY 2016 for this fee class.

g. Materials Users

The NRC will collect \$35.0 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

| Summary fee calculations | FY 2015 final | FY 2016 final | Percentage change |
|--|---------------|---------------|-------------------|
| Total budgeted resources for licensees not regulated by Agreement States | \$34.1 | \$33.2 | –2.6 |
| Less estimated 10 CFR part 170 receipts | –1.0 | –1.1 | 10.0 |
| Net 10 CFR part 171 resources | 33.1 | 32.1 | –3.0 |
| Allocated generic transportation | 2.2 | 2.4 | 9.1 |
| Fee-relief adjustment/LLW surcharge | 0.6 | 0.5 | –16.7 |
| Billing adjustments | –0.2 | 0.0 | –110.3 |
| Total required annual fee recovery | 35.7 | 35.0 | –2.0 |

To equitably and fairly allocate the \$35.0 million in FY 2016 budgeted costs among approximately 2,900 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the license, this approach provides a proxy for allocating the generic and other regulatory costs to the diverse categories of licenses based on the NRC's cost to regulate each category. This fee-calculation method also considers 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 materials users' licenses is developed as follows:

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

For FY 2016, the constant multiplier necessary to recover approximately \$25.3 million in general costs (including allocated generic transportation costs) is 1.52. The average inspection cost is the average inspection hours for each fee category multiplied by the hourly rate of \$265. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is the multiple necessary to recover approximately \$8.9 million in inspection costs, and is 1.78 for FY 2016. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2016, approximately \$249,000 in budgeted costs for the implementation

of revised 10 CFR 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 fee-relief assessment of approximately –\$2,000 allocated to the materials users fee class (see Table IV, "Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2016," in Section III, "Discussion," of this document), and for certain categories of these licensees, a share of the approximately \$525,200 LLW surcharge costs allocated to the fee class. The annual fee for each fee category is shown in § 171.16(d).

h. Transportation

The NRC will collect \$7.8 million in annual fees to recover generic transportation budgeted resources. The FY 2015 values are shown for comparison.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

| Summary fee calculations | FY 2015 final | FY 2016 final | Percentage change |
|---|---------------|---------------|-------------------|
| Total Budgeted Resources | \$10.0 | \$11.3 | 13.0 |
| Less Estimated 10 CFR part 170 Receipts | –2.6 | –3.5 | 11.5 |
| Net 10 CFR part 171 Resources | 7.4 | 7.8 | 5.4 |
| Fee-relief adjustment/LLW surcharge | 0.0 | 0.0 | 0.0 |
| Billing adjustments | 0.0 | 0.0 | 0.0 |
| Total required annual fee recovery | 7.4 | 7.8 | 5.4 |

In comparison to FY 2015, the total budgetary resources for generic transportation activities increased due to the rulemaking activities involving 10 CFR part 71 Compatibility with IAEA (International Atomic Energy Agency) Transportation Standards and Improvements, which is offset by the increase in part 170 estimated billings for licensing review work involving Holtec International, EnergySolutions and Areva Federal Services.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs

unrelated to DOE as part of existing annual fees for license fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A. for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total Certificates of Compliance (CoCs) used by each fee class (and DOE) by the total generic transportation resources to be recovered. The DOE annual fee decrease is mainly due to 10 CFR part 171 billing adjustments.

This resource distribution to the licensee fee classes and DOE is shown

in Table XVIII. Specifically, for the research and test reactors fee class the NRC allocates the distribution to only the licensees that are subject to annual fees. Three CoCs benefit the entire research and test reactor class, but only 4 out of 31 research and test reactors are subject to annual fees. The number of CoCs used to determine the proportion of generic transportation resources allocated to research and test reactors annual fees is adjusted to 0.4 so that the licensees subject to annual fees are charged a fair and equitable portion of the total. For more information see the final rule work papers.

TABLE XVIII—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2016

[Dollars in millions]

| License fee class/DOE | Number of CoCs benefiting fee class or DOE | Percentage of total CoCs | Allocated generic transportation resources |
|--|--|--------------------------|--|
| DOE | 18.0 | 20.4 | 1.6 |
| Operating Power Reactors | 20.0 | 22.6 | 1.8 |
| Spent Fuel Storage/Reactor Decommissioning | 11.0 | 12.5 | 1.0 |

TABLE XVIII—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2016—Continued

[Dollars in millions]

| License fee class/DOE | Number of CoCs benefiting fee class or DOE | Percentage of total CoCs | Allocated generic transportation resources |
|----------------------------------|--|--------------------------|--|
| Research and Test Reactors | 0.4 | 0.4 | 0.0 |
| Fuel Facilities | 12.0 | 13.6 | 1.0 |
| Materials Users | 27.0 | 30.5 | 2.4 |
| Total | 88.4 | 100.0 | 7.8 |

The NRC assessed an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

FY 2016—Fee Policy Change

The NRC makes one policy change:

Charging User Fees for NRC Work Spent on Responding to Touhy Requests²

The NRC's Touhy regulations—found at 10 CFR 9.200 through 9.204—govern the manner in which the NRC responds to third-party subpoenas or demands for official information served on agency employees. Those third-party subpoenas seek NRC employees to produce documents, to testify, or to do both, in outside litigation in which neither the NRC nor the United States is a named party.

Currently, NRC regulations do not authorize the NRC to collect user fees for the work it performs either collecting and providing documents or providing oral testimony in depositions or before an administrative or judicial tribunal. Yet, NRC work on some Touhy requests can be quite substantial. Without an existing regulation authorizing the NRC to collect user fees, the costs of this work must be recovered through annual fees under 10 CFR part 171. Therefore, the NRC amends its regulations to begin assessing 10 CFR part 170 user fees to recover the NRC staff's costs when responding to significant Touhy requests once NRC work on a request exceeds 50 hours.

The authority for assessing these fees comes from the same statute that provides the authority for the NRC's 10 CFR part 170 fee schedule. That statute—the IOAA—sets forth Congressional policy that “each service or thing of value provided by an agency . . . to a person . . . is to be self-

sustaining to the extent possible.”³ Here, when the NRC complies with a third-party demand for information, the NRC is bestowing a benefit on a private litigant because the NRC is aiding that private litigant in its litigation by providing the information. That benefit is not shared by other members of society. The NRC's work on substantial Touhy requests should, therefore, be recovered under 10 CFR part 170 rather than the current process, which bins those costs to 10 CFR part 171. This full-cost recovery under 10 CFR part 170 would apply to both requests for documents and requests for oral testimony.⁴

Additionally, the NRC has created a fifty hour *de minimis* fee exception to ensure that 10 CFR part 170 fees are assessed for only significant Touhy requests.⁵ This is because the NRC believes that non-corporate Touhy requests for a limited set of documents should not be subject to fees. Once NRC work on a Touhy exceeds fifty hours, however, the Touhy requester will be billed for the full amount of work—this provides an incentive for Touhy requesters to keep their requests from becoming overly burdensome.⁶

FY 2016—Administrative Changes

The NRC also makes three administrative changes:

³ 31 U.S.C. 9701.

⁴ “Oral testimony” in the Touhy context includes requests for both testimony during administrative and judicial proceedings, as well as depositions.

