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10 CFR Parts 170 and 171

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2014; Final Rule

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 170 and 171

[NRC–2013–0276]

RIN 3150–AJ32

### Revision of Fee Schedules; Fee Recovery for Fiscal Year 2014

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, and annual fees charged to its applicants and licensees. These amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, which requires the NRC to recover through fees approximately 90 percent of its budget authority in Fiscal Year (FY) 2014, not including amounts appropriated for Waste Incidental to Reprocessing (WIR), amounts appropriated for generic homeland security activities, and Inspector General (IG) services for the Defense Nuclear Facilities Safety Board (DNFSB). These fees represent the cost of the NRC's services provided to applicants and licensees.

**DATES:** This final rule is effective on August 29, 2014.

**ADDRESSES:** Please refer to Docket ID NRC–2013–0276 when contacting the NRC about the availability of information for this final rule. You may access publicly-available information related to this final rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2013–0276. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

- *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](mailto:pdr.resource@nrc.gov). For the convenience of the reader, instructions

about obtaining materials referenced in this document are provided in the "Availability of Documents" section of this document.

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

**FOR FURTHER INFORMATION CONTACT:** Arlette Howard, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1481, email: [Arlette.Howard@nrc.gov](mailto:Arlette.Howard@nrc.gov).

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#### I. Background

Over the past 40 years the NRC (and earlier, as the Atomic Energy Commission, the NRC's predecessor agency) has assessed and continues to assess fees to applicants and licensees to recover the cost of its regulatory program. The NRC's cost recovery principles for fee regulation are governed by two major laws: (1) The Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 483(a)); and (2) OBRA–90 (42 U.S.C. 2214), as amended. The NRC is required each year, under OBRA–90, as amended, to recover approximately 90 percent of its budget authority, not including amounts appropriated for WIR, amounts appropriated for generic homeland security activities (non-fee items), and IG services for the DNFSB, through fees to the NRC licensees and applicants.

In addition to the requirements of OBRA–90, as amended, the NRC is also required to comply with the requirements of the Small Business Regulatory Enforcement Fairness Act of 1996. This Act encourages small businesses to participate in the regulatory process, and requires agencies to develop more accessible sources of information on regulatory and reporting requirements for small businesses and create a small entity compliance guide. The NRC, in order to ensure equitable fee distribution among

all licensees, develops a fee methodology specifically for small entities that consisted of a small entity definition and the Small Business Administration's most common receipts-based size standards as described under the North American Industry Classification System (NAICS) identifying industry codes. The NAICS is the standard used by Federal statistical agencies to classify business establishments for the purposes of collecting, analyzing, and publishing statistical data related to the U.S. business economy. The purpose of this fee methodology is to lessen the financial impact on small entities through the establishment of a maximum fee at a reduced rate for qualifying licensees.

In FY 2013, the NRC staff performed a biennial review using the fee methodology developed in FY 2009 that applies a fixed percentage of 39 percent to the prior 2-year weighted average of materials users' fees. This methodology disproportionately impacted NRC's small licensees compared to other licensees; therefore, the NRC staff limited the increase to 21 percent, the same as FY 2011. The change resulted in a fee of \$2,800 for an upper-tier small entity and \$600 for a lower-tier small entity for FY 2013. The NRC staff believes these small-entity 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. For this fee rule, the small entity fees remain unchanged. The next biennial review will be conducted in FY 2015.

#### II. Discussion

In compliance with OBRA–90, as amended, and the Atomic Energy Act (AEA), the NRC amends its fee schedules for 10 CFR parts 170 and 171 to recover approximately 90 percent of its FY 2014 budget authority, less the amounts appropriated for WIR, the Nuclear Waste Fund (NWF), generic homeland security activities, and IG services for the DNFSB. The 10 CFR part 170 user fees, under the authority of the IOAA, recover the NRC's costs of providing special benefits to identifiable applicants and licensees. For example, the NRC assesses these fees to cover the costs of inspections, applications for new licenses and license renewals, and requests for license amendments. The 10 CFR part 171 annual fees recover generic regulatory costs not otherwise recovered through 10 CFR part 170 fees.

*FY 2014 Fee Collection*

The NRC received total appropriations of \$1,055.9 million for FY 2014 based on the Consolidated Appropriations Act (Pub. L. 113–76), signed by President Obama on January 17, 2014. Based on OBRA–90, as amended, the NRC is required to recover \$930.7 million through 10 CFR part 170 licensing and inspections and 10 CFR part 171 annual fees for FY 2014. This amount excludes non-fee items for WIR activities totaling \$1.4 million, IG services for the DNFSB totaling \$0.9

million, and generic homeland security activities totaling \$19.5 million. The required fee recovery amount is \$66.8 million more than the amount estimated for recovery in FY 2013, an increase of 7.7 percent. After accounting for billing adjustments, this amount is further decreased by \$14.0 million as a result of net billing adjustments (sum of unpaid current year invoices (estimated) minus payments for prior year invoices and current year collections for a reclassified fuel facility licensee). This leaves approximately \$916.7 million in FY

2014 to be billed as fees to licensees for 10 CFR part 170 licensing and inspection fees and 10 CFR part 171 annual fees. This amount represents a \$2.2 million decrease in fees assessed to licensees from the FY 2014 proposed fee rule published on April 14, 2014 (79 FR 21036).

