NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC–2016–0081]

RIN 3150–AJ73

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2017

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. 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 29, 2017.

ADDRESSES: Please refer to Docket ID NRC–2016–0081 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–2016–0081. 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.

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SUPPLEMENTARY INFORMATION:

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I. Background; Statutory Authority

The NRC's fee regulations are governed primarily 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 may exclude amounts appropriated for Waste Incidental to Reprocessing, generic homeland security activities, $5 million for advanced reactor regulatory infrastructure, and Inspector General (IG) services for the Defense Nuclear Facilities Safety Board. 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 generic regulatory costs that are not otherwise collected through 10 CFR part 170.

II. Discussion

FY 2017 Fee Collection—Overview

The NRC is issuing the FY 2017 final fee rule based on the Consolidated Appropriations Act, 2017 (Pub. L. 115–31), in the amount of $917.1 million, a decrease of $85.0 million from FY 2016. 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 $15.8 million and for generic homeland security activities. Also, for the first time, the enacted budget includes $5 million for advanced reactor infrastructure, which is required to be excluded from the fee base. Additionally, OBRA–90 requires the NRC to recover only approximately 90 percent of the remaining budget authority, leaving the remaining 10 percent to be funded by a congressional appropriation.

After accounting for the OBRA–90 exclusions, this 10-percent appropriation, and net billing adjustments (the sum of unpaid current year invoices (estimated) minus payments for prior year invoices) the NRC must bill approximately $805.9 million in FY 2017 to licensees. Of this amount, the NRC estimates that $297.3 million will be recovered through 10 CFR part 170 user fees, which leaves approximately $508.6 million to be recovered through 10 CFR part 171 annual fees. Table I summarizes the fee-recovery amounts for the FY 2017 final fee rule using the enacted budget and taking into account excluded activities, the 10-percent appropriation, and net billing adjustments (individual values may not sum to totals due to rounding). The FY 2017 appropriation includes access to $23.0 million in carryover funds. The use of carry over funds allows the NRC to accomplish the work needed without additional costs to licensees because fees are calculated based on the new appropriation and not carryover funds.

TABLE I—BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

	FY 2016 final rule	FY 2017 final rule	Percentage change
Total Budget Authority	$1,002.1	$917.1	−8.5
Less Excluded Fee Items	−21.1	−23.1	9.5
Balance	$981.0	$894.0	−8.9
Fee Recovery Percent	90	90	0.0
Total Amount to be Recovered:	$882.9	$804.6	−8.9
10 CFR part 171 Billing Adjustments:			
Unpaid Current Year Invoices (estimated)	6.3	6.2	−1.6
Less Prior Year Billing Credit for Transportation Fee Class	−0.2	0.0	100.0
Less Payments Received in Current Year for Previous Year Invoices (estimated)	−5.6	−4.9	−12.5
Subtotal	0.5	1.3	160.0
Amount to be Recovered through 10 CFR parts 170 and 171 Fees	$883.4	$805.9	−8.8
Less Estimated 10 CFR part 170 Fees	−332.7	−297.3	−10.7
10 CFR Part 171 Fee Collections Required	$550.7	$508.6	−7.6

FY 2017 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). This rate would be applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC's hourly rate is derived by adding the budgeted resources for: (1) Mission-direct program salaries and benefits; [1] (2) mission-indirect program support; [2] and (3) agency support,[3] which includes corporate support and the IG, and then dividing this sum by total mission-direct full-time equivalent (FTE) converted to hours. The mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours. The following shows the hourly rate calculation:

$$\frac{\text{Budgeted Resources}^{4}\quad 787.4 \text{ million}}{\text{Mission-Direct FTE Converted to Hours}\quad 1{,}996 \times 1{,}500} = \text{Hourly Rate} = \$263$$

For FY 2017, the NRC is decreasing the hourly rate from $265 to $263. The 0.8 percent decrease in the FY 2017 hourly rate is due primarily to the decline in total budgetary resources and an increase in productive hours worked, offset by a decline in mission-direct FTE from FY 2016 to FY 2017. The FY 2017 estimated annual direct hours per staff is 1,500 hours, up from 1,440 hours in FY 2016. The productive-hours assumption reflects the average number of hours that a mission-direct employee spends on mission-direct work in a given year. This excludes hours charged to annual leave, sick leave, holidays, training and general administration tasks. Table II shows the hourly rate calculation methodology. The FY 2016 amounts are provided for comparison.

TABLE II—HOURLY RATE CALCULATION

[Dollars in millions]

	FY 2016 final rule	FY 2017 final rule	Percentage change
Mission-Direct Program Salaries & Benefits	$369.6	$340.6	−7.9
Mission-Indirect Program Support	140.6	137.3	−2.3

[1] Mission-direct program salaries and benefits resources are allocated to perform core work activities committed to fulfilling the agency's mission of protecting the public health and safety, promoting the common defense and security, and protecting the environment. The majority of the resources assigned under the direct business lines (Operating Reactors, New Reactors, Fuel Facilities, Nuclear Materials Users, Decommissioning and Low-Level Waste, and Spent Fuel Storage and Transportation) are core work activities considered mission-direct.

[2] Mission-indirect program support resources are those that support the core mission-direct activities. They include, for example, supervisory and nonsupervisory support and mission travel and training. Supervisory and nonsupervisory support and mission travel and training resources assigned under direct business line structure are considered mission-indirect due to their supporting role of the core mission activities.

[3] Agency support (corporate support and the IG) resources are located in executive, administrative, and other support offices such as the Office of the Commission, the Office of the Secretary, the Office of the Executive Director for Operations, the Offices of Congressional and Public Affairs, the Office of the Inspector General, the Office of Administration, the Office of the Chief Financial Officer, the Office of the Chief Information Officer, the Office of the Chief Human Capital Officer and the Office of Small Business and Civil Rights. These budgeted costs administer the corporate or shared efforts that more broadly support the activities of the agency. These activities also include information technology services, human capital services, financial management, and administrative support.

[4] Does not include contract dollars billed to licensees separately.

TABLE II—HOURLY RATE CALCULATION—Continued

[Dollars in millions]

	FY 2016 final rule	FY 2017 final rule	Percentage change
Agency Support (Corporate Support and the IG)	314.0	309.6	−1.4
Subtotal	824.2	787.5	−4.5
Less Offsetting Receipts [5]	−0.1	−0.1	−31.2
Total Budgeted Resources Included in Hourly Rate	824.1	787.4	−4.5
Mission-Direct FTE (Whole numbers)	2,157	1,996	−7.5
Mission-Direct FTE productive hours	1,440	1,500	4.2
Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Mission-Direct FTE productive hours worked annually) (In Millions)	3.1	3.0	−3.6
Professional Hourly Rate (Total Budget Included in Hourly Rate Divided by FTE Converted to Hours) (Whole Numbers)	265	263	−0.8

FY 2017 Fee Collection—Flat Application Fee Changes

The NRC is amending 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 in its schedule of fees in §§ 170.21 and 170.31, to reflect the revised hourly rate of $263. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the proposed professional hourly rate for FY 2017. 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 2017 and will perform this review again in FY 2019. For the most part, application fees decreased due to a lower hourly rate along with efficiencies achieved in the licensing and inspection programs. Please see the final fee rule work papers (ADAMS Accession No. ML17164A283) for moredetail.

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 shown in the **DATES** section of this document will be subject to the revised fees in this final rule.

FY 2017 Fee Collection—Fee-Relief and Low-Level Waste (LLW) Surcharge

As previously noted, OBRA–90 requires the NRC to recover only approximately 90-percent of its budget authority. The remaining 10 percent that is not recovered through fees is applied by the NRC 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 non-fee-recoverable amount 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 2017, the NRC's budgeted fee-relief activities exceeded the 10-percent threshold—therefore, the NRC assessed a fee-relief adjustment (*i.e.,* surcharge) to increase all licensees' annual fees based on their percentage share of the budget. The surcharge is due primarily to a decrease in the 10-percent fee relief threshold, along with increases in infrastructure for medical isotope production and regulatory support to agreement state activities. Table III summarizes the fee-relief activities for FY 2017. The FY 2016 amounts are provided for comparison.