⁵ The NRC chose fifty hours because past experience shows that fifty hours provides a demarcation point between significant and insignificant Touhy requests. As an illustrative example, a common type of Touhy request involves a request for documents in a divorce proceeding, where one of the ex-spouses works at the NRC, and the other ex-spouse needs access to certain personnel files (such as that NRC employee's work schedule) for purposes of addressing custody, *etc.* These cases involve simple requests for discrete and non-deliberative documents, require limited processing time, and thus should not be subject to user fees.

⁶ Even if the Touhy request exceeds fifty hours, that Touhy requester would still be able to seek a fee exemption under § 170.11(b) if the facts are such that granting a fee exemption would be “in the public interest.”

1. Increase Direct Hours per Full-Time Equivalent in the Hourly Rate Calculation

The hourly rate in 10 CFR part 170 is calculated by dividing the cost per direct FTE by the number of direct hours per direct FTE in a year. “Direct hours” are hours charged to mission-direct activities in the Nuclear Reactor Safety Program and Nuclear Materials and Waste Safety Program. The FY 2015 final fee rule used 1,420 hours per direct FTE in the hourly rate calculations. During the FY 2016 budget formulation process, the NRC staff reviewed and analyzed time and labor data from FY 2014 through FY 2015 to determine whether it should revise the direct hours per FTE. Between FY 2014 and FY 2015, the total direct hours charged by direct employees increased. The increase in direct hours was apparent in all mission business lines. To reflect this increase in productivity as demonstrated by the time and labor data, the NRC staff determined that the number of direct hours per FTE should increase to 1,440 hours for FY 2016.

2. Amend Language Under 10 CFR 170.11 To Clarify Exemption Requirements

The NRC amends the language under 10 CFR 170.11(a)(1) to clarify when stakeholders can receive a fee exemption after submitting a report to the NRC for review. The NRC removed paragraph (a)(1)(iii) and instead will rely on the related criteria in exemptions in paragraphs (a)(1)(i) and (a)(1)(ii) for the distinct criteria that stakeholders can use to receive a fee exemption after NRC review of a “special project that is a request/report submitted to the NRC.” The NRC also moved the requirements in current paragraph (a)(1)(iii)(C) that require stakeholders to submit their fee exemption requests in writing to the Chief Financial Officer to a new paragraph (a)(13). These requirements will now apply to all fee exemption criteria, not just special projects.

² The name “Touhy” is derived from the leading Supreme Court case in this area, *United States ex rel Touhy v. Ragen*, 340 U.S. 462 (1951).

3. Change Small Entity Fees

In accordance with NRC policy, the NRC staff conducted a biennial review in 2015 of small entity fees to determine whether the NRC should change those fees. The NRC staff used the fee methodology developed in FY 2009 that applies a fixed percentage of 39 percent to the prior 2-year weighted average of materials users' fees when performing its biennial review. As a result of the NRC staff's review, the upper tier small entity fee increased from \$2,800 to \$4,000 and the lower-tier fee increased from \$600 to \$900. This constituted a 43-percent and 50-percent increase, respectively. Implementing this increase would have had a disproportionate impact upon the NRC's small licensees compared to other licensees, and so the NRC staff revised the increase to 21 percent for the upper-tier fee. The NRC staff chose 21 percent based on the average percentage increase for the prior two biennial reviews of small entity fees. Because of a technical oversight, the change was not included in the FY 2015 final fee rule. Accordingly, the NRC staff now amends the upper-tier small entity fee to \$3,400 and amends the lower-tier small entity fee to \$700 for FY 2016. The NRC staff believes these fees are reasonable and provide relief to small entities while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them.

FY 2016—Billing

The FY 2016 fee rule is a major rule as defined by the Congressional Review Act of 1996 (5 U.S.C. 801–808). Therefore, the NRC's fee schedules for FY 2016 will become effective 60 days after publication of the final rule in the **Federal Register**. Upon publication of the final rule, the NRC will send an invoice for the amount of the annual

fees to reactor licensees, 10 CFR part 72 licensees, major fuel cycle facilities, and other licensees with annual fees of \$100,000 or more. For these licensees, payment is due 30 days after the effective date of the FY 2016 final rule. Because these licensees are billed quarterly, the payment amount due is the total FY 2016 annual fee less payments made in the first three quarters of the fiscal year.

Materials licensees with annual fees of less than \$100,000 are billed annually. Those materials licensees whose license anniversary date during FY 2016 falls before the effective date of the FY 2016 final rule will be billed for the annual fee during the anniversary month of the license at the FY 2015 annual fee rate. Those materials licensees whose license anniversary date falls on or after the effective date of the FY 2016 final rule will be billed for the annual fee at the FY 2016 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

III. Opportunities for Public Participation

The NRC published the FY 2016 proposed fee rule in the **Federal Register** on March 23, 2016 (81 FR 15457), for a 30-day public comment period. The rule proposed to amend the licensing, inspection, special project, and annual fees charged to the NRC's applicants and licensees and, for the first time, proposed to recover the NRC's costs when it responds to third-party demands for information in litigation where the United States is not a party ("Touhy requests"). These proposed amendments were necessary to implement OBRA–90, as amended, which requires the NRC to recover approximately 90 percent of its annual budget through fees. The public

comment period for the proposed rule closed on April 22, 2016.

The NRC also held a public meeting on April 13, 2016, to provide more transparency regarding fees in relation to the budget process and fulfill its commitment to external stakeholders to address NRC program processes and inefficiencies mentioned in the comments submitted for the FY 2015 proposed fee rule. During the public meeting, the NRC received no comments on the FY 2016 proposed fee rule. The public meeting transcript is available as indicated in Section XIV, Availability of Documents, of this document.

IV. Public Comment Analysis

Overview of Public Comments

The NRC received seven written comment submissions for the proposed rule. A comment submission for the purpose of this rule is defined as a communication or document submitted to the NRC by an individual or entity, with one or more distinct comments addressing a subject or an issue. A comment, on the other hand, refers to a statement made in the submission addressing a subject or issue. In general, the commenters were supportive of the specific proposed regulatory changes, although most commenters expressed concerns about broader fee-policy issues related to transparency and fairness.

The commenters are listed in Table XXII, and are classified as follows: Three members of the uranium industry (Kennecott Uranium Company, Wyoming Mining Association (WMA), and Uranerz Energy Corporation); one nuclear materials licensee (Rendezvous Engineering); one nuclear medicine materials licensee (anonymous); one nuclear power plant (Southern Nuclear Operating Company); and one industry trade group (Nuclear Energy Institute (NEI)).

TABLE XIX—FY 2016 PROPOSED FEE RULE COMMENTER SUBMISSIONS

| Commenter | Affiliation | ADAMS Accession No. | Acronym |
|------------------------------|--|---------------------|---------|
| Anonymous | Bell Hospital | ML16113A270 | |
| Jonathan Downing | Wyoming Mining Association | ML16113A271 | WMA |
| Anthony R. Pietrangelo | Nuclear Energy Institute | ML16113A272 | NEI |
| Oscar Paulson | Kennecott Uranium Company | ML16113A273 | N/A |
| C.R. Pierce | Southern Nuclear Operating Company | ML16116A030 | SNC |
| William P. Goranson | Uranerz Energy Corporation | ML16117A254 | N/A |
| Matthew Ostdiek | Rendezvous Engineering, P.C | ML16126A366 | N/A |

Information about obtaining the complete text of the comment submissions is available in Section XIV, "Availability of Documents," of this document.