Table I summarizes the budget and fee recovery amounts for FY 2014. The FY 2013 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE I—BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

	FY 2013 final rule	FY 2014 final rule
Total Budget Authority .....	\$985.6	\$1,055.9
Less Non-Fee Items .....	– 25.7	– 21.8
Balance .....	\$959.9	\$1,034.1
Fee Recovery Rate .....	90%	90%
Total Amount to be Recovered .....	864.0	930.7
10 CFR Part 171 Billing Adjustments:		
Unpaid Current Year Invoices (estimated) .....	2.2	0.5
Less Current Year from Collections (Terminated or Reclassified licensees) .....	– 4.6	– 2.2
Less Payments Received in Current Year for Previous Year .....		
Invoices (estimated) .....	– 2.0	– 12.3
Subtotal .....	– 4.4	– 14.0
Amount to be Recovered through 10 CFR Parts 170 and 171 from Current Licensees Fees .....	\$859.6	\$916.7
Less Estimated 10 CFR Part 170 Fees .....	– 327.1	– 332.5
Less Prior Year Unbilled 10 CFR Part 170 Fees .....	– 20.9	– 0
10 CFR Part 171 Fee Collections Required from Current Licensees .....	\$511.6	\$584.2

*Changes From the FY 2013 Final Fee Rule*

In this final fee rule, the NRC amends fees for power reactors, spent fuel storage/reactor decommissioning, non-power reactors, uranium recovery facilities, fuel facilities, materials users, and the U.S. Department of Energy’s (DOE) transportation license as compared to the FY 2013 final fee rule. The total amount of annual fees to be recovered, \$584.2 million, represents an increase of \$72.6 million from the FY 2013 final rule. Overall, the operating reactors’ annual fees increase from the FY 2013 final rule as a result of increased budgetary resources with an unsequestered budget, the absence of a one-time billing credit of approximately \$20 million from FY 2013, and the reduction of two reactors (San Onofre Nuclear Generating Station (SONGS), Units 2 and 3).

*Changes From the FY 2014 Proposed Fee Rule*

In this final rule, the 10 CFR part 170 fees also increase \$8 million due to an increase in licensing actions for operating reactors of \$10.5 million and

generic decommissioning by approximately \$0.1 million offset by a decrease in 10 CFR part 170 of \$2.6 million for fuel facilities. The operating reactor annual fees decrease by approximately \$10.5 million from the FY 2014 proposed fee rule estimate.

The fuel facilities annual fees increase by \$0.4 million from the FY 2014 proposed rule as a result of reduced 10 CFR part 170 billings of \$2.6 million due to new construction project delays with an offset of a \$2.2 million reclassification adjustment for current year billings for an approved downgraded fuel facility licensee (USEC Paducah) under fee category 1.E., Licenses or certificates for the operation of a uranium enrichment facility. The NRC removed USEC Paducah from the enrichment category and placed the facility under 10 CFR part 171 annual fee category 1.A.(2)(a), “Limited Operations,” on May 28, 2014. The USEC Paducah shut down with no plans to restart the enrichment cascades. The USEC Paducah shipped uranium hexafluoride (UF<sub>6</sub>) feed and product material to other facilities for storage and management and is currently in the

process of deleasing the facilities. The one-time credit applied to fuel facility licensees is for the current year revenue received while USEC Paducah was licensed under fee category 1.E. Decreases in some fuel facilities annual fees can also be attributed to revisions to their effort factors within the Fuel Facilities matrix used to compute the fee calculations.

As a result of these changes, the 10 CFR part 171 annual fees for current licensees decrease by \$10.2 million from the proposed rule. Overall, the percentage changes in most annual fees increase moderately compared to the previous year with the exception of operating reactors and uranium recovery annual fees. For this final rule, the FTE rate used to convert budgetary resources into FTE dollars remains unchanged from the proposed rule.

*Hourly Rate*

The NRC’s hourly rate is used in assessing full cost fees for specific services provided, as well as flat fees for certain application reviews. The NRC is increasing the current hourly rate of \$272 to \$279 in FY 2014. This rate is

applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The FY 2014 hourly rate is 2.6 percent higher than the FY 2013 hourly rate of \$272. The increase in the hourly rate is due primarily to higher agency-budgeted resources and a decrease in the number of mission direct full-time equivalents (FTE) compared to FY 2013.

The NRC's hourly rate is derived by dividing the sum of recoverable budgeted resources for: (1) Mission-direct program salaries and benefits; (2)

mission-indirect program support; and (3) agency corporate support and the IG, which is all agency indirect costs (i.e. overhead, by mission-direct FTE hours. 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.