TABLE III—FEE-RELIEF ACTIVITIES

[Dollars in millions]

Fee-relief activities	FY 2016 budgeted costs	FY 2017 budgeted costs	Percentage change
1. Activities not attributable to an existing NRC licensee or class of licensee:			
a. International activities [6]	$12.6	$13.8	9.7
b. Agreement State oversight	12.6	12.9	2.1
c. Scholarships and Fellowships	18.2	17.9	−1.6
d. Medical Isotope Production Infrastructure	1.0	4.2	320.0
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:			

[5] The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity (financial protection required of licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 hourly rates, per the guidance in Office of Management and Budget (OMB) Circular A–25, User Charges. The budgeted resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The indemnity activities are allocated under the Licensing Actions and the Research & Test Reactors products within the Operating Reactors business line.

[6] This amount includes international assistance activities, conventions and treaties, and specific cooperation activities.

TABLE III—FEE-RELIEF ACTIVITIES—Continued

[Dollars in millions]

Fee-relief activities	FY 2016 budgeted costs	FY 2017 budgeted costs	Percentage change
a. Fee exemption for nonprofit educational institutions	10.1	9.7	−3.9
b. Costs not recovered from small entities under 10 CFR 71.16(c)	8.5	7.4	−12.9
c. Regulatory support to Agreement States	16.5	18.5	11.8
d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	15.2	14.6	−3.9
e. *In Situ* leach rulemaking and unregistered general licensees	1.6	1.4	−12.5
f. Potential Department of Defense remediation program MOU activities	1.7	1.1	−34.0
Total fee-relief activities	98.0	101.5	3.5
Less 10 percent of the NRC's total FY budget (less non-fee items)	−98.1	−89.4	−8.9
Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees	−0.1	12.1	17,357.7

Table IV shows how the NRC allocates the $12.1 million fee-relief adjustment (surcharge) to each license fee class.

In addition to the fee-relief adjustment, the NRC also assesses a generic LLW surcharge of $3.2 million. Disposal of LLW occurs at commercially operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. There are four existing LLW disposal facilities in the United States that accept various types of low-level waste. All are in Agreement States and, therefore, regulated by the State authority. The NRC allocates this surcharge to its licensees based on data available in the DOE 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 2017

[Dollars in millions]

	LLW surcharge		Fee-relief adjustment		Total
	Percent	$	Percent	$	$
Operating Power Reactors	24.0	0.8	85.4	10.3	11.1
Spent Fuel Storage/Reactor Decommissioning	0.0	0.0	3.9	0.5	0.5
Research and Test Reactors	0.0	0.0	0.2	0.0	0.0
Fuel Facilities	62.0	2.0	4.5	0.6	2.5
Materials Users	14.0	0.4	3.6	0.4	0.8
Transportation	0.0	0.0	0.6	0.1	0.1
Rare Earth Facilities	0.0	0.0	0.0	0.0	0.0
Uranium Recovery	0.0	0.0	1.8	0.2	0.2
Total	100.0	3.2	100.0	12.1	15.2

FY 2017 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 re-baselines its annual fees every year. Re-baselining 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 2017 budget authority (less non-fee amounts and the estimated amount to be recovered through 10 CFR part 170 fees). The total estimated 10 CFR part 170 collections for this final rule are $297.3 million, a decrease of $35.4 million from the FY 2016 final rule. The NRC, therefore, must recover $508.6 million through annual fees from its licensees, which is a decrease of $42.1 million from the FY 2016 final rule.

Table V shows the re-baselined fees for FY 2017 for a representative list of categories of licensees. The FY 2016 amounts are provided for comparison.

TABLE V—RE-BASELINED ANNUAL FEES

Class/category of licenses	FY 2016 final annual fee	FY 2017 final annual fee	Percentage change
Operating Power Reactors	$4,659,000	$4,308,000	−7.5

TABLE V—RE-BASELINED ANNUAL FEES—Continued

Class/category of licenses	FY 2016 final annual fee	FY 2017 final annual fee	Percentage change
+ Spent Fuel Storage/Reactor Decommissioning	197,000	188,000	−4.6
Total, Combined Fee	4,856,000	4,496,000	−7.4
Spent Fuel Storage/Reactor Decommissioning	197,000	188,000	−4.6
Research and Test Reactors/Non-power Reactors	81,500	81,400	−0.1
High Enriched Uranium Fuel Facility	7,867,000	7,700,000	−2.1
Low Enriched Uranium Fuel Facility	2,736,000	2,790,000	2.0
UF_6 Conversion and Deconversion Facility	1,625,000	1,590,000	−2.2
Conventional Mills	38,900	38,900	0.0
Typical Materials Users:			
Radiographers (Category 3O)	26,000	27,000	3.8
Well Loggers (Category 5A)	14,500	16,000	10.3
All Other Specific Byproduct Material Licenses (Category 3P)	7,900	9,300	17.7
Broad Scope Medical (Category 7B)	37,400	33,800	−9.6

The work papers 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.

Paragraphs a. through h. of this section describe budgetary resources allocated to each class of licensees and the calculations of the re-baselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers.

a. Fuel Facilities

The NRC will collect $33.9 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 2016 final	FY 2017 final	Percentage change
Total budgeted resources	$40.5	$33.9	−16.3
Less estimated 10 CFR part 170 receipts	−11.7	−9.6	−17.9
Net 10 CFR part 171 resources	28.8	24.3	−15.6
Allocated generic transportation	1.1	1.6	45.5
Fee-relief adjustment/LLW surcharge	1.7	2.5	47.1
Billing adjustments	0.0	0.0	0.0
Total remaining required annual fee recovery	31.6	28.4	−10.1

In FY 2017, the fuel facilities budgetary resources decreased due to continued construction delays at multiple sites (including the Shaw Mixed Oxide Fuel Fabrication and the International Isotope facilities) and efficiencies achieved within the licensing and inspection programs, offset by declining estimated 10 CFR part 170 billings for license renewals and amendments, and a reduction of one licensee in the fee class—Centrus Energy Corporation Lead Cascade Gas Centrifuge Enrichment Demonstration facility. Due to the proration rules in our regulation, this licensee will remain for the FY 2017 final fee rule calculation, and be removed from the fee rule for FY 2018.

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 2017

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 (55.2)
Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70 (35.0)	30 (17.2)
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 (8.6)
Hot Cell (1.A.(2)(c))	1	6 (3.0)	3 (1.7)
Uranium Enrichment (1.E.)	1	21 (10.5)	23 (13.2)

TABLE VII—EFFORT FACTORS FOR FUEL FACILITIES, FY 2017—Continued

Facility type (fee category)	Number of facilities	Effort factors (percent of total)	
		Safety	Safeguards
UF_6 Conversion and Deconversion (2.A.(1))	1	12 (6.0)	7 (4.0)

For FY 2017, the total budgeted resources for safety activities are $13.8 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, $12.1 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—$2.5 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 2016 final annual fee	FY 2017 final annual fee	Percentage change
High-Enriched Uranium Fuel (1.A.(1)(a))	$7,867,000	$7,700,000	−2.1
Low-Enriched Uranium Fuel (1.A.(1)(b))	2,736,000	2,790,000	2.0
Limited Operations (1.A(2)(a))	0.0	0.0	0.0
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	1,539,000	1,507,000	−2.1
Hot Cell (and others) (1.A.(2)(c))	770,000	753,000	−2.2
Uranium Enrichment (1.E.)	3,762,000	3,340,000	−11.2
UF_6 Conversion and Deconversion (2.A.(1))	1,625,000	1,590,000	−2.2

b. Uranium Recovery Facilities

TABLE IX—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2016 final	FY 2017 final	Percentage change
Total budgeted resources	$12.3	$14.3	16.3
Less estimated 10 CFR part 170 receipts	−11.4	−13.5	18.4
Net 10 CFR part 171 resources	0.9	0.8	−11.1
Allocated generic transportation	N/A	N/A	N/A
Fee-relief adjustment	0.0	0.2	100.0
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	0.9	1.0	7.7

In comparison to FY 2016, the FY 2017 budgetary resources for uranium recovery licensees increased due to increased work expected for additional safety and environmental reviews associated with new licensing actions and increased hearing activities. In addition, the NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act (UMTRCA).[7] For the UMTRCA program, budgetary resources increased for the expected review of five groundwater correction plans and two long term surveillance plans.