Public Comments and NRC Responses

The NRC has carefully considered the public comments received. The comments have been organized by topic followed by the NRC response.

A. Hourly Rate

Comment: The hourly rate—despite the decrease from \$268 to \$266—remains high in comparison to the hourly rates of consultants working in

the uranium recovery industry. (Kennecott Uranium Company, Wyoming Mining Association, and Uranerz Energy Corporation)

Response: To the extent the commenter believes that the NRC's hourly rate should be comparable to the hourly rate for uranium-recovery consultants, the NRC disagrees with this comment. All fees assessed to licensees and applicants by the NRC must conform to OBRA-90 and IOAA requirements, in contrast to industry consultants working for the uranium recovery industry. Under the IOAA, the NRC must recover its full costs of providing specific regulatory benefits to identifiable applicants and licensees. In so doing, the NRC establishes an hourly rate for its work. Consistent with the IOAA, the NRC determines its hourly rate by dividing the sum of recoverable budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and (3) agency support—which includes corporate support, office support (FY 2015 only), and the IG. The mission-direct FTE hours are the product of the mission-direct FTE multiplied by the hours per direct FTE. The only budgeted resources excluded from the hourly rate are those for contract activities related to mission-direct and fee-relief activities.

No change was made to the final rule in response to this comment.

Comment: The hourly rate calculation identifies \$362.9 million in mission-direct program activities, which represents only 41 percent of the total adjusted amount that the NRC must recover through fees (\$883.9 million). This shows that the budget portion allocated to “corporate support” (which is a key factor in the hourly rate calculation) is disproportionately large in comparison to those resources allocated for mission-direct and mission-indirect activities. Further, the NRC's reclassification of “office support” activities into either “corporate support” or “mission-indirect support” gives the appearance of a greater reduction in corporate support activities than actually took place. The NRC needs to reduce these non-mission direct activities. (NEI)

Response: The NRC disagrees that the budget portion allocated to corporate support is disproportionate to resources allocated to mission activities. First, in calculating the percentage of mission-direct program activities, the commenter does not take into account all mission-direct resources contained in the total budget authority presented in the FY 2016 proposed fee rule. The \$362.9 million referenced by the commenter

includes only mission-direct salaries and benefits—it does not include the mission-direct amount for contract support, which is an additional \$154.9 million. Although not included within the hourly rate, mission-direct contract support is a significant component of the direct costs within the agency's total budget authority. Total mission-direct program activities—including salaries, benefits, and contract support—equals \$517.8 million. Further, the \$138.7 million that the NRC budgeted for mission-indirect program support brings the NRC's total budgeted mission costs to \$656.5 million.

Second, the NRC disagrees that reclassification of office support activities into either “corporate support” or “mission-indirect support” gives the appearance of a greater reduction in corporate support than actually took place. During the 5-year period when the agency used the office support budget structure, mission-indirect resources—including supervisory FTE in the agency's program offices and regions, and other programmatic support resources—were identified as agency corporate support in the annual fee rule, thus making the portion of the budget allocated to corporate support appear larger than it actually was. The reclassification of office support returns mission-indirect resources to their location in the budget prior to FY 2011; in so doing, these resources are now once again properly represented in the annual fee rule as program costs rather than corporate costs. Although the budget structure change results in a more appropriate categorization of agency support resources, it does not affect the treatment of mission-indirect resources in the final fee rule calculations. Even when budgeted as office support, mission-indirect costs were recovered in the hourly rate, and they continue to be recovered through the hourly rate after re-categorization.

The NRC has taken a hard look at overhead resources, reducing both FTE and contract support dollars through streamlining initiatives. Final FY 2016 resources for agency support reflect reductions in the corporate support portion of the budget, as compared to the FY 2016 Congressional Budget Justification. The NRC will implement further reductions to corporate support and mission-indirect resources in FY 2017.

No change was made to the final rule in response to this comment.

B. Fairness of Fees

Comment: As the number of NRC licensees decline, the fact that the NRC's

budget has not correspondingly declined means that the remaining licensees must pay higher annual fees. For example, in situ recovery facilities fees have increased 71 percent since FY 2012. And, as more power reactors leave the fleet, the current fee structure will require the remaining licensees to bear an even higher annual fee burden. (NEI)

Response: The fees assessed to licensees and applicants by the NRC must conform to OBRA-90, which requires the NRC to collect approximately 90 percent of its annual budget authority (less certain excluded items) through both user fees and annual fees. The NRC can assess these annual fees only to licensees or certificate holders, and the annual fee schedule must be fair and must equitably allocate annual fees among the NRC's many licensees. To ensure optimal compliance with OBRA-90, the NRC makes continual organizational improvements to align its resources needed to support its regulatory activities. This should help mitigate licensees leaving a fee class by helping the NRC develop budgets that account for regulating a fee class with a declining number of licensees. The NRC is also conducting a separate effort to obtain public comment on a number of broader issues related to NRC fees. For information on the issues and comments received, please see <http://regulations.gov> under Docket ID NRC-2016-0056.

No change was made to the final rule in response to this comment.

C. Uranium Recovery

Comment: The NRC proposed to increase uranium recovery annual fees by over 10 percent for each uranium recovery fee category. The NRC has not justified this increase and must provide a detailed explanation as to why annual fees are increasing by this much. Specifically, to the extent that annual fees are increasing due to increased inspection activities and other additional work, then that work should be recovered through 10 CFR part 170 hourly charges rather than 10 CFR part 171 annual fees. Also, based on invoices received by Kennecott Uranium Company, it appears that uranium recovery licensees are adequately supporting the NRC's uranium recovery program through the payment of hourly charges. (Kennecott Uranium Company, Wyoming Mining Association, and Uranerz Energy Corporation)

Response: The NRC disagrees with the commenter's argument that the NRC has not justified the increase in uranium recovery annual fees. The primary reason for the increase was a decrease

in the number of licensees that were required to pay annual fees. Two licensees, Moore Ranch and Crownpoint, were not included in the calculation for annual fees because they were licensed but not constructed; per current NRC policy, therefore, those licensees are not required to pay annual fees. Further, in FY 2016, activities that cannot be billed under the hourly charges in 10 CFR part 170 continued. An example of these activities include hearings associated with four application reviews: (i) The Crow Butte license renewal; (ii) the Crow Butte Marsland new license review; (iii) the Powertech Dewey Burdock new license review; and (iv) the Strata Ross new license. In these hearings, the NRC's technical staff supports the Office of the General Counsel by providing expert testimony on areas such as groundwater, the National Environmental Policy Act, Tribal consultation, seismology, and geochemistry. Other examples of part 171 activities include NRC staff support for non-licensing tasks (such as responding to inquiries, meetings with the U.S. Environmental Protection Agency regarding their draft 40 CFR part 192 Rule, regulatory guidance development, and Tribal outreach).

No change was made to the final rule in response to this comment.

Comment: More uranium recovery activities should be paid out of the congressional 10-percent appropriation to lower fees for uranium recovery licensees. (Uranerz Energy Corporation)

Response: The NRC disagrees that more uranium recovery activities should be paid out of the congressional 10-percent appropriation. The NRC accounts for its 10-percent congressional appropriation by budgeting for "fee-relief" activities. These typically include activities that are not attributable to an existing NRC licensee or class of licensee. Or they include activities for which the NRC cannot collect fees under existing law. Historically, the NRC has not designated uranium recovery activities as fee-relief activities because uranium activities are attributable to a discrete class of licensees, and the NRC can lawfully assess fees to uranium recovery licensees under OBRA-90 and the IOAA. Here, the commenter has not explained why the NRC should allocate a portion of uranium recovery activities to fee relief given the fact that the NRC can identify uranium recovery licensees and can lawfully assess fees to those licensees.