In FY 2014, the NRC used 1,375 hours per direct FTE, an increase of 24 hours from FY 2013, to calculate the hourly

fee rate. These hours exclude all indirect activities such as training, general administration, and leave, and include only those activities that directly support the NRC's mission. The NRC generated this 1,375 hour figure by reviewing data from its time and labor system.

Table II shows the results of the hourly rate calculation methodology. The FY 2013 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE II—HOURLY RATE CALCULATION

	FY 2013 final rule	FY 2014 final rule
Mission-Direct Program Salaries & Benefits .....	\$345.1	\$359.2
Mission-Indirect Program Support .....	19.7	21.0
Agency Corporate Support, and the IG .....	474.8	486.0
Subtotal .....	839.6	866.2
Less Offsetting Receipts .....	- 0.0	- 0.0
Total Budget Included in Hourly Rate (Millions of Dollars) .....	839.6	866.2
Mission-Direct FTE (Whole numbers) .....	2,285	2,254
Professional Hourly Rate (Total Budget Included in Hourly Rate divided by Mission-Direct FTE Hours) (Whole Numbers) .....	272	279

As shown in Table II, dividing the FY 2014 \$866.2 million budget amount included in the hourly rate by total mission-direct FTE hours (2,254 FTE times 1,375 hours) results in an hourly rate of \$279. The hourly rate is rounded to the nearest whole dollar.

Flat Application Fee Changes

The NRC is amending the current flat application fees in §§ 170.21 and 170.31 to reflect the revised hourly rate of \$279. These flat fees are calculated by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2014. The agency estimates the average professional staff hours needed to process licensing actions every other year as part of its biennial review of fees performed in compliance with the Chief Financial Officers Act of 1990. The NRC last performed this review as part of the FY 2013 fee rulemaking. The higher hourly rate of \$279 is the primary reason for the increase in application fees.

The amounts of the materials licensing flat fees are rounded so that the fees would be convenient to the user and the effects of rounding would be minimal. Fees under \$1,000 are rounded to the nearest \$10, fees that are greater than \$1,000 but less than \$100,000 are rounded to the nearest \$100, and fees that are greater than \$100,000 are rounded to the nearest \$1,000.

The final licensing flat fees are applicable for fee categories K.1. through K.5. of § 170.21, and fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31. Applications filed on or after the effective date of the FY 2014 final fee rule are subject to the revised fees in the final rule.

Application of Fee-Relief and Low-Level Waste (LLW) Surcharge

The NRC will assess a total of \$1.9 million to licensees' annual fees for both fee-relief activities and LLW surcharge based on their share of the fee recoverable budget authority. For this rulemaking, the NRC establishes rebaselined annual fees by changing the number of licensees in accordance with SECY-05-0164, "Annual Fee Calculation Method," September 15, 2005 (ADAMS Accession No. ML052580332). The rebaselining method analyzes the budget in detail and allocates the budgeted costs to various classes or subclasses of licensees. This method is currently used by the NRC every year.

Specifically, the NRC will use its fee-relief surplus to decrease all licensees' annual fees, based on their percentage share of the budget. The NRC will apply the 10 percent of its budget that is excluded from fee recovery under OBRA-90, as amended (fee relief), to

offset the total budget allocated for activities that do not directly benefit current NRC licensees. The budget for these fee-relief activities is totaled and then reduced by the amount of the NRC's fee relief. Any difference between the fee-relief and the budgeted amount of these activities results in a fee-relief adjustment (increase or decrease) to all licensees' annual fees, based on their percentage share of the budget, which is consistent with the existing fee methodology.

In comparison to FY 2013, the budgetary resources in FY 2014 increased for fee-relief activities due to increased rulemaking activities for research and test reactors, increased training and travel resources under Agreement State Oversight, and a reduction in decommissioning billings under 10 CFR part 170, which lowered the offset under decommissioning activities for total fee relief resources.

In comparison to the FY 2014 proposed fee rule, budgetary resources decrease for fee relief in this final due in part to a \$100,000 reduction to the fee relief budget from increased 10 CFR part 170 billings for the generic decommissioning/reclamation under the fee relief categories. As a result, of this change, some licensees received a minimal reduction in fees in this final rule.