Estimated 10 CFR part 170 fees increased due to the Ludeman expansion, Kennecott safety evaluation report, and the Marsland environmental assessment. For the UMTRCA program, 10 CFR part 170 fees decreased due to delays in the submission of the Monument Valley groundwater correction action plan, the Lakeview long-term surveillance plan, and the completion of the review of the Durango site evaporation pond decommissioning plan.

The NRC will collect approximately $1.0 million in annual fees from the uranium recovery facilities fee class for both DOE and non-DOE licensees, an increase of about eight percent from FY 2016. In comparison with FY 2016, non-DOE licensees annual fees will remain flat for most licensees and decrease for some. The NRC computes the 10 CFR part 171 annual fee for the uranium recovery fee class by dividing the total annual fee recovery amount between DOE and the other licensees in this fee class. The final annual fee assessed to DOE includes the costs specifically budgeted for the NRC's UMTRCA Title

[7] 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.

I and II activities, as well as 10 percent of the remaining budgeted cost for this fee class. The DOE's UMTRCA annual fee increased because of an increase in budgetary resources combined with a decrease in 10 CFR part 170 billings. 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.

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

Summary of costs	FY 2016 final annual fee	FY 2017 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	$503,708	$574,595	14.1
10 percent of generic/other uranium recovery budgeted costs	41,157	19,079	−53.6
10 percent of uranium recovery fee-relief adjustment	−94	21,940	23,440.4
Total Annual Fee Amount for DOE (rounded)	545,000	616,000	13.0
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	370,415	171,714	−53.6
90 percent of uranium recovery fee-relief adjustment	−844	197,464	23,496.2
Total Annual Fee Amount for Other Uranium Recovery Licenses	369,571	369,178	0.0

Further, for the non-DOE licensees, the NRC uses 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 the 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.

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	10.5
Basic *In Situ* Recovery facilities (2.A.(2)(b))	5	190	950	66.7
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	1	215	215	15.1
11e.(2) disposal incidental to existing tailings sites (2.A.(4))	1	85	85	6.0
Uranium water treatment (2.A.(5))	1	25	25	1.7
Total	9	665	1,425	100

Applying these factors to the approximate $369,178 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 2016 final annual fee	FY 2017 final annual fee	Percentage change
Conventional and Heap Leach mills (2.A.(2)(a))	$38,900	$38,900	0.0
Basic *In Situ* Recovery facilities (2.A.(2)(b))	49,300	49,200	−0.2
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	55,800	55,700	−0.2
11e.(2) disposal incidental to existing tailings sites (2.A.(4))	22,000	22,000	0.0
Uranium water treatment (2.A.(5))	6,500	6,500	0.0

c. Operating Power Reactors

The NRC will collect $426.5 million in annual fees from the power reactor fee class in FY 2017, as shown in Table XIII. The FY 2016 values and percentage change are shown for comparison.

TABLE XIII—ANNUAL FEE SUMMARY CALCULATIONS FOR POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2016 final	FY 2017 final	Percentage change
Total budgeted resources	$750.4	$670.3	−10.7
Less estimated 10 CFR part 170 receipts	−287.8	−256.3	−10.9
Net 10 CFR part 171 resources	462.6	414.0	−10.5
Allocated generic transportation	1.8	0.3	−83.3
Fee-relief adjustment/LLW surcharge	1.0	11.1	1,110.0
Billing adjustment	0.6	1.1	83.3
Total required annual fee recovery	465.9	426.5	−8.5

In comparison to FY 2016, the operating power reactors budgetary resources decreased in FY 2017 primarily due to fewer resources needed to reduce the licensing actions backlog and a reduction for generic work such as the Fukushima-related rulemaking, ''Station Blackout Mitigation Strategies.'' In addition, budgetary resources for new reactors decreased because of the completed combined operating licenses for Duke Lee, South Texas Project, and Levy and an application withdrawal from Bell Bend.

Compared with FY 2016, 10 CFR part 170 fees decreased due to completion of actions to address the licensing actions backlog, and the transition of Fort Calhoun to decommissioning status in November 2016.

The budgeted costs are divided equally among the 99 currently operating power reactors, resulting in a final 10 CFR part 171 annual fee of $4,308,000 per reactor. Additionally, each licensed power reactor is assessed the FY 2017 spent fuel storage/reactor decommissioning 10 CFR part 171 annual fee of $188,000 (see the discussion that follows). The combined FY 2017 annual fee for power reactors is, therefore, $4,496,000 which is a decrease from the combined FY 2016 10 CFR part 171 annual fee of $4,856,000.

On May 24, 2016 (81 FR 32617), the NRC published a final rule that amended its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for light-water small modular reactors (SMRs). Under the variable annual fee structure, effective June 23, 2016, an SMR's annual fee would be calculated as a function of its licensed thermal power rating. Currently, there are no operating SMRs; therefore, the NRC will not assess an annual fee in FY 2017 for this type of licensee.

d. Spent Fuel Storage/Reactors in Decommissioning

To collect the budgeted resources for spent fuel storage/reactor decommissioning, the NRC will collect $23.0 million in annual fees from 10 CFR part 50 power reactors and from 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

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

[Dollars in millions]

Summary fee calculations	FY 2016 final	FY 2017 final	Percentage change
Total budgeted resources	$30.5	$29.5	−3.3
Less estimated 10 CFR part 170 receipts	−7.5	−7.9	5.3
Net 10 CFR part 171 resources	23.0	21.6	−6.1
Allocated generic transportation costs	1.0	0.8	−20.0
Fee-relief adjustment	0.0	0.5	100.0
Billing adjustments	0.0	0.1	100.0
Total required annual fee recovery	24.0	23.0	−4.2

In comparison to FY 2016, the decrease in annual fee is mainly the result of a decrease in budgetary resources for storage licensing and rulemaking activities and an increase in 10 CFR part 170 estimated billings due to the application for a consolidated interim storage facility for Holtec/Eddy Lea Energy and the technical review of an application submitted by Waste Control Specialists.

The required annual fee recovery amount is divided equally among 122 licensees, resulting in an FY 2017 annual fee of $188,000 per licensee.

e. Research and Test Reactors/Non-Power 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/NON-POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2016 final	FY 2017 final	Percentage change
Total budgeted resources	$3.799	$1.982	−47.8
Less estimated 10 CFR part 170 receipts	−3.510	−1.724	−50.9
Net 10 CFR part 171 resources	0.289	0.258	−10.7
Allocated generic transportation	0.034	0.034	0.0
Fee-relief adjustment	0.000	0.031	100.0
Billing adjustments	0.003	0.003	0.0
Total required annual fee recovery	0.326	0.326	−0.2

In FY 2017, the research and test/non-power reactors budgetary resources decreased due to a decrease in the NRC's workload for licensing medical isotope utilization and production facilities. Accordingly, the estimated 10 CFR part 170 billings decreased for the medical isotope production review. For research and test reactors, in comparison to FY 2016, the 10 CFR part 171 annual fee remained flat. 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 2017 annual fee of $81,400 for each licensee.

f. Rare Earth

The application for a rare-earth facility has been placed on hold until late FY 2017. Therefore, the NRC has not allocated any budgetary resources to this fee class and will not assess an annual fee in FY 2017 for this fee class.

g. Materials Users

The NRC will collect $35.4 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 2016 final	FY 2017 final	Percentage change
Total budgeted resources for licensees not regulated by Agreement States	$33.2	$33.7	1.5
Less estimated 10 CFR part 170 receipts	−1.1	−0.9	−18.2
Net 10 CFR part 171 resources	32.1	32.8	2.2
Allocated generic transportation	2.4	1.6	−33.3
Fee-relief adjustment/LLW surcharge	0.5	0.9	80
Billing adjustments	0.0	0.1	100.0
Total required annual fee recovery	35.0	35.4	1.1

To equitably and fairly allocate the $35.4 million in FY 2017 budgeted costs among approximately 2,700 diverse materials users licensees, the NRC calculates 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 cost associated with each category of license.