No change was made to the final rule in response to this comment.

Comment: There is an error in the FY 2016 proposed work papers in Section

III.A. Specifically, under the table for "Mission-Direct Budgeted Resources," there is no description for line 5, and line 12 does not properly sum from lines 5, 8, 10, and 11. (Uranerz Energy Corporation)

Response: The NRC disagrees that there is an error in the FY 2016 proposed work papers in Section III.A. relating to the table for "Mission-Direct Budgeted Resources" because such a table is not included in this section of the work papers. But, the NRC agrees that within the work papers—specifically section III.B.2.b—the description for line 5 "Net Part 171 Allocations—with allocated transportation," was unintentionally omitted by the NRC. The NRC also understands that reconciling the amounts illustrated in the summary for the annual fee lines 5, 8, 10 and 11 could be clearer due to the dissimilar decimal points used for rounding. The NRC will correct the final fee rule work papers to include the omitted line description and reuse decimal placement for consistency.

No change was made to the final rule in response to this comment (but a change was made to the work papers).

D. Touhy Fees

Comment: For the first time, the NRC is proposing to recover costs associated with processing third-party demands for information in litigation where the United States is not a party. How will the NRC ensure that these costs are actually directly billed to the third party so that they are not passed on to other licensees through annual fees? (Kennecott Uranium Company and Wyoming Mining Association)

Response: Touhy requests are sent directly to the Office of the General Counsel in the form of a subpoena or other demand for information. The Offices of the General Counsel and Chief Financial Officer have developed internal controls to capture and track all NRC staff time spent on Touhy requests by using unique Cost Activity Codes. When the Office of the General Counsel receives a subpoena, it will validate the request, identify the billable party, and request a Cost Activity Code that is unique to the subpoena for billing purposes under 10 CFR part 170. This process will further use a mechanism to identify when the *de minimis* threshold (50 hours) is reached to ensure only those requests exceeding fifty hours are billed under 10 CFR part 170.

No change was made to the final rule in response to this comment.

E. Miscellaneous

Comment: How is this proposed rule going to affect the licensing fees for Bell Hospital in Ishpeming, Michigan? Is this hospital listed as a small entity? (Anonymous)

Response: Bell Hospital in Ishpeming, Michigan, currently holds a license for Medical Institution—Limited Scope—Written Directive Required (program code 02120; fee category 7.C.) and Source Material Shielding (program code 11210; fee category 2.B.). Per the FY 2015 final fee rule and the FY 2016 proposed fee rule, the annual fee for fee category 7.C. is unchanged at \$13,300; therefore, the FY 2016 final fee rule will not affect the fee for this portion of the license. Further, licensees that pay fees under fee category 7.C. are not subject to fees under fee category 2.B. for possession and shielding authorized on the same license. Therefore, the FY 2016 final fee rule will not have any impact to the fees Bell Hospital is currently paying. Finally, Bell Hospital is not currently considered a small entity by the NRC.

No change was made to the final rule in response to this comment.

Comment: The proposed fee rule identified \$12.6 million for international assistance activities as a fee-relief activity. Yet, there are no other listed budgeted costs related to other international activities in the proposed rule. The work papers do list total funding for international activities as being \$23.2 million, which leaves approximately \$10.6 million in international activities that were rolled into the fee base. To the extent this additional \$10 million was also spent on international cooperation or international assistance activities, then it is not clear what direct benefit the domestic regulated community is receiving through these activities. (NEI)

Response: As stated in the proposed rule, the amount of international assistance activities that the NRC allocated to international fee relief is \$12.6 million. The amount not included under international fee relief activities represents international resources that the NRC assigned to each mission-direct fee class. Specifically, these resources represent international cooperation activities (rather than international assistance activities). These cooperation activities do, in fact, benefit a group of NRC licensees. For example, international cooperative activities involve sharing information, knowledge, and technical expertise with the NRC's international regulatory counterparts. This enhances the NRC's regulatory programs by providing direct input into

the NRC's regulation and oversight of its licensees. International cooperation activities also provide other benefits to NRC licensees, such as collaborative research that is relevant to the NRC's regulatory programs. The NRC continuously assesses and, where relevant, incorporates international operating experience and research insights into the NRC's domestic regulatory program. For example, power reactor licensees may benefit from international efforts to exchange information on regulatory experience and expertise on construction, startup, and the operation of nuclear power plants.

No change was made to the final rule in response to this comment.

Comment: In the FY 2015 final fee rule, the NRC revised its methodology for charging overhead time for project managers and resident inspectors under 10 CFR part 170. Specifically, the NRC started to allocate overhead costs to each licensee based on direct time to each docket to ensure that a licensee's overhead costs were proportional to the regulatory services rendered by the NRC. This has led, in some cases, to licensees being double- or triple-charged for project manager time. For example, some licensees have received invoices for project manager time being charged through the 6-percent project manager allocation, project management TACs, and directly technical TACs. The NRC should be more consistent and try to avoid multiple billings for the same work. (NEI)

Response: To the extent the commenter believes that the NRC is double- and triple-billing licensees, the NRC disagrees with this comment. The NRC staff charges to direct billable cost activity codes (CACs) only when that work benefits a single, identifiable licensee. The project manager (PM)/resident inspector (RI) allocation recovers the costs for all PMs and senior resident inspectors (SRIs) that are not directly attributable to a single licensee, but rather benefit the entire class of licensees (e.g., indirect activities such as PM technical support to the regional offices, PM training and attendance at conferences, PM participation in working groups). When a PM or SRI supports work under this allocation, the PM is not directly billing a licensee. This activity is pooled and distributed to all licensees as 6 percent of the direct labor charges provided by agency staff. Because these activities ultimately benefit all licensees, the agency has instituted average cost recovery to recover from all licensees for these activities.

No change was made to the final rule in response to this comment.

Comment: Regarding small entity size standards, the NRC should consider establishing lower licensing fees by creating one or more additional steps between the \$520,000 to \$7,500,000 range. A fee rate schedule with more steps for small businesses would help reduce the license fee burden on the smaller entities. (Rendezvous Engineering, P.C.)

Response: To reduce the burden of the NRC's annual fees on small entities, the NRC established the maximum small entity fee in 1991. In FY 1992, the NRC introduced a second lower tier to the small entity fee. Because the NRC's methodology for small entity size standards has been approved by the Small Business Administration, the NRC did not modify its current methodology for this rulemaking. The NRC is currently reviewing its small business size standards to determine if a change is needed to the number of fee steps in order to fairly and equitably access fees for all licensees.

No change was made to the final rule in response to this comment.

E. Comments on Matters Not Related to This Rulemaking

Some comments suggested that the NRC implement a number of recommendations to streamline the regulatory process, prepare more detailed invoices, examine staffing and the NRC's budget structure, increase travel funds to allow for the audits of topical reports, etc. Other commenters expressed their belief that uranium recovery sites should require the least amount of NRC regulatory oversight because they are the lowest risk sector of the nuclear fuel cycle.