Table III summarizes the fee-relief activities for FY 2014. The FY 2013

amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

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

Fee-relief activities	FY 2013 budgeted costs	FY 2014 budgeted costs
1. Activities not attributable to an existing NRC licensee or class of licensee:		
a. International activities	\$10.2	\$11.2
b. Agreement State oversight	10.3	12.6
c. Scholarships and Fellowships	16.4	18.9
d. Medical Isotope Production	3.5	3.1
2. Activities not assessed under 10 CFR part 170 licensing and inspection fees or 10 CFR part 171 annual fees based on existing law or Commission policy:		
a. Fee exemption for nonprofit educational institutions	10.2	11.9
b. Costs not recovered from small entities under 10 CFR 171.16(c)	7.7	8.4
c. Regulatory support to Agreement States	16.3	17.9
d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	13.9	17.1
e. <i>In Situ</i> leach rulemaking and unregistered general licensees	1.3	1.0
Total fee-relief activities	89.8	102.1
Less 10 percent of the NRC's total FY budget (less non-fee items)	-96.0	-103.4
Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees	-6.2	-1.3

Table IV shows how the NRC will allocate the \$1.3 million fee-relief assessment adjustment to each license fee class. As explained previously, the NRC will allocate this fee-relief adjustment to each license fee class based on their percentage of the budget for their fee class compared to the NRC's total budget. The fee-relief surplus adjustment is subtracted from the

required annual fee recovery for each fee class.

Separately, the NRC has continued to allocate the LLW surcharge based on the volume of LLW disposal of three classes of licenses: Operating reactors, fuel facilities, and materials users. Because LLW activities support NRC licensees and Agreement States, the costs of these activities are recovered through annual

fees. In FY 2014, this allocation percentage remains the same as FY 2013 based on a recent review of data by fee class.

Table IV also shows the allocation of the LLW surcharge activity. For FY 2014, the total budget allocated for LLW activity is \$3.2 million. (Individual values may not sum to totals due to rounding.)

TABLE IV—ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE, FY 2014  
[Dollars in millions]

	LLW surcharge		Fee-relief adjustment		Total
	Percent	\$	Percent	\$	\$
Operating Power Reactors	53.0	1.7	86.5	-1.1	0.5
Spent Fuel Storage/Reactor Decommissioning			3.6	0.0	0.0
Research and Test Reactors			0.3	0.0	0.0
Fuel Facilities	37.0	1.2	5.2	-0.1	1.1
Materials Users	10.0	0.3	2.8	-0.0	0.3
Transportation			0.5	-0.0	0.0
Uranium Recovery			1.2	-0.0	0.0
Total	100.0	3.2	100.0	-1.3	1.9

Annual Fee Policy Change

The staff examined 10 CFR 171.15(a) regarding independent spent fuel storage installation (ISFSI) licenses and determined that the current regulations are inconsistent with how other classes of licensees are assessed annual fees based on operational status. Under 10 CFR part 171.15(a), licensees for new nuclear reactors under 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," may not operate a facility and are not assessed annual fees until the Commission

determines that the acceptance criteria in a combined license have been met as stated under 10 CFR 52.103(g). However, licensees under 10 CFR part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste," that do not hold licenses under 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities," or 10 CFR part 52, must pay an annual fee regardless of operational status. This creates a regulatory

inconsistency because the NRC's current fee regulations fail to consider the Commission's requirement that 10 CFR part 72 licensees notify the Commission of their readiness to begin operations at least 90 days prior to the first storage of spent fuel, high-level waste, or reactor-related Greater than Class C waste in an ISFSI or a monitored retrievable storage installation.

In the cases of licensees under both 10 CFR part 72 and 10 CFR part 52, the Commission ultimately determines a licensee's operational status through

established criteria that either requires a licensee to notify the Commission of its readiness to operate or the Commission's finding that acceptance criteria in the combined license have been met before operation of a facility. The OBRA-90, as amended, requires the NRC to fairly and equitably recover the costs of providing regulatory services in its collection of fees from licensees. Therefore, the NRC modifies 10 CFR 171.15(a) to allow an ISFSI licensee to be charged an annual fee when the licensee has the ability to use or to derive benefit from the license—that is, when an ISFSI licensee notifies the Commission of its readiness to operate. This change mirrors the practice for licensees under the power reactor and fuel cycle facility fee categories.

Revised Annual Fees

The NRC is required to establish rebaselined annual fees, which includes updating the number of NRC licensees in the FY 2014 fee calculations. Therefore, the NRC is revising its annual fees in §§ 171.15 and 171.16 for FY 2014 to recover approximately 90 percent of the NRC's FY 2014 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 total \$332.5 million, a decrease of \$15.5 million from the FY 2013 fee rule. The total amount to be recovered through annual fees from current licensees for this final rule is \$584.2 million, an increase of \$72.68 million from the FY 2013 final rule. The required annual fee collection in FY 2013 was \$511.6 million.

In the agency's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the Commission determined that the agency should proceed with a presumption in favor of rebaselining when calculating annual fees each year. Rebaselining involves a detailed analysis of the NRC's budget, with the NRC allocating budgeted resources to fee classes and categories of licensees. The Commission expects that for most years there will be budgetary and other changes that warrant the use of the rebaselining method.