The annual fee for these categories of materials users' licenses is developed as follows:

Annual fee = Constant × [Application Fee + (Average Inspection Cost/Inspection Priority)] + Inspection Multiplier × (Average Inspection Cost/Inspection Priority) + Unique Category Costs.

For FY 2017, the constant multiplier necessary to recover approximately $25.9 million in general costs (including allocated generic transportation costs) is 1.46 (see work papers for more detail). The average inspection cost is the average inspection hours for each fee category multiplied by the hourly rate of $263. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is the multiple necessary to recover approximately $8.4 million in inspection costs, and is 1.65 for FY 2017. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2017, approximately $275,000 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 surcharge assessment of approximately $430,421 allocated to the materials users fee class (see Table IV, ''Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2017,'' in Section III, ''Discussion,'' of this document), and for certain categories of these licensees, a share of the approximately $442,000 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 $5.8 million in annual fees to recover generic transportation budgeted resources. The FY 2016 values are shown for comparison.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary fee calculations	FY 2016 final	FY 2017 final	Percentage change
Total Budgeted Resources	$11.3	$8.9	−21.2
Less Estimated 10 CFR part 170 Receipts	−3.5	−3.1	−11.4
Net 10 CFR part 171 Resources	7.8	5.8	−25.6
Fee-relief adjustment/LLW surcharge	0.0	0.0	0.0
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	7.8	5.8	−25.6

In comparison to FY 2016, the total budgetary resources for generic transportation activities decreased due to a reduction in rulemaking activities involving revisions to transportation safety requirements and compatibility with International Atomic Energy Agency Transportation Standards, hence reducing all fee class generic transportation annual fees. The 10 CFR part 170 estimated billings are expected to decrease due in part to a reduction in activities for Areva Federal Services and NAC International.

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 assesses 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 increase is mainly due to the elimination of a prior year credit totaling approximately $220,000 from FY 2016, as well as a rise in CoCs by 4, or 22 percent.

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. Four 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 0.6 so that the licensees subject to annual fees are charged a fair and equitable portion of the total. For more information see the work papers.

TABLE XVIII—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2017

[Dollars in millions]

License fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
DOE	22.0	24.6	1.4
Operating Power Reactors	5.0	5.6	0.3
Spent Fuel Storage/Reactor Decommissioning	13.0	14.5	0.9
Research and Test Reactors	0.5	0.6	0.0
Fuel Facilities	24.0	26.8	1.6
Materials Users	25.0	27.9	1.6
Total	89.5	100.0	5.8

The NRC assesses 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 2017—Administrative Changes

The NRC makes three administrative changes:

1. Increase Mission-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 mission-direct hours per direct FTE in a year. ''Mission-direct hours'' are hours charged to mission-direct activities in the Nuclear Reactor Safety Program and Nuclear Materials and Waste Safety Program. The FY 2016 final fee rule used 1,440 hours per direct FTE in the hourly rate calculations. During the FY 2017 budget formulation process, the NRC staff reviewed and analyzed time and labor data from FY 2016 to determine whether it should revise the direct hours per FTE. In FY 2016, the total mission-direct hours charged by direct employees increased due to increased accuracy in coding time to direct work in the time and labor system, as well as decreased time coded for training. The increase in mission-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 mission-direct hours per FTE should increase to 1,500 hours for FY 2017.

2. Change Small Entity Fees

In accordance with NRC policy, in 2017 the NRC staff conducted a biennial review of small entity fees to determine whether the NRC should change those fees. The NRC staff used the fee methodology, developed in FY 2009, which 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 this review, the upper tier small entity fee would increase from $3,400 to $4,500 and the lower-tier fee would increase from $700 to $900. This would constitute a 43-percent and 50-percent increase, respectively. The NRC staff determined that implementing this increase would have a disproportionate impact upon the NRC's small licensees compared to other licensees, so the NRC staff lowered the increase to 21 percent for the upper-tier and lower-tier fees. The NRC staff chose 21 percent based on the average percentage increase for the prior three biennial reviews of small entity fees. As a result of applying the 21-percent increase to the FY 2015 small entity fees, the NRC staff is now amending the upper-tier small entity fee to $4,100 and amending the lower-tier small entity fee to $850 for FY 2017. 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.

3. Amends 10 CFR 171.19(d), To Include Fee Category 3G

The NRC modifies the description under 10 CFR 171.19, ''Payment,'' to include fee category 3G in the description as the annual fee is below $100,000. These licensees in fee category 3G should now be billed annual fees on their anniversary month due to the annual fee being less than $100,000. This change resulted from a decrease in budgeted resources allocated to this fee class for the final rule caused by a decrease in the final appropriation.

Fees Transformation

In a January 30, 2015, paper to the Commission (SECY–15–0015, ''Project Aim 2020 Report and Recommendations'' (ADAMS Accession No. ML15012A594)), the NRC staff recommended that the Office of the Chief Financial Officer (OCFO) undertake an effort to: (1) Simplify how the NRC calculates its fees, (2) improve transparency, and (3) improve the timeliness of the NRC's communications about fee changes. These recommendations were similar to stakeholder comments the staff received during outreach on the NRC's fees and fee development process. In addition, an interoffice steering committee of NRC staff evaluated the current fee process to identify potential; solutions for concerns raised by NRC stakeholders. Based on comments received from the public and input from steering committee members, the staff developed over 40 process and policy improvements to be implemented over the next 4 years that addressed concerns with the current fee process. On August 15, 2016, the Chief Financial Officer (CFO) submitted a paper for Notation Vote (SECY–16–0097 (ADAMS Accession No. ML16194A365)) to the Commission. This memorandum identified 14 process improvements in six categories that the staff would implement in FY 2017 and requested Commission approval to further analyze four improvements as policy issues. The Commission disapproved the policy issues with the exception of a voluntary pilot initiative to explore whether a flat fee structure could be established for routine licensing matters in the area of uranium recovery policy issues. The Commission also directed staff to accelerate the process improvements for future consideration including transition to an electronic billing system.

Currently, 10 of the 14 process improvements for FY 2017 have been completed and the NRC is well-positioned to complete the remaining 4 process improvements by the end of the fiscal year. In addition, 3 of the 9 improvements for FY 2018 have been accelerated and completed. The voluntary pilot project for uranium recovery flat fees and activities to support electronic invoicing are underway. For more information on our fees transformation initiative, please see our License Fees Web site at *https://www.nrc.gov/about-nrc/regulatory/licensing/fees.html.*

III. Opportunities for Public Participation

The NRC published the FY 2017 proposed fee rule in the **Federal Register** on January 3, 2017 (82 FR 8696), 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. The public comment period for the proposed rule closed on March 1, 2017.

The NRC also held a public meeting on February 16, 2017, 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 2016 proposed fee rule. During the public meeting, the NRC received no comments on the FY 2017 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 four 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 XIX, and are classified as follows: One member of the uranium industry (Wyoming Mining Association (WMA)); one nuclear power plant operator (Exelon); one private citizen; and one industry trade group (Nuclear Energy Institute (NEI)).

TABLE XIX—FY 2017 PROPOSED FEE RULE COMMENTER SUBMISSIONS

Commenter	Affiliation	ADAMS accession No.	Abbreviation
Travis Deti	Wyoming Mining Association	ML17108A265	WMA.
J. Bradley Fewell	Exelon Generation Company, LLC	ML17108A267	Exelon.
Joseph E. Pollock	Nuclear Energy Institute	ML17108A266	NEI.
Kevin Ramsey	Private Citizen	ML17108A264	KR.

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. Uranium Recovery

Comment: The increases for each category of uranium recovery license over the 2016 annual fees exceed 8 percent. This increase exceeds the current rate of inflation and increases in costs from vendors, suppliers, and contractors with which the uranium recovery industry does business. It exceeds annual salary increases for uranium recovery workers as well. Uranium prices have been in overall decline for the past five (5) years. The uranium recovery industry fails to see how increases of this magnitude can be justified. (WMA)

Response: As discussed in the proposed FY 2017 fee rule, the proposed amendments to the annual fees are necessary to comply with OBRA–90, which requires the NRC to recover approximately 90 percent of its annual budget through fees. Because the NRC (by law) must recover approximately 90 percent of its annual budget authority, the NRC cannot take the rate of inflation or other economic indicators into account when deriving the annual fees.