All of these matters are outside the scope of this rulemaking. The primary purpose of the NRC's annual fee recovery rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the appropriations that the NRC received for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations in order to ensure compliance with OBRA-90, as amended.

The NRC takes very seriously the importance of examining and improving the efficiency of its operations and the prioritization of its regulatory activities. Recognizing the importance of continuous reexamination and improvement of the way the agency does business, the NRC has undertaken, and continues to undertake, a number of significant initiatives aimed at

improving the efficiency of NRC operations and enhancing the agency's approach to regulating. For example the NRC published a request for information on March 22, 2016, 81 FR 15352. This request asked for input from the stakeholders regarding the general communications the NRC provides about its fees and the public's understanding of the NRC's fee setting process. Though comments addressing these issues may not be within the scope of this fee rulemaking, the NRC will consider this input in its future program operations.

V. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended,⁷ the NRC has prepared a regulatory flexibility analysis (RFA) relating to this final rule. The RFA is available as indicated in Section XIV, Availability of Documents, of this document.

VI. Regulatory Analysis

Under OBRA-90 and the AEA, the NRC is required to recover 90 percent of its budget authority, or total appropriations of \$1,002.1 million, in FY 2016. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery in OBRA-90 and the AEA.

In this rulemaking, the NRC continues this long-standing approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this rulemaking.

VII. Backfitting and Issue Finality

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required. A backfit analysis is not required because these amendments do not require the modification of, or addition to, systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

⁷ 5 U.S.C. 603. The Regulatory Flexibility Act, 5 U.S.C. 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104-121, Title II, 110 Stat. 847 (1996).

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883).

IX. National Environmental Policy Act

The NRC has determined that this rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

X. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

XI. Congressional Review Act

In accordance with the Congressional Review Act of 1996 (5 U.S.C. 801–808), the NRC has determined that this action is a major rule and has verified the determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

XII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC proposes to amend the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover approximately 90 percent of its budget authority in FY 2016, as required by OBRA–90, as amended. This action does not constitute the establishment of a

standard that contains generally applicable requirements.

XIII. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the “Small Entity Compliance Guide” for the FY 2015 final fee rule. This document, which has been relabeled for FY 2016, is available as indicated in Section XV, Availability of Documents, of this document. The next compliance guide will be developed when the NRC completes the next small entity biennial review in FY 2017.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

| Document | ADAMS Accession No./Web link/Federal Register citation |
|---|---|
| FY 2016 Final Rule Work Papers | ML16161A886. |
| FY 2016 Regulatory Flexibility Analysis | ML16144A548. |
| FY 2016 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide. | ML16043A334. |
| NUREG–1100, Volume 31, “Congressional Budget Justification: Fiscal Year 2016” (February 2, 2015). | NRC: Congressional Budget Justification: Fiscal Year 2016 (NUREG–1100, Volume 31). |
| NRC Form 526, Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171. | http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf . |
| Consolidated and Further Continuing Appropriations Act, 2016 | https://www.congress.gov/bill/114th-congress/house-bill/2029/text . |
| SECY–05–0164, “Annual Fee Calculation Method,” September 15, 2005. | ML052580332. |
| FY 2016 Proposed Fee Rule Comment Submissions | ML16138A011. |
| Transcript of Public Meeting on Fees, April 13, 2016 | ML16105A045. |
| OMB’s Circular A–25, “User Charges” | https://www.whitehouse.gov/omb/circulars_default . |
| FY 2016 Proposed Fee Rule | ML16048A188. |
| FY 2016 Proposed Rule Work Papers | ML16056A437. |
| Meeting Summary Notes for the Public Meeting on the FY 2016 Proposed Fee Rule held on April 13, 2016. | ML16113A109. |

List of Subjects**10 CFR Part 9**

Administrative practice and procedure, Courts, Criminal penalties, Freedom of information, Government employees, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 9, 170, and 171.

PART 9—PUBLIC RECORDS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: Atomic Energy Act of 1954, sec. 161 (42 U.S.C. 2201); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note.

Subpart A also issued under 31 U.S.C. 9701.

Subpart B also issued under 5 U.S.C. 552a.

Subpart C also issued under 5 U.S.C. 552b.

■ 2. Revise § 9.201 to read as follows:

§ 9.201 Production or disclosure prohibited unless approved by appropriate NRC official.

(a) No employee of the NRC shall, in response to a demand of a court or other judicial or quasi-judicial authority,

produce any material contained in the files of the NRC or disclose, through testimony or other means, any information relating to material contained in the files of the NRC, or disclose any information or produce any material acquired as part of the performance of that employee's official duties or official status without prior approval of the appropriate NRC official. When the demand is for material contained in the files of the Office of the Inspector General or for information acquired by an employee of that Office, the Inspector General is the appropriate NRC official. In all other cases, the General Counsel is the appropriate NRC official.

(b) Any NRC response to a demand of a court or other judicial or quasi-judicial authority that requires an employee of the NRC to expend more than 50 hours of official time shall be subject to hourly fees in accordance with 10 CFR 170.12(d).

PART 170—FEES FOR FACILITIES, MATERIALS IMPORT AND EXPORT LICENSES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 3. The authority citation for part 170 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

■ 4. Revise § 170.1 to read as follows:

§ 170.1 Purpose.

The regulations in this part set out fees charged for licensing services, inspection services, and special projects rendered by the Nuclear Regulatory Commission as authorized under title V

of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701(a)).

■ 5. In § 170.2, add paragraph (u) to read as follows:

§ 170.2 Scope.

* * * * *

(u) Submitting a Touhy request, pursuant to 10 CFR 9.200 through 9.204, as defined in § 170.3.

■ 6. In § 170.3, add, in alphabetical order, the definition for *Touhy request*, to read as follows:

§ 170.3 Definitions.

* * * * *

Touhy request means a request for NRC records or NRC testimony that is made pursuant to the NRC's regulations at 10 CFR 9.200 through 9.204.

* * * * *

■ 7. In § 170.11, revise paragraph (a)(1)(ii), remove paragraph (a)(1)(iii), and add paragraph (a)(13) to read as follows:

§ 170.11 Exemptions.

(a) * * *

(1) * * *

(ii) When the NRC, at the time the request/report is submitted, plans to use the information in response to an NRC request from the Office Director level or above to resolve an identified safety, safeguards, or environmental issue, or to assist the NRC in generic regulatory improvements or efforts (e.g., rules, regulatory guides, regulations, policy statements, generic letters, or bulletins).

* * * * *

(13) All fee exemption requests must be submitted in writing to the Chief Financial Officer in accordance with § 170.5, and the Chief Financial Officer

will grant or deny such requests in writing.

* * * * *

■ 8. In § 170.12, revise paragraphs (d)(1)(v) and (vi) and add paragraph (d)(1)(vii) to read as follows:

§ 170.12 Payment of fees.

* * * * *

(d) * * *

(1) * * *

(v) 10 CFR 50.71 final safety analysis reports;

(vi) Contested hearings on licensing actions directly involving U.S. Government national security initiatives, as determined by the NRC; and

(vii) Responses to Touhy requests that require the NRC staff to expend more than 50 hours of official time. Fees for Touhy requests will be billed at the appropriate hourly rate established in § 170.20.

■ 9. Revise § 170.20 to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the professional staff-hour rate of \$265 per hour.