For FY 2014, the NRC's total fee recoverable budget, as mandated by law, is \$930.7 million, an increase of \$66.8 million compared to FY 2013. The FY 2014 budget was allocated to the

appropriate fee class based on budgeted activities. As compared with the FY 2013 annual fees, the FY 2014 rebaselined fees decrease for three classes—spent fuel storage/reactor and decommissioning, some fuel facilities, and DOE Transportation Activities. The annual fees increase for five fee classes—operating reactors, research and test reactors, most fuel facilities, materials users, and uranium recovery licensees.

The factors affecting all annual fees include the distribution of budgeted costs to the different classes of licenses (based on the specific activities the NRC will perform in FY 2014), the estimated 10 CFR part 170 collections for the various classes of licenses, and allocation of the fee-relief surplus adjustment to all fee classes. The percentage of the NRC's budget not subject to fee recovery remains at 10 percent for FY 2014, the same as FY 2013.

Table V shows the rebaselined fees for FY 2014 for a representative list of categories of licensees. The FY 2013 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE V—REBASELINED ANNUAL FEES

Class/category of licenses	FY 2013 final annual fee	FY 2014 final annual fee
Operating Power Reactors (Including Spent Fuel Storage/Reactor Decommissioning Annual Fee) .....	\$4,390,000	\$5,223,000
Spent Fuel Storage/Reactor Decommissioning .....	231,000	224,000
Research and Test Reactors (Nonpower Reactors) .....	81,600	84,500
High Enriched Uranium Fuel Facility .....	6,997,000	7,175,000
Low Enriched Uranium Fuel Facility .....	2,633,000	2,469,000
UF <sub>6</sub> Conversion and Deconversion Facility .....	1,429,000	1,466,000
Conventional Mills .....	27,900	33,800
Typical Materials Users:		
Radiographers (Category 3O) .....	27,200	29,800
Well Loggers (Category 5A) .....	12,600	13,600
Gauge Users (Category 3P) .....	6,400	6,800
Broad Scope Medical (Category 7B) .....	32,900	35,700

The work papers (ADAMS Accession No. ML14064A394) that support this final rule show in detail the allocation of the NRC's budgeted resources for each class of licenses and how the fees are calculated. The work papers are available as indicated in Section XV, "Availability of Documents," of this document.

Paragraphs a. through h. of this section describes budgetary resources allocated to each class of licenses and the calculations of the rebaselined fees. Individual values in the tables

presented in this section may not sum to totals due to rounding.

a. Fuel Facilities

The FY 2014 budgeted costs to be recovered in the annual fees assessment to the fuel facility class of licenses (which includes licensees in fee categories 1.A.(1)(a), 1.A.(1)(b), 1.A.(2)(a), 1.A.(2)(b), 1.A.(2)(c), 1.E., and 2.A.(1) under § 171.16) are approximately \$29.5 million. This value is based on the full cost of budgeted resources associated with all activities that support this fee class, which is

reduced by estimated 10 CFR part 170 collections and adjusted for allocated generic transportation resources and fee-relief. In FY 2014, the LLW surcharge for fuel facilities is added to the allocated fee-relief adjustment (see Table IV, "Application of Fee-Relief Adjustment and LLW Surcharge, FY 2014," in Section II, "Discussion," of this document). The summary calculations used to derive this value are presented in Table VI for FY 2014, with FY 2013 values shown for comparison. (Individual values may not sum to totals due to rounding.)

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

Summary fee calculations	FY 2013 Final	FY 2014 Final
Total budgeted resources .....	50.7	47.2
Less estimated 10 CFR part 170 receipts .....	- 19.5	- 16.7
Net 10 CFR part 171 resources .....	31.2	30.5
Allocated generic transportation .....	+0.8	0.6
Fee-relief adjustment/LLW surcharge .....	+0.9	1.1
Billing adjustments .....	- 0.0	- 0.6
Reclassification of licensee current year fee billing received: .....	0.0	- 2.2
<b>Total remaining required annual fee recovery .....</b>	<b>32.9</b>	<b>29.5</b>

In comparison to FY 2013, the FY 2014 budgetary resources for fuel facilities decreased due to new construction project delays within the oversight process and reduced 10 CFR part 170 billings.

As a result of the NRC's approval to reclassify a fuel facility licensee (USEC Paducah) to another fee category, the remaining fuel facility licensees receive a \$2.2 million credit adjustment of current year collections for FY 2014. The NRC allocates the total remaining annual fee recovery amount to the individual fuel facility licensees, based on the effort/fee determination matrix developed for the FY 1999 final fee rule (64 FR 31447; June 10, 1999). In the matrix included in the publicly-available NRC work papers, licensees are grouped into categories according to their licensed activities (i.e., nuclear material enrichment, processing operations, and material form) and the level, scope, depth of coverage, and rigor of generic regulatory programmatic effort applicable to each category from a safety and safeguards perspective. This methodology can be applied to determine fees for new licensees, current licensees, licensees in unique license situations, and certificate holders.