Further, for the FY 2017 final fee rule, the annual fee for non-DOE uranium recovery licensees will remain flat for most licensees. This change from the projected 8 percent increase in the proposed rule is due to a decrease in budgetary resources and an increase in non-DOE 10 CFR part 170 estimated billings. For additional information, refer to the uranium recovery section of this final rule.

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

Comment: It is not clear how the NRC will address the change in workload for this license class when the NRC will lose nearly all of the uranium recovery licenses with the entry of Wyoming as an Agreement State. Per the Fee Work Papers, there are approximately 29 FTE for 9 uranium recovery licensees. Basic In-Situ recovery facilities have seen annual fees increase 80% since FY 2012, and this small licensee class cannot continue to absorb additional losses to the fee base without corresponding NRC resource reductions. (NEI, Exelon)

Response: Specific to Wyoming's request to become an Agreement State, the NRC staff has established a transition team to evaluate the potential impacts and appropriately transition work in the event the NRC approves Wyoming's application. As part of our Wyoming transition initiative, the NRC will review its resource requirements for future budgets and explore alternative methods of developing the fee schedule to support a continued fair and equitable assessment of fees from a smaller set of licensees after Wyoming becomes an Agreement State.

In addition, as part of the fees transformation initiative, the NRC is beginning a voluntary pilot to explore whether a flat fee structure could be established for routine licensing matters in the area of uranium recovery. As part of this pilot the NRC will engage with stakeholders to solicit feedback on the proposed strategy before a final decision is made.

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

Comment: The WMA questions why work on specific projects should increase fees for all licensees. Costs related to specific projects should be recovered through hourly charges. (WMA)

Response: Costs related to specific projects are recovered through hourly charges and do not increase fees for all licensees. The part of the FY 2017 fee rule discussion being questioned by the commenter is only a general description of the business environment affecting the 10 CFR part 170 user fees (*i.e.,* hourly charges). As described in the FY 2017 fee rule, the annual fees are determined after deducting the amount to be recovered through 10 CFR part 170 user fees.

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

Comment: The proposed fee rule contains a 9% annual fee increase for uranium recovery facilities due to, in part, an increase in the budgeted resources to ''support contested hearing activities.'' The NRC should consider modifying the existing policy for treatment of contested hearings, particularly for fee categories comprised of a small number of licensees where imposition of these additional costs are punitive and disadvantage licensees' ability to compete in global markets. The industry supports treating costs associated with contested hearings, for all licensee classes, as non-fee activities. (NEI, Exelon)

Response: Hearing costs are not recovered through 10 CFR part 170 user fees due to longstanding fairness and equity concerns with billing the applicant for the costs of a public hearing. Therefore, the work on these contested hearings must be recouped through annual fees. Hearings are budgeted as our best estimate based on historical expenditures; however, the actual resources expended will vary depending on the number of contentions and the complexity of each contention. Each hearing is different.

Further, for the FY 2017 final fee rule, the annual fee for non-DOE uranium recovery licensees will remain flat for most licensees. This change from the projected 8 percent increase in the proposed rule is due to a decrease in budgetary resources and an increase in non-DOE 10 CFR part 170 estimated billings. For additional information, refer to the uranium recovery section of this final rule.

As part of our Wyoming transition initiative, the NRC will explore alternative methods of developing the fee schedule to support a continued fair and equitable assessment of fees to recover the budgetary resources associated with contested hearings. The alternative methods may include seeking an appropriation off the fee base, developing an alternate fee class structure, or classifying the resources as fee relief. The NRC will evaluate these changes and the associated impacts across the various fee classes and categories in a future fee rule.

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

Comment: Page 8702 of the **Federal Register** document states that uranium recovery licensee fees increased, in part, due to the increased workload for congressional hearings and inquiries. It is inappropriate to seek compensation from any licensee for this activity. The level of NRC resources to support this activity is not transparent. We expect to see the recovery amount for this business line to go down as a result of the removal of this activity. (NEI, Exelon)

Response: OBRA–90 requires the NRC to collect fees for a broad amount of activities necessary to operate the agency including guidance and regulatory infrastructure as well as government compliance activities. Because congressional hearings and inquiries are not a major factor when setting annual fees for the uranium recovery fee class, this language will be deleted from the final rule. This change will not impact the recovery amount or fees assessed.

B. Transparency

Comment: Although the NRC has added some additional information to the work papers supporting the

proposed fee rule, the papers still lack enough detail to precisely determine the specific costs that are being recovered through annual fees. For example, the work papers indicate that several items dominate the contracting portion encompassed by the operating reactor annual fee. However, the work papers provide no information regarding the specific projects driving these contracting numbers, such as the issues being researched, the type of information technology support needed, and the licensing actions anticipated. We encourage the NRC to continue adding detail to the work papers to allow licensees to discern exactly what work their annual fees are funding. (Exelon)

Response: Consistent with prior years, license fees are based on the NRC's budget formulation structure hierarchy of business lines, product lines, and products. The commenter is correct that the work papers do not distinguish these activities on the basis of whether these line items will be recovered through user or annual fees. However, distinguishing these activities would prove unduly burdensome for the NRC to perform this type of analysis for every business line, product line, and product in its budget.

The NRC would not be able to provide specific information on contracts since it is proprietary in nature. However, as part of the fees transformation initiative, project managers are providing enhanced licensee outreach to increase awareness of general contract activities and costs.

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

Comment: While the NRC provided a clear explanation of the difference between international cooperation and assistance activities and how fees are accounted for each, there continues to be a lack of transparency with the benefit provided to the regulated community. The proposed fee rule Table III, ''Fee-Relief Activities'', clearly identifies $13.9 million for international assistance activities. However, to ascertain the international cooperation budgeted activities requires going through each product line to add the budgeted costs. Clear transparency of the cooperation activities budget and a better description of the specific activities and how they benefit the regulated community is needed. This request does not question the overall value of the benefits of assistance and cooperation activities to the safety and security of the world and United States. The split between assistance and cooperation is difficult to ascertain without laborious work. (NEI, Exelon)

Response: The NRC agrees with the comment. In the final rule, the NRC has improved transparency for international cooperation by compiling all such costs in a table in the work papers, which should allow the split between assistance and cooperation activities to be more easily determined by the reader. As stated in the proposed rule, the amount of international activities that the NRC allocated to international fee relief is $13.9 million, which includes international nuclear safety and radioactive source security assistance activities, as well as support for international conventions and treaties, and technical cooperation activities whose benefits range across several classes of licensees and therefore cannot be identified by fee class.

The amount not included under international fee relief activities represents international resources that the NRC assigned to each mission-direct fee class in the work papers. Specifically, these resources represent international cooperation activities that benefit a specific fee class (rather than international assistance activities or technical cooperation activities whose benefits range across several classes of licensees). These fee-recoverable cooperation activities provide direct input to the NRC's regulations and the NRC's oversight of its licensees and, therefore, 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. These international cooperative activities enhance 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. As an example of the relevance of international cooperation work to the NRC's nuclear safety mission, power reactor licensees benefit from international efforts to exchange information on operational events, regulatory experience, and expertise on construction, startup, and the operation of nuclear power plants.

Changes were made to the final rule work papers in response to this comment.

Comment: While detailed calculations of the annual fee are provided, there is a lack of detail related to the basis behind 10 CFR part 170 fees. In the interest of transparency, NRC should provide the data or assumptions used to make these estimates. For example, historical information could be provided for average inspection hours for a licensee class, estimated number of staff hours for license reviews, and hours spent on pre-application activities for small modular and advanced reactors. This information would provide stakeholders with the ability to analyze the efficiency and effectiveness of NRC's review. (NEI, Exelon)

Response: The NRC estimates the amount of 10 CFR part 170 fees based on established fee methodology guidelines (42 FR 22149; May 2, 1977), which specified that the NRC has the authority to recover the full cost of providing services to identifiable beneficiaries. As in previous years, the NRC applied longstanding principles to calculate the 10 CFR part 170 estimates based on the analysis of financial data. The data analyzed to devise the 10 CFR part 170 estimate included: (1) Four quarters of the most recent billing data (hourly rate invoice data); (2) actual contractual work charged (prior period data) to develop contract work estimates; and (3) the number of FTE hours charged multiplied by the NRC professional hourly rate. These factors, along with workload projections, are used by the NRC to determine the 10 CFR part 170 estimated charges. Because the fee calculation worksheets used to develop the 10 CFR part 170 estimates involve thousands of calculations, it would be impractical for the NRC to provide details on every calculation.