■ 10. In § 170.21, in the table, revise fee categories J. and K. and add footnote 5 to read as follows:

§ 170.21 Schedule of fees for production or utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses.

* * * * *

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

| Facility categories and type of fees | | Fees ^{1 2} |
|---|--|---------------------|
| * * * * * | | |
| J. Special Projects: | | |
| Approvals and preapplication/licensing activities | | Full Cost. |
| Inspections ³ | | Full Cost. |
| Contested hearings on licensing actions directly related to U.S. Government national security initiatives | | Full Cost. |
| Touhy requests ⁵ | | Full Cost. |
| K. Import and export licenses: | | |
| Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110. | | |
| 1. Application for import or export of production or utilization facilities ⁴ (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b). | | |
| Application—new license, or amendment; or license exemption request | | \$17,200. |
| 2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a). | | |
| Application—new license, or amendment; or license exemption request | | \$9,300. |
| 3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances. | | |

SCHEDULE OF FACILITY FEES—Continued

[See footnotes at end of table]

| Facility categories and type of fees | Fees ^{1 2} |
|---|---------------------|
| Application—new license, or amendment; or license exemption request | \$4,200. |
| 4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances. Application—new license, or amendment; or license exemption request | \$4,800. |
| 5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities. Minor amendment to license | \$2,700. |

¹ Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

² Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect when the service was provided.

³ Inspections covered by this schedule are both routine and non-routine safety and safeguards inspections performed by the NRC for the purpose of review or follow-up of a licensed program. Inspections are performed through the full term of the license to ensure that the authorized activities are being conducted in accordance with the Atomic Energy Act of 1954, as amended, other legislation, Commission regulations or orders, and the terms or conditions of the license. Non-routine inspections that result from third-party allegations will not be subject to fees.

⁴ Imports only of major components for end-use at NRC-licensed reactors are authorized under NRC general import license in 10 CFR 110.27.

⁵ Full cost fees will be assessed once NRC work on a Touhy request exceeds 50 hours, in accordance with § 170.12(d).

■ 11. In § 170.31, revise the table to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

| Category of materials licenses and type of fees ¹ | Fee ^{2 3} |
|--|--------------------|
| 1. Special nuclear material: | |
| A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities. | |
| (a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130] | Full Cost. |
| (b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210] | Full Cost. |
| (2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities. | |
| (a) Facilities with limited operations [Program Code(s): 21310, 21320] | Full Cost. |
| (b) Gas centrifuge enrichment demonstration facilities | Full Cost. |
| (c) Others, including hot cell facilities | Full Cost. |
| B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200]. | Full Cost. |
| C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. ⁴ Application [Program Code(s): 22140] | \$1,200. |
| D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. ⁴ Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310] | \$2,500. |
| E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200] | Full Cost. |
| F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter. ⁴ [Program Code(s): 22155]. | Full Cost. |
| 2. Source material: | |
| A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [Program Code(s): 11400]. | Full Cost. |
| (2) Licenses for possession and use of source material in recovery operations such as milling, <i>in-situ</i> recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode. | |
| (a) Conventional and Heap Leach facilities [Program Code(s): 11100] | Full Cost. |
| (b) Basic <i>In Situ</i> Recovery facilities [Program Code(s): 11500] | Full Cost. |
| (c) Expanded <i>In Situ</i> Recovery facilities [Program Code(s): 11510] | Full Cost. |

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

| Category of materials licenses and type of fees ¹ | Fee ^{2,3} |
|---|--------------------|
| (d) <i>In Situ</i> Recovery Resin facilities [Program Code(s): 11550] | Full Cost. |
| (e) Resin Toll Milling facilities [Program Code(s): 11555] | Full Cost. |
| (f) Other facilities [Program Code(s): 11700] | Full Cost. |
| (3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000]. | Full Cost. |
| (4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010]. | Full Cost. |
| (5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820]. | Full Cost. |
| B. Licenses which authorize the possession, use, and/or installation of source material for shielding. ^{6,7,8} | |
| Application [Program Code(s): 11210] | \$1,170. |
| C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. | |
| Application [Program Code(s): 11240] | \$2,700. |
| D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. | |
| Application [Program Code(s): 11230, 11231] | \$2,600. |
| E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. | |
| Application [Program Code(s): 11710] | \$2,500. |
| F. All other source material licenses. | |
| Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810] | \$2,500. |
| 3. Byproduct material: | |
| A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. | |
| Application [Program Code(s): 03211, 03212, 03213] | \$12,400. |
| B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. | |
| Application [Program Code(s): 03214, 03215, 22135, 22162] | \$3,400. |
| C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). | |
| Application [Program Code(s): 02500, 02511, 02513] | \$5,000. |
| D. [Reserved] | N/A. |
| E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). | |
| Application [Program Code(s): 03510, 03520] | \$3,100. |
| F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. | |
| Application [Program Code(s): 03511] | \$6,200. |
| G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. | |
| Application [Program Code(s): 03521] | \$59,200. |
| H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. | |
| Application [Program Code(s): 03254, 03255, 03257] | \$6,300. |
| I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. | |
| Application [Program Code(s): 03250, 03251, 03252, 03253, 03256] | \$10,500. |
| J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. | |
| Application [Program Code(s): 03240, 03241, 03243] | \$1,900. |
| K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. | |
| Application [Program Code(s): 03242, 03244] | \$1,100. |
| L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. | |
| (1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. | |

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

| Category of materials licenses and type of fees ¹ | Fee ^{2,3} |
|--|--------------------|
| (2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613, 04610, 04611, 04612, 04613, 04614, 04615, 04616, 04617, 04618, 04619, 04620, 04621, 04622, 04623]. | \$5,200. |
| M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. Application [Program Code(s): 03620] | \$4,800. |
| N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C. Application [Program Code(s): 03219, 03225, 03226] | \$6,100. |
| O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Application [Program Code(s): 03310, 03320] | \$3,000. |
| P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ⁹ Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130]. | \$2,500. |
| Q. Registration of a device(s) generally licensed under part 31 of this chapter. Registration | \$600. |
| R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section. ⁵ 1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified. Application [Program Code(s): 02700] | \$2,400. |
| 2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4), or (5). Application [Program Code(s): 02710] | \$2,400. |
| S. Licenses for production of accelerator-produced radionuclides. Application [Program Code(s): 03210] | \$13,600. |
| 4. Waste disposal and processing: A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]. | Full Cost. |
| B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03234] | \$6,600. |
| C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03232] | \$4,800. |
| 5. Well logging: A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. Application [Program Code(s): 03110, 03111, 03112] | \$4,400. |
| B. Licenses for possession and use of byproduct material for field flooding tracer studies. Licensing [Program Code(s): 03113] | Full Cost. |
| 6. Nuclear laundries: A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. Application [Program Code(s): 03218] | \$21,100. |
| 7. Medical licenses: A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Application [Program Code(s): 02300, 02310] | \$10,600. |
| B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ¹⁰ Application [Program Code(s): 02110] | \$8,300. |
| C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160] | \$4,300. |
| 8. Civil defense: | |