This methodology is adaptable to changes in the number of licensees or certificate holders, licensed or certified material and/or activities, and total programmatic resources to be recovered

through annual fees. When a license or certificate is modified, it may result in a change of category for a particular fuel facility licensee, as a result of the methodology used in the fuel facility effort/fee matrix. Consequently, this change may also have an effect on the fees assessed to other fuel facility licensees and certificate holders. For example, if a fuel facility licensee amends its license/certificate (e.g., decommissioning or license termination) that results in it not being subject to 10 CFR part 171 costs applicable to the fee class, then the budgeted costs for the safety and/or safeguards components will be spread among the remaining fuel facility licensees/certificate holders.

The methodology is applied as follows. First, a fee category is assigned, based on the nuclear material and activity authorized by license or certificate. Although a licensee/certificate holder may elect not to fully use a license/certificate, the license/certificate is still used as the source for determining authorized nuclear material possession and use/activity. Second, the category and license/certificate information are used to determine where the licensee/certificate holder fits into the matrix. The matrix depicts the categorization of licensees/certificate holders by authorized material types and use/activities.

Each year, the NRC's fuel facility project managers and regulatory

analysts determine the level of effort associated with regulating each of these facilities. This is done by assigning, for each fuel facility, separate effort factors for the safety and safeguards activities associated with each type of regulatory activity. The matrix includes 10 types of regulatory activities, including enrichment and scrap/waste-related activities (see the work papers for the complete list). Effort factors are assigned as follows: 1 (low regulatory effort), 5 (moderate regulatory effort), and 10 (high regulatory effort). The NRC then totals separate effort factors for safety and safeguards activities for each fee category.

The effort factors for the various fuel facility fee categories are summarized in Table VII. The value of the effort factors shown, as well as the percent of the total effort factor for all fuel facilities, reflects the total regulatory effort for each fee category (not per facility). This results in spreading of costs to other fee categories. The uranium enrichment fee category factors have shifted with minimal increases and decreases between safety and safeguards factors compared to FY 2013. However, as a result of the downgraded licensee, USEC Paducah, in May 2014, the effort factors changed significantly for the fee category 1.E., Uranium Enrichment, and slightly for fee category 1.A.(2)(a), Limited Operations, from the FY 2014 proposed and FY 2013 final rule.

TABLE VII—EFFORT FACTORS FOR FUEL FACILITIES, FY 2014

Facility type (fee category)	Number of facilities	Effort factors (percent of total)	
		Safety	Safeguards
High-Enriched Uranium Fuel (1.A.(1)(a)) .....	2	89 (43.8)	97 (54.5)
Low-Enriched Uranium Fuel (1.A.(1)(b)) .....	3	70 (34.5)	26 (14.6)
Limited Operations (1.A.(2)(a)) .....	1	2 (1.0)	7 (3.9)
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b)) .....	1	3 (1.5)	15 (8.7)
Hot Cell (1.A.(2)(c)) .....	1	6 (3.0)	3 (1.7)
Uranium Enrichment (1.E.) .....	1	21 (10.3)	23 (12.9)
UF <sub>6</sub> Conversion and Deconversion (2.A.(1)) .....	1	12 (5.9)	7 (3.9)

For FY 2014, the total budgeted resources for safety activities are \$16.2 million, excluding the fee-relief adjustment and the reclassification adjustment. This amount is allocated to each fee category based on its percent of the total regulatory effort for safety activities. For example, if the total effort factor for safety activities for all fuel facilities is 100, and the total effort factor for safety activities for a given fee

category is 10, that fee category will be allocated 10 percent of the total budgeted resources for safety activities. Similarly, the budgeted resources amount of \$14.3 million for safeguards activities is allocated to each fee category based on its percent of the total regulatory effort for safeguards activities. The fuel facility fee class' portion of the fee-relief adjustment, \$1.1 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 (rounded) for each facility is summarized in Table VIII.

TABLE VIII—ANNUAL FEES FOR FUEL FACILITIES

Facility type (fee category)	FY 2014 final annual fee
High-Enriched Uranium Fuel (1.A.(1)(a)) .....	\$7,175,000
Low-Enriched Uranium Fuel (1.A.(1)(b)) .....	2,469,000
Limited Operations (1.A.(2)(a)) .....	747,000
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b)) .....	1,389,000
Hot Cell (and others) (1.A.(2)(c)) .....	694,000
Uranium Enrichment (1.E.) .....	3,395,000
UF <sub>6</sub> Conversion and Deconversion (2.A.(1)) .....	1,466,000

b. Uranium Recovery Facilities

The total FY 2014 budgeted costs to be recovered through annual fees assessed to the uranium recovery class

(which includes licensees in fee categories 2.A.(2)(a), 2.A.(2)(b), 2.A.(2)(c), 2.A.(2)(d), 2.A.(2)(e), 2.A.(3), 2.A.(4), 2.A.(5), and 18.B. under

§ 171.16) are approximately \$1.2 million. The derivation of this value is shown in Table IX, with FY 2013 values shown for comparison purposes.