Unrelated to the calculation of 10 CFR part 170 estimates, the NRC is currently developing estimates for services to be posted on our Web site as part of our Fee Transformation initiative.

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

C. Workload/Non-Mission-Direct Resources

Comment: The hourly rate remains very high especially in comparison to the hourly rates of consultants working for the uranium recovery industry. (WMA)

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 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: Of a 2080 hour working year, for 2017 only 1,500 of those hours are deemed to be spent on mission-direct work which is considered to be an improvement over Fiscal Year 2016 when only 1,440 hours were deemed spent on mission-direct work. The remaining hours (the 580 hours in Fiscal Year 2016 spent on non-mission-direct work) are . . . charged to annual leave, sick leave, holidays, training and general administration tasks.

The WMA considers the proportion of hours (28%) spent on non-mission-direct work to be excessive and that a much smaller portion of time should be devoted to non-mission-direct work. (WMA)

Response: The NRC uses an estimate of the number of direct hours per FTE to calculate the hourly rate used in 10 CFR part 170 billing. The OMB's Circular A–25, ''User Charges,'' does not specifically address the number of hours to assume per FTE in calculating fees, but does emphasize that agency fees should reflect the full cost of providing services to identifiable beneficiaries. In addition, Title V of the United States Code establishes holidays, annual leave and sick leave amounts government wide for all employees.

In the final fee rule for FY 2005 (70 FR 30526, May 26, 2005), the NRC revised its estimate of the number of mission-direct hours per FTE to use a realistic estimate based on time and labor data for program employees who perform activities directly associated with the programmatic mission of the NRC. The NRC periodically reviews time and labor data to assess changes in the average number of productive hours from year to year and determines a realistic estimate of direct hours per FTE based on the most recent data. The estimate does not include time for administration, training, and other activities a mission-direct program FTE may perform that, while relevant to consider for certain costing purposes, would more accurately be considered overhead rather than mission-direct time for purposes of calculating a rate per hour of direct activities. When the NRC calculates the fees required to recover the budget enacted by Congress, this estimate of mission-direct hours per FTE is used to calculate the hourly rate.

The estimate of 1,500 hours per FTE used in the fee rule calculation for FY 2017 was based on an analysis of actual time and labor data from FY 2016. Use of an updated, realistic estimate of mission-direct hours per FTE helps ensure that the hourly rate accurately reflects the current cost of providing 10 CFR part 170 services, allowing the NRC to more fully recover the costs of these services through 10 CFR part 170 fees.

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

D. Decreasing Number of Licensees in Fee Class

Comment: The FY 2017 proposed fee rule continues to provide fee relief for fuel cycle facilities. However, Page 8701 states that the fuel facilities fee class [annual fee] will be adjusted in the final rule with the expected departure of a current licensee. The loss of this licensee has been known for over one year and represents approximately 5% of the total annual fees collected from fuel facilities. It is our expectation that NRC has appropriately planned for this license termination and will decrease the licensing and oversight resources needed and the overall budget in the fuel facilities business line, rather than force operating facilities to absorb these annual fees. Therefore, this closure should not result in an increased fee burden to the remaining licensees. (NEI, Exelon)

Response: The NRC removes licensees from the fuel facilities fee class after the licensee permanently ceases principal activities. The commenter is correct that the NRC was aware that the referenced licensee had informed the NRC that they were planning to cease principal activities. However, the licensee did not cease principal activities until late in the first quarter of fiscal year 2017, after the proposed fee rule had been issued. At that point, the licensee was officially placed in decommissioning status and will be assessed a prorated annual fee according to our regulations. Notwithstanding, the policy of the agency remains that the portion of the annual fee not assessed to the licensee leaving the fee class will be distributed to the remaining fuel facilities licensees. However, the NRC will continue to analyze changes to workload, budget resources and the composition of fee classes to support a fair and equitable fee setting process.

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

E. FY 2017 Congressional Appropriation

Comment: The proposed FY 2017 fee rule, based on right sizing agency activities and additional re-baselining reductions, represents a move in the right direction by lowering excessive annual fees, some significantly, for a majority of licensees. Adopting a fee structure based on FY 2016 spending levels would be a move backwards and would ignore the progress the agency has made to appropriately prioritize its work and staff size. Therefore, if the NRC receives a continuing resolution for the remainder of the year, the FY 2017 proposed rule should be considered a ceiling for NRC spending. (NEI, Exelon)

Response: OBRA–90 requires that the NRC collect approximately 90 percent of its budget authority through fees by the end of the fiscal year, and the NRC must set its fees in accordance with its budgetary resources as this practice ensures that NRC fees assessed bear a reasonable relationship to the cost of NRC services. This rule is based upon the Consolidated Appropriations Act, 2017 (Pub. L. 115–31), dated May 5, 2017.

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

F. Invoicing

Comment: There have been some recent improvements regarding invoicing; however, problems remain. In addition, there is no predictability for budgeting purposes regarding the magnitude of these invoices in regards to the review of a given submittal. The uranium recovery industry needs, for budgeting purposes, to be able to estimate the total value of future review invoices for a given submittal. Members of the uranium recovery industry have no idea of the magnitude of the quarterly review invoices until they arrive and must be paid. This creates a difficult situation in the form of large, unanticipated expenses for uranium recovery operators. If the agency as part of its completeness review were to provide an approximate and non-binding estimate of cost to compete the review of a given submittal it would be very helpful to uranium recovery operators. (WMA)

Response: The NRC currently provides, by request, preliminary estimates of costs incurred on a biweekly basis to licensees. The estimates include all (10 CFR part 170)

costs that accumulated for license fee billing during the previous NRC pay period. The estimates include NRC staff names with associated number of hours worked as well as contractor names associated with contract costs, which offer licensees additional detail. These estimates may assist licensees in budget planning and their preparation to receive their next quarterly invoice. Licensees may request to receive biweekly estimates by sending an email to *FEES.Resource@nrc.gov* with docket number(s) and licensee email address(es) to which the estimates should be sent. In addition, the uranium recovery staff have offered to meet with licensees and applicants on a quarterly basis to forecast upcoming workload so that licensees and applicants have an idea of the work that will be included on future invoices. Lastly, the NRC staff has posted on its public Web site estimates of the cost of major uranium recovery licensing actions. For more information, please see our Licenses Fees Web site at *https://www.nrc.gov/about-nrc/regulatory/licensing/fees.html.*

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

Comment: Exelon applauds the fee development process improvements that the NRC has thus far implemented. To that end, we encourage the NRC to continue striving for additional efficiency gains, such as electronic invoicing. The NRC should explore immediate, incremental steps towards electronic invoicing short of an entire system upgrade (which the NRC is not planning to implement until FY 2020). This could include, for example, automatically emailing copies of the paper invoices as soon as those invoices are mailed to the licensee. Even that small step would benefit licensees by providing more timely invoices. (Exelon)

Response: The NRC focused on the improvement initiatives currently underway that include improving billing data, accuracy, and electronic invoicing. The NRC issues more than 5,000 invoices per year. Emailing invoices to licensees with the current information technology systems and configuration would be an intensive manual process requiring substantial resources.

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

Comment: WMA continues to be concerned about the agency's invoicing process.

In its comments dated May 4, 2016 on the Request for Information—Fees Development and Communications—(**Federal Register** Volume 81, Number. 55/Tuesday, March 22, 2016/Notices) the WMA commented extensively on invoicing and concluded:

The WMA believes that a substantial problem with the agency's invoicing is the lack of predictability in the invoice amounts. This could be mitigated to some extent by flat fee invoicing for some items however for others, it would require that the agency prepare a nonbinding estimate of cost to complete the review. (WMA)

Response: As previously noted, licensees may request to receive biweekly estimates by sending an email to *FEES.Resource@nrc.gov* with docket number(s) and licensee email address(es) to which the estimates should be sent. Also, the NRC will explore how to display more detailed invoice information. It should be noted that contractor information in most cases is considered proprietary but we will work with our contractors to determine what information can be released.