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

| Category of materials licenses and type of fees ¹ | Fee ^{2,3} |
|---|--------------------|
| A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. | |
| Application [Program Code(s): 03710] | \$2,400. |
| 9. Device, product, or sealed source safety evaluation: | |
| A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution. | |
| Application—each device | \$5,200. |
| B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. | |
| Application—each device | \$8,600. |
| C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution. | |
| Application—each source | \$5,000. |
| D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel. | |
| Application—each source | \$1,010. |
| 10. Transportation of radioactive material: | |
| A. Evaluation of casks, packages, and shipping containers. | |
| 1. Spent Fuel, High-Level Waste, and plutonium air packages | Full Cost. |
| 2. Other Casks | Full Cost. |
| B. Quality assurance program approvals issued under part 71 of this chapter. | |
| 1. Users and Fabricators. | |
| Application | \$4,000. |
| Inspections | Full Cost. |
| 2. Users. | |
| Application | \$4,000. |
| Inspections | Full Cost. |
| C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices). | Full Cost. |
| 11. Review of standardized spent fuel facilities | Full Cost. |
| 12. Special projects: | |
| Including approvals, pre-application/licensing activities, and inspections. | |
| Application [Program Code: 25110] | Full Cost. |
| 13. A. Spent fuel storage cask Certificate of Compliance | Full Cost. |
| B. Inspections related to storage of spent fuel under § 72.210 of this chapter | Full Cost. |
| 14. A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including MMLs. Application [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200]. | Full Cost. |
| B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed. | Full Cost. |
| 15. Import and Export licenses: Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.). | |
| A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b). | |
| Application—new license, or amendment; or license exemption request | \$17,200. |
| B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires NRC to consult with domestic host state authorities (<i>i.e.</i> , Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.). | |
| Application—new license, or amendment; or license exemption request | \$9,300. |
| C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances. | |
| Application—new license, or amendment; or license exemption request | \$4,200. |
| D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances. | |
| Application—new license, or amendment; or license exemption request | \$4,800. |
| E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities. | |
| Minor amendment | \$1,300. |
| Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in Appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.). <i>Category 1 (Appendix P, 10 CFR Part 110) Exports:</i> | |
| F. Application for export of Appendix P Category 1 materials requiring Commission review (<i>e.g.</i> , exceptional circumstance review under 10 CFR 110.42(e)(4)) and to obtain government-to-government consent for this process. For additional consent see 15.I.). | |
| Application—new license, or amendment; or license exemption request | \$14,600. |

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

| Category of materials licenses and type of fees ¹ | Fee ^{2,3} |
|---|--------------------------|
| G. Application for export of Appendix P Category 1 materials requiring Executive Branch review and to obtain government-to-government consent for this process. For additional consents see 15.I. Application—new license, or amendment; or license exemption request | \$8,000. |
| H. Application for export of Appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see 15.I. Application—new license, or amendment; or license exemption request | \$5,300. |
| I. Requests for each additional government-to-government consent in support of an export license application or active export license. Application—new license, or amendment; or license exemption request | \$270. |
| <i>Category 2 (Appendix P, 10 CFR Part 110) Exports:</i> | |
| J. Application for export of Appendix P Category 2 materials requiring Commission review (e.g., exceptional circumstance review under 10 CFR 110.42(e)(4)). Application—new license, or amendment; or license exemption request | \$14,600. |
| K. Applications for export of Appendix P Category 2 materials requiring Executive Branch review. Application—new license, or amendment; or license exemption request | \$8,000. |
| L. Application for the export of Category 2 materials. Application—new license, or amendment; or license exemption request | \$4,000. |
| M. [Reserved] | N/A. |
| N. [Reserved] | N/A. |
| O. [Reserved] | N/A. |
| P. [Reserved] | N/A. |
| Q. [Reserved] | N/A. |
| <i>Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):</i> | |
| R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment | \$1,300. |
| 16. Reciprocity: Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20. Application | \$1,900. |
| 17. Master materials licenses of broad scope issued to Government agencies. Application [Program Code(s): 03614] | Full Cost. |
| 18. Department of Energy. A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages). B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities | Full Cost. Full Cost. |

¹ *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

² Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

³ Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

⁴ Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D., and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

⁵ Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

⁶ Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

⁷ Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

⁸ Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

⁹ Licensees paying fees under 3.N. are not subject to paying fees under 3.P. for calibration or leak testing services authorized on the same license.

¹⁰ Licensees paying fees under 7.B. are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 12. The authority citation for part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 44 U.S.C. 3504 note.

■ 13. In § 171.15, revise paragraph (b)(1), the introductory text of paragraph (b)(2), paragraph (c)(1), the introductory text of paragraphs (c)(2) and (d)(1), and paragraphs (d)(2) and (d)(3), and revise paragraph (f) to read as follows:

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

* * * * *

(b)(1) The FY 2016 annual fee for each operating power reactor which must be collected by September 30, 2016, is \$4,856,000.

(2) The FY 2016 annual fees are 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 (fee-relief adjustment). The activities comprising the spent storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2016 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2016 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2016 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 for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is \$197,000.

(2) The FY 2016 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 a fee-relief adjustment. The activities comprising the FY 2016 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2016 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) The fee-relief adjustment allocated to annual fees includes a surcharge for the activities listed in paragraph (d)(1)(i) of this section, plus the amount remaining after total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section are reduced by the appropriations the 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 (iii) of this section for a given fiscal year, annual fees will be reduced. The activities comprising the FY 2016 fee-relief adjustment are as follows:

* * * * *

(2) The total FY 2016 fee-relief adjustment and LLW surcharge allocated to the operating power reactor class of licenses is a \$960,300 fee-relief adjustment and LLW surcharge, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2016 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately a \$9,603 fee-relief adjustment and LLW surcharge. This amount is calculated by dividing the total operating power reactor fee-relief adjustment and LLW surcharge, \$960,300, by the number of operating power reactors (100).

(3) The FY 2016 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is a –\$2,400 fee-relief assessment. The FY 2016 spent fuel

storage/reactor decommissioning fee-relief adjustment 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 a –\$20 fee-relief assessment. This amount is calculated by dividing the total fee-relief adjustment 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.

* * * * *

(f) The FY 2016 annual fees for licensees authorized to operate a research or test (nonpower) reactor licensed under 10 CFR part 50, unless the reactor is exempted from fees under § 171.11(a), are as follows:

| | |
|------------------------|----------|
| Research reactor | \$81,500 |
| Test reactor | 81,500 |

■ 14. In § 171.16, revise paragraphs (c) and (d) and the introductory text of paragraph (e) to read as follows:

§ 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.