TABLE IX—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2013 final	FY 2014 final
Total budgeted resources .....	\$9.9	\$10.9
Less estimated 10 CFR part 170 receipts .....	- 8.9	- 9.5
Net 10 CFR part 171 resources .....	1.0	1.3
Allocated generic transportation .....	N/A	N/A
Fee-relief adjustment .....	- 0.0	- 0.0
Billing adjustments .....	- 0.0	- 0.1
Total required annual fee recovery .....	1.0	1.2

The increase in total budgeted resources and annual fees allocated to uranium recovery in FY 2014 is primarily due to an increase in environmental reviews, inspections, and licensing actions.

Since FY 2002, the NRC has computed the annual fee for the uranium recovery fee class by allocating the total annual fee amount for this fee class between the DOE and the other licensees in this fee class. The NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act

(UMTRCA). 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.

In FY 2014, the annual fee assessed to DOE includes recovery of the costs

specifically budgeted for the NRC's UMTRCA Title I and II activities, plus 10 percent of the remaining annual fee amount, including generic/other costs (minus 10 percent of the fee-relief adjustment), for the uranium recovery class. The NRC assesses the remaining 90 percent generic/other costs minus 90 percent of the fee-relief adjustment, to the other NRC licensees in this fee class that are subject to annual fees.

The costs to be recovered through annual fees assessed to the uranium recovery class are shown in Table X.

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

Summary of costs	FY 2014 final annual fee
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 .....	\$774,185
10 percent of generic/other uranium recovery budgeted costs .....	42,009



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

Summary of costs	FY 2014 final annual fee
10 percent of uranium recovery fee-relief adjustment .....	- 1,554
Total Annual Fee Amount for DOE (rounded) .....	815,000
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 .....	378,082
90 percent of uranium recovery fee-relief adjustment .....	- 13,986
Total Annual Fee Amount for Other Uranium Recovery Licenses .....	364,096

The DOE fee would increase by 16.4 percent in FY 2014 compared to FY 2013 due to increased budgetary resources for UMRCA activities. Again, the annual fee for uranium recovery licensees increases due to environmental reviews, inspections, and licensing actions.

The NRC will continue to use a matrix, which is included in the work papers, to determine the level of effort associated with conducting the generic regulatory actions for the different (non-DOE) licensees in this fee class. The weights derived in this matrix are used to allocate the approximately \$378,082 annual fee amount to these licensees. The use of this uranium recovery annual fee matrix was established in the FY 1995 final fee rule (60 FR 32217; June 20, 1995). The FY 2014 matrix is described as follows.

First, the methodology identifies the categories of licenses included in this fee class (besides DOE). These categories are: Conventional uranium mills and

heap leach facilities; uranium *In Situ* Recovery (ISR) and resin ISR facilities mill tailings disposal facilities, as defined in Section 11e.(2) of the Atomic Energy Act (11e.(2) disposal facilities); and uranium water treatment facilities.

Second, the matrix identifies the types of operating activities that support and benefit these licensees. The activities related to generic decommissioning/reclamation are not included in the matrix because they are included in the fee-relief activities. Therefore, they are not a factor in determining annual fees. The activities included in the matrix are operations, waste operations, and groundwater protection. The relative weight of each type of activity is then determined, based on the regulatory resources associated with each activity. The operations, waste operations, and groundwater protection activities have weights of 0, 5, and 10, respectively, in the matrix.

Each year, the NRC determines the level of benefit to each licensee for generic uranium recovery program activities for each type of generic activity in the matrix. This is done by assigning, for each fee category, separate benefit factors for each type of regulatory activity in the matrix. Benefit factors are assigned on a scale of 0 to 10 as follows: 0 (no regulatory benefit), 5 (moderate regulatory benefit), and 10 (high regulatory benefit). These benefit factors are first multiplied by the relative weight assigned to each activity (described previously). The NRC then calculates total and per licensee benefit factors for each fee category. Therefore, these benefit factors reflect the relative regulatory benefit associated with each licensee and fee category.

Table XI displays the benefit factors per licensee and per fee category, for each of the non-DOE fee categories included in the uranium recovery fee class as follows:

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	9
Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b)) .....	6	190	1,140	71
Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c)) .....	1	215	215	13
11e.(2) disposal incidental to existing tailings sites (2.A.(4)) .....	1	85	85	5
Uranium water treatment (2.A.(5)) .....	1	25	25	2
Total .....	10	665	1,615	100%

Applying these factors to the approximately \$364,096 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 2014 final annual fee
Conventional and Heap Leach mills (2.A.(2)(a)) .....	\$33,800
Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b)) .....	42,800
Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c)) .....	48,500

TABLE XII—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES—Continued  
[Other than DOE]