Additionally, as directed in SRM–SECY–16–0097, ''Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,'' dated October 19, 2016, (ADAMS Accession No. ML16293A902) the NRC staff is exploring whether a flat fee structure could be established for routine licensing matters in the area of uranium recovery. In addition, staff is also evaluating the level of detail to be provided in invoices.

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

Comment: The administrative change from the FY 2015 final fee rule to revise the assessment of administrative time for project managers by adding a 6% Project Manager/Resident Inspector allocation continues to be an excessive burden on licensees that double, and in some instances triple charge, for project manager work. This change intended to allocate overhead costs to each licensee based on direct time to each docket to ensure that a licensee's overhead costs are proportional to the regulatory services rendered by the NRC. While we understand that this is a temporary charge, it continues to be a hidden extra fee for the licensee for non-direct work activities when these activities are already being fully billed as cost recovery items that project managers charge for work on a specific task. For example, some licensees have received invoices for project manager time on the same activity being triple charged under (1) Project management general work cost activity codes (CACs); (2) technical CAC; and (3) the 6% Project Manager/Resident Inspector allocation. The 6% allocation on all NRC staff hours effectively increases the proposed hourly rate from $267 to $283. We advise consistency with regards to project manager 10 CFR part 170 invoicing and awareness training for project managers of the 6% allocation to avoid multiple billings for the same work. (NEI, Exelon)

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 CACs only when that work benefits a single, identifiable licensee. The project manager (PM)/resident inspector 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.

As part of the fees transformation direction from the Commission, SRM–SECY–16–0097: Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule (ML16293A902) the Commission directed staff to review the 2015 fee rule revised methodology of charging overhead time for project managers and resident inspectors and modify it for more clarity. As part of this initiative, the NRC will consider alternate strategies for recovery of the resources allocated to administrative time for project managers and resident inspectors and develop a new approach to be implemented by October 2018.

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

G. Predictability

Comment: Industry appreciates the move in the right direction to publish the proposed FY 2017 fee rule earlier in the year. However, greater transparency and predictability in fee policy could be realized if the NRC published the proposed rule in the first quarter of the fiscal year and the final fee rule in the second quarter or early in the third quarter of the fiscal year. Accelerating the rulemaking schedule would not appear to be problematic for the NRC because the Congressional Budget Justification (CBJ) is publicly-released

coinciding with transmittal of the President's Budget Request to Congress (*i.e.,* in February before the fiscal year begins), and the CBJ currently provides a fee recovery estimate. Early publication would allow licensees to plan, adjust budgets and manage cash flow. (NEI, Exelon)

Response: OBRA–90 requires that the NRC collect approximately 90 percent of its budget authority through fees by the end of the fiscal year. The NRC must set its fees in accordance with its final budget authority. Further, the annual appropriation cycle places additional constraints upon the NRC. Even though the NRC does not know the amount of fees it will need to collect until after it receives its annual appropriation from Congress, the NRC starts the rulemaking process in the preceding summer. The NRC believes that reliance on the most up-to-date financial data available in determining fees, using the CBJ (adjusted for fact-of-life-changes) supports compliance with the requirements of OBRA–90. This practice ensures that NRC fees assessed bear a reasonable relationship to the cost of NRC services. The NRC recognizes that the issuance of the rule may not coincide with budget cycles of industry; however, the NRC must promulgate a notice-and-comment rule based on the most accurate data available regarding the cost of NRC services in the context of the NRC's budget for a given fiscal year. For FY 2017, the NRC published the proposed fee rule in January; two months earlier than in FY 2016.

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

H. Miscellaneous

Comment: The Schedule of Materials Fees has several errors and omissions in the Program Codes listed for Special Nuclear Material.

—Category 1A(1)(a) should reference Program Code 21213, not 21130.
—Category 1A(2)(a) should include Program Code 21240.
—Category 1A(2)(b) should reference Program Code 21205.
—Category 1A(2)(c) should reference Program Codes 21130 and 31133. (KR)

Response: The NRC agrees with this comment. The Schedule of Materials Fees is corrected in this final rule to reflect the correct program codes with the following exception:

For Category 1A(2)(c), program code 31133 is not in our system. We assume the commenter meant program code 21133. The NRC added program code 21133 to Category 1A(2)(c).

Comment: We continue to be concerned that an excessive portion of the budget is funding corporate support and non-mission-direct activities. NRC has cumulatively reduced budgeted amounts for mission direct and mission indirect expenditures by 6.5%. That represents a move in the right direction from re-baselining agency activities. However, the budget for agency support increased by 3%. The proposed fee rule Table II, ''Hourly Rate Calculation,'' identifies $340.5 million for mission direct program activities and $136.7 million for mission indirect program support, which represents 60% of the total adjusted amount to be recovered through fees ($801.4 million). Yet, the portion of the budget allocated to corporate support is $324.2 million and represents 40% of budgeted resources. Agency support, which is a key factor in both the hourly rate and annual fee calculations, appears to be disproportionately large with respect to the resources allocated for mission direct and mission indirect activities. These overhead costs not only remain excessive compared to its peer agencies, but have also increased from FY 2016. In order to maintain credibility, NRC must focus their resources on mission critical activities that have a direct correlation with maintaining public health and safety and must reduce overhead costs. (NEI, Exelon)

Response: The NRC agrees that the proportion of corporate support and mission support resources, compared to program resources, is one factor to consider in assembling a budget that accomplishes NRC's mission in an effective and efficient manner.

The NRC notes that, 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 2017 proposed fee rule. The $340.5 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 $125.3 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 in the proposed rule—including salaries, benefits, and contract support—equaled $465.8 million. Further, the $136.7 million that the NRC budgeted for mission-indirect program support in the proposed rule brings the NRC's total budgeted mission costs to $602.5 million, or 65 percent of the total budget authority less excluded fee items. The remaining 35 percent for Agency Support in the proposed rule included resources for the NRC's Office of the Inspector General, which is not included when calculating corporate support.

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

I. Comments on Matters Not Related to This Rulemaking

Some comments suggested that the NRC implement a number of recommendations to streamline the regulatory process, review the changing technical guidance to licensees, and consider risk when executing regulatory oversight activities.

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.

V. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[8] 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, the NRC is required to recover approximately 90 percent of its budget authority in FY 2017. 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

[8] 5 U.S.C. 603. The RFA, 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).

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.

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). The NRC requests comment on this final rule with respect to the clarity and effectiveness of the language used.

IX. National Environmental Policy Act

The NRC has determined that this rule will amend NRC's administrative requirements in 10 CFR part 170 and 10 CFR part 171. Therefore, this action is categorically excluded from needing environmental review as described in 10 CFR 51.22(c)(1). Consequently, 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 new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act of 1996 (5 U.S.C. 801–808). The Office of Management and Budget has found it to be a major rule as defined in the Congressional Review Act.

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 2017, 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 2017 final fee rule. The compliance guide was developed when the NRC completed the small entity biennial review for FY 2017. This document is available as indicated in Section XIV, Availability of Documents, of this document.

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
SECY–16–0009, ''Recommendations Resulting from the Integrated Prioritization and Re-baselining of Agency Activities,'' dated February 9, 2016.	ML16104A158.
SECY–16–0097, ''Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,'' dated August 15, 2016.	ML16194A365.
SRM–SECY–16–0097: Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule.	ML16293A902.
FY 2017 Final Rule Work Papers	ML17164A283.
FY 2017 Regulatory Flexibility Analysis	ML16340A151.
FY 2017 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide	ML16340A149.
NUREG–1100, Volume 32, ''Congressional Budget Justification: Fiscal Year 2017'' (February 2016).	*https://www.nrc.gov/docs/ML1603/ML16036A086.pdf.*
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.*
FY 2017 Proposed Fee Rule Comment Submissions	ML17108A263.
FY 2017 Proposed Fee Rule	ML16337A270.
FY 2017 Proposed Rule Work Papers	ML16358A648.
Meeting Summary Notes for the Public Meeting on the FY 2017 Proposed Fee Rule held on February 16, 2017.	ML17062A797.
SECY–05–0164, ''Annual Fee Calculation Method,'' dated September 15, 2005	ML052580332.
OMB's Circular A–25, ''User Charges''	*https://obamawhitehouse.archives.gov/omb/circulars_a025/.*
Consolidated Appropriations Act, 2017 (Pub. L. 115–31)	*https://www.congress.gov/bill/115th-congress/house-bill/244.*

List of Subjects

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, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, 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 170 and 171.