* * * * *

(c) A licensee who is required to pay an annual fee under this section, in addition to 10 CFR part 72 licenses, may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in the following table. Failure to file a small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

| | Maximum annual fee per licensed category |
|--|--|
| Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years): | |
| \$485,000 to \$7 million | \$3,400 |
| Less than \$485,000 | 700 |
| Small Not-For-Profit Organizations (Annual Gross Receipts): | |
| \$485,000 to \$7 million | 3,400 |
| Less than \$485,000 | 700 |
| Manufacturing Entities that Have An Average of 500 Employees or Fewer: | |
| 35 to 500 employees | 3,400 |
| Fewer than 35 employees | 700 |
| Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population): | |
| 20,000 to 49,999 | 3,400 |
| Fewer than 20,000 | 700 |
| Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer: | |
| 35 to 500 employees | 3,400 |
| Fewer than 35 employees | 700 |

(d) The FY 2016 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2016 fee-

relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2016 annual fees for materials licensees and holders of

certificates, registrations, or approvals subject to fees under this section are shown in the following table:

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

| Category of materials licenses | Annual fees ^{1 2 3} |
|--|------------------------------|
| 1. Special nuclear material: | |
| A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities. | |
| (a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130] | \$7,867,000 |
| (b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210] | \$2,736,000 |
| (2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities. | |
| (a) Facilities with limited operations [Program Code(s): 21310, 21320] | \$0 |
| (b) Gas centrifuge enrichment demonstration facilities | \$1,539,000 |
| (c) Others, including hot cell facilities | \$770,000 |
| B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200] | N/A ¹¹ |
| C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. ¹⁵ [Program Code(s): 22140] | \$3,100 |
| D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. ¹⁵ [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310] | \$8,100 |
| E. Licenses or certificates for the operation of a uranium enrichment facility [Program Code(s): 21200] | \$3,762,000 |
| F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter. ¹⁵ [Program Code: 22155] | \$6,800 |
| 2. Source material: | |
| A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [Program Code: 11400] | \$1,625,000 |
| (2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode. | |
| (a) Conventional and Heap Leach facilities [Program Code(s): 11100] | \$38,900 |
| (b) Basic <i>In Situ</i> Recovery facilities [Program Code(s): 11500] | \$49,300 |
| (c) Expanded <i>In Situ</i> Recovery facilities [Program Code(s): 11510] | \$55,800 |
| (d) <i>In Situ</i> Recovery Resin facilities [Program Code(s): 11550] | N/A ⁵ |
| (e) Resin Toll Milling facilities [Program Code(s): 11555] | N/A ⁵ |
| (3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000] | N/A ⁵ |
| (4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010] | \$22,000 |

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

| Category of materials licenses | Annual fees ^{1 2 3} |
|---|------------------------------|
| (5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820] | \$6,500 |
| B. Licenses that authorize possession, use, and/or installation of source material for shielding. ^{16 17 18} [Program Code: 11210] | \$3,600 |
| C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter [Program Code: 11240] | \$6,800 |
| D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter [Program Code(s): 11230 and 11231] | \$6,600 |
| E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution [Program Code: 11710] | \$8,300 |
| F. All other source material licenses [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810] | \$7,700 |
| 3. Byproduct material: | |
| A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03211, 03212, 03213] | \$30,500 |
| B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03214, 03215, 22135, 22162] | \$12,800 |
| C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). [Program Code(s): 02500, 02511, 02513] | \$13,500 |
| D. [Reserved] | N/A. ⁵ |
| E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520] | \$10,000 |
| F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511] | \$12,200 |
| G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521] | \$107,900 |
| H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255] | \$12,300 |
| I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03256] | \$18,200 |
| J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243] | \$4,700 |
| K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244] | \$3,500 |
| L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613] | \$17,700 |
| (1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622] | \$23,800 |
| (2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623] | \$29,700 |
| M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620] | \$12,300 |
| N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. [Program Code(s): 03219, 03225, 03226] | \$21,100 |
| O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license [Program Code(s): 03310, 03320] | \$26,000 |
| P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ¹⁹ [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130] | \$7,900 |

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

| Category of materials licenses | Annual fees ^{1 2 3} |
|---|------------------------------|
| Q. Registration of devices generally licensed under part 31 of this chapter | N/A. ¹³ |
| R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section: ¹⁴ | |
| 1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700] | \$7,900 |
| 2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5) [Program Code(s): 02710] | \$8,400 |
| S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210] | \$30,800 |
| 4. Waste disposal and processing: | |
| A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101] | N/A ⁵ |
| B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03234] | \$21,900 |
| C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03232] | \$14,800 |
| 5. Well logging: | |
| A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies [Program Code(s): 03110, 03111, 03112] | \$14,500 |
| B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113] | N/A ⁵ |
| 6. Nuclear laundries: | |
| A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218] | \$0 |
| 7. Medical licenses: | |
| A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. [Program Code(s): 02300, 02310] | \$24,700 |
| B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ⁹ [Program Code(s): 02110] | \$37,400 |
| C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ^{9 20} [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160] | \$13,200 |
| 8. Civil defense: | |
| A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities [Program Code(s): 03710] | \$7,900 |
| 9. Device, product, or sealed source safety evaluation: | |
| A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution | \$7,900 |
| B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices | \$13,000 |
| C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution | \$7,600 |
| D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel | \$1,500 |
| 10. Transportation of radioactive material: | |
| A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers. | |
| 1. Spent Fuel, High-Level Waste, and plutonium air packages | N/A ⁶ |
| 2. Other Casks | N/A ⁶ |
| B. Quality assurance program approvals issued under part 71 of this chapter. | |
| 1. Users and Fabricators | N/A ⁶ |
| 2. Users | N/A ⁶ |
| C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices) | N/A ⁶ |
| 11. Standardized spent fuel facilities | N/A. ⁶ |
| 12. Special Projects [Program Code(s): 25110] | N/A ⁶ |
| 13. A. Spent fuel storage cask Certificate of Compliance | N/A ⁶ |

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

| Category of materials licenses | Annual fees ^{1 2 3} |
|---|------------------------------|
| B. General licenses for storage of spent fuel under 10 CFR 72.210 | N/A ¹² |
| 14. Decommissioning/Reclamation: | |
| A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs) [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200] | N/A ⁷ |
| B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed | N/A ⁷ |
| 15. Import and Export licenses | N/A ⁸ |
| 16. Reciprocity | N/A ⁸ |
| 17. Master materials licenses of broad scope issued to Government agencies [Program Code(s): 03614] | \$343,000 |
| 18. Department of Energy: | |
| A. Certificates of Compliance | \$1,366,000 ¹⁰ |
| B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities | \$545,000 |

¹ Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 2015, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

² Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

³ Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

⁴ Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

⁵ There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

⁶ Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

⁷ Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

⁸ No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

⁹ Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.B. or 7.C.

¹⁰ This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

¹¹ See § 171.15(c).

¹² See § 171.15(c).

¹³ No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

¹⁴ Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

¹⁵ Licensees paying annual fees under category 1.A., 1.B., and 1.E. are not subject to the annual fees for categories 1.C., 1.D., and 1.F. for sealed sources authorized in the license.

¹⁶ Licensees subject to fees under categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

¹⁷ Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

¹⁸ Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

¹⁹ Licensees paying fees under 3.N. are not subject to paying fees under 3.P. for calibration or leak testing services authorized on the same license.

²⁰ Licensees paying fees under 7.B. are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

(e) The fee-relief adjustment allocated to annual fees includes the budgeted resources for the activities listed in paragraph (e)(1) of this section, plus the total budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section, as reduced by the appropriations the 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 (e)(2) and (3) of this section for a given fiscal year, a negative fee-relief adjustment (or annual fee reduction) will be allocated to annual

fees. The activities comprising the FY 2016 fee-relief adjustment are as follows:

* * * * *

Dated at Rockville, Maryland, this 7th day of June, 2016.

For the Nuclear Regulatory Commission.

Maureen E. Wylie,

Chief Financial Officer.

[FR Doc. 2016-14490 Filed 6-23-16; 8:45 am]

BILLING CODE 7590-01-P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Docket No. 2016-04]

Civil Monetary Penalties Inflation Adjustments

AGENCY: Federal Election Commission.

ACTION: Interim final rules.

SUMMARY: As required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, the Federal Election Commission is adopting interim final rules to adjust for inflation