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

■ 1. 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.

■ 2. 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 $263 per hour.

■ 3. In § 170.21, in the table, revise fee category K. 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]
* * * * * * *	
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	$18,400
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	9,200
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	4,500
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	4,500
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	2,600

[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.

* * * * * * *

[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.

* * * * * * *

■ 4. 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): 21213]	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): 21240, 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities [Program Code(s): 21205]	Full Cost.
(c) Others, including hot cell facilities [Program Code(s): 21130, 21133]	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].	$2,400.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200]	Full Cost.
F. Licenses for possession and use of special nuclear material greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities.[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, *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]	Full Cost.
(b) Basic *In Situ* Recovery facilities [Program Code(s): 11500]	Full Cost.
(c) Expanded *In Situ* Recovery facilities [Program Code(s): 11510]	Full Cost.
(d) *In Situ* 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].	$1,200.
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].	$2,100.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. Application [Program Codes(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].	$12,300.
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].	$4,900.
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].	$3,000.
F. Licenses for possession and use of less than or equal to 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.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
G. Licenses for possession and use of greater 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): 03521].	$58,700.
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].	$9,400.
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: 6–19.	
(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: 20 or more. 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].	$6,700.
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].	$6,900.
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].	$3,300.
Q. Registration of a device(s) generally licensed under part 31 of this chapter. Registration	$500.
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]	$13,400.
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. Application [Program Code(s): 03231, 03233, 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].	$6,500.
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].	$4,700.
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].	$4,300.
B. Licenses for possession and use of byproduct material for field flooding tracer studies. Licensing [Program Code(s): 03113].	Full Cost.
6. Nuclear laundries:	

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 commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. Application [Program Code(s): 03218].	$21,000.
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].	$10,500.
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].	$8,200.
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].	$5,200.
8. Civil defense:	
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.	$5,100.
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.	$8,500.
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.	$1,000.
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): 03900, 11900, 21135, 21215, 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.	$18,400.
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.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.). Application—new license, or amendment; or license exemption request.	$9,200.
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.	$4,500.
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.	$4,500.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
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.	$2,600.
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.).	
Category 1 (Appendix P, 10 CFR Part 110) Exports:	
F. Application for export of appendix P Category 1 materials requiring Commission review (e.g. 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.	$14,500.
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.	$7,900.
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.	$3,900.
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.	$300.
Category 2 (Appendix P, 10 CFR Part 110) Exports:	
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.	*$14,500.*
K. Applications for export of appendix P Category 2 materials requiring Executive Branch review. Application—new license, or amendment; or license exemption request.	$7,900.
L. Application for the export of Category 2 materials. Application—new license, or amendment; or license exemption request.	$3,200.
M. [Reserved]	N/A.
N. [Reserved]	N/A.
O. [Reserved]	N/A.
P. [Reserved]	N/A.
Q. [Reserved]	N/A.
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):	
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.	$1,800.
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).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	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

■ 5. 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.

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

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

* * * * *

(b)(1) The FY 2017 annual fee for each operating power reactor which must be collected by September 30, 2017, is $4,496,000.

(2) The FY 2017 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 2017 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2017 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2017 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 $188,000.

(2) The FY 2017 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 2017 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2017 spent fuel storage/reactor decommissioning re-baselined 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 2017 fee-relief adjustment are as follows:

* * * * *

(2) The total FY 2017 fee-relief adjustment allocated to the operating power reactor class of licenses is an $11,074,000 fee-relief surcharge, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2017 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately a $111,863 fee-relief surcharge. This amount is calculated by dividing the total operating power reactor fee-relief surplus adjustment, $11,074,000, by the number of operating power reactors (99).

(3) The FY 2017 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is a $467,500 fee-relief assessment. The FY 2017 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 $3,832 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 2017 annual fees for licensees authorized to operate a research or test (non-power) reactor licensed under 10 CFR part 50, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor	$81,400
Test reactor	81,400

■ 7. In § 171.16, revise paragraphs (c) and (d) and (e) introductory text 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	$4,100
Less than $485,000	850
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$485,000 to $7 million	4,100
Less than $485,000	850
Manufacturing Entities that Have An Average of 500 Employees or Fewer:	
35 to 500 employees	4,100
Fewer than 35 employees	850
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 49,999	4,100
Fewer than 20,000	850
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer	
35 to 500 employees	4,100
Fewer than 35 employees	850

(d) The FY 2017 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2017 fee-relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2017 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): 21213]	$7,700,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210]	2,790,000
(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): 21240, 21310, 21320]	$0
(b) Gas centrifuge enrichment demonstration facilities [Program Code(s): 21205]	1,507,000
(c) Others, including hot cell facilities [Program Code(s): 21130, 21133]	753,000
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]	[11] N/A
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]	3,000
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]	8,600
E. Licenses or certificates for the operation of a uranium enrichment facility [Program Code(s): 21200]	3,340,000
F. Licenses for possession and use of special nuclear material greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities.[15] [Program Code: 22155]	6,400
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]	1,590,000
(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 *In Situ* Recovery facilities [Program Code(s): 11500]	49,200
(c) Expanded *In Situ* Recovery facilities [Program Code(s): 11510]	55,700
(d) *In Situ* Recovery Resin facilities [Program Code(s): 11550]	[5] N/A
(e) Resin Toll Milling facilities [Program Code(s): 11555]	[5] N/A
(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]	[5] N/A
(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]	3,300
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	5,500
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter [Program Code(s): 11230 and 11231]	6,400
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]	8,000
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	9,400
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]	11,600
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]	12,900
D. [Reserved]	[5] 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) [Program Code(s): 03510, 03520]	10,800
F. Licenses for possession and use of less than or equal to 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]	11,800
G. Licenses for possession and use of greater 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): 03521]	95,700
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, 03257]	11,800
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]	16,300
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]	4,600
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]	3,300
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]	16,300
(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: 6–19. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	25,900
(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: 20 or more. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	32,700
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]	14,800
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. [Program Code(s): 03219, 03225, 03226]	22,100
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]	27,000
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]	9,300

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	[13] N/A
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]	7,600
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]	8,000
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	32,100
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, 03236, 06100, 06101]	[5] N/A
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]	20,800
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]	13,900
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]	16,000
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	[5] N/A
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]	38,500
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]	23,800
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]	33,800
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]	14,700
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]	7,600
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	7,600
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	12,600
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	7,400
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	[6] N/A
2. Other Casks	[6] N/A
B. Quality assurance program approvals issued under part 71 of this chapter	
1. Users and Fabricators	[6] N/A
2. Users	[6] N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	[6] N/A
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects [Program Code(s): 25110]	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	[12] N/A

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]
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): 03900, 11900, 21135, 21215, 21325, 22200]	[7] N/A
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies [Program Code(s): 03614]	340,000
18. Department of Energy:	
A. Certificates of Compliance	[10] 1,514,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	616,000

[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 2017 fee-relief adjustment are as follows:

* * * * *

■ 8. In § 171.19, revise paragraph (d) to read as follows:

§ 171.19 Payment.

* * * * *

(d) Annual fees of less than $100,000 must be paid as billed by the NRC. Materials license annual fees that are less than $100,000 are billed on the anniversary date of the license. The materials licensees that are billed on the anniversary date of the license are those covered by fee categories 1.C., 1.D., 1.F., and 2.A.(2) through 9.D.

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Dated at Rockville, Maryland, this 15th day of June 2017.

For the Nuclear Regulatory Commission.

Maureen E. Wylie,

Chief Financial Officer.

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