Facility type (fee category)	FY 2014 final annual fee
11e.(2) disposal incidental to existing tailings sites (2.A.(4)) .....	19,200
Uranium water treatment (2.A.(5)) .....	5,600

c. Operating Power Reactors class in FY 2014 in the form of annual shown for comparison. (Individual values may not sum to totals due to rounding.)  
The total budgeted costs to be recovered from the power reactor fee fees is \$499.9 million, as shown in Table XIII. The FY 2013 values are

TABLE XIII—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS  
[Dollars in millions]

Summary fee calculations	FY 2013 final	FY 2014 final
Total budgeted resources .....	\$734.7	\$799.3
Less estimated 10 CFR part 170 receipts .....	-\$303.8	-\$290.9
Net 10 CFR part 171 resources .....	430.9	508.4
Allocated generic transportation .....	1.3	1.1
Fee-relief adjustment/LLW surcharge .....	-3.4	0.6
Billing adjustment .....	0.2	-10.2
2nd billing adjustment (terminated license) .....	-4.6	0.0
Total required annual fee recovery .....	424.2	499.9

The budgetary resources for operating power reactors primarily increase in FY 2014 due to increased resources to support Fukushima Near-Term Task Force (NTTF) recommendations (“Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident” (ADAMS Accession No. ML111861807), dated July 12, 2011; Commission-directed high- and medium-priority rulemaking activities; the Force on Force program; and the maintenance, operation and eventual replacement of the Reactor Program System (RPS).

The annual fees for power reactors increase primarily as a result of: (1) Decreased 10 CFR part 170 billings due to the decline in current year licensing actions and delays in major design certification applications and combined license applications (this decline in 10

CFR part 170 billings means that 10 CFR part 171 fees need to increase to make up the difference and ensure that the NRC collects approximately 90 percent of its budget authority); (2) increased generic regulatory work related to domestic post-Fukushima regulatory actions and the development of the new waste confidence rule, which the NRC cannot bill to a specific licensee; and (3) the shutdown of two operating reactors (San Onofre Nuclear Generating Station, Units 2 and 3), which lowered the number of licensees in the power reactor annual fee class. The budgeted costs to be recovered through annual fees to power reactors are divided equally among the 100 power reactors licensed to operate, resulting in an FY 2014 annual fee of \$4,999,000 per reactor. Additionally, each power reactor licensed to operate will be assessed the FY 2014 spent fuel storage/

reactor decommissioning annual fee of \$224,000. The total FY 2014 annual fee is \$5,223,000 for each power reactor licensed to operate. The annual fees for power reactors are presented in § 171.15.

d. Spent Fuel Storage/Reactors in Decommissioning

For FY 2014, budgeted costs of \$27.5 million for spent fuel storage/reactor decommissioning will be recovered through annual fees assessed to 10 CFR part 50 power reactors and to 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license. Those reactor licensees that have ceased operations and have no fuel onsite will not be subject to these annual fees. Table XIV shows the calculation of this annual fee amount. The FY 2013 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XIV—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR IN DECOMMISSIONING FEE CLASS  
[Dollars in millions]

Summary fee calculations	FY 2013 final	FY 2014 final
Total budgeted resources .....	\$33.4	\$32.7
Less estimated 10 CFR part 170 receipts .....	-5.4	-5.4
Net 10 CFR part 171 resources .....	28.0	27.3
Allocated generic transportation .....	0.6	0.6

TABLE XIV—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR IN DECOMMISSIONING FEE CLASS—Continued  
[Dollars in millions]

Summary fee calculations	FY 2013 final	FY 2014 final
Fee-relief adjustment .....	– 0.2	0.0
Billing adjustments .....	0.0	– 0.4
Total required annual fee recovery .....	28.4	27.5

The budgetary resources for this fee class are reduced in FY 2014 due to a decline in activities related to Commission-directed improvements for storage and transportation regulations and processes. The required annual fee recovery amount is divided equally among 123 licensees, resulting in an FY

2014 annual fee of \$224,000 per licensee.

e. Research and Test Reactors (Non-Power Reactors)

Approximately \$340,000 in budgeted costs would be recovered through annual fees assessed to the test and

research reactor class of licenses for FY 2014. Table XV summarizes the annual fee calculation for the research and test reactors for FY 2014. The FY 2013 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR RESEARCH AND TEST REACTORS  
[Dollars in millions]

Summary fee calculations	FY 2013 final	FY 2014 final
Total budgeted resources .....	\$1.50	\$2.63
Less estimated 10 CFR part 170 receipts .....	– 1.19	– 2.28
Net 10 CFR part 171 resources .....	0.30	0.35
Allocated generic transportation .....	0.03	0.03
Fee-relief adjustment .....	– 0.01	– 0.01
Billing adjustments .....	– 0.00	– 0.03
Total required annual fee recovery .....	0.33	0.34

For FY 2014, budgetary resources for research and test reactors increase due to more emphasis on rulemaking activities to streamline license renewal processes. 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 2014 annual fee of \$84,500 for each licensee.

f. Rare Earth Facilities

The agency does not anticipate receiving an application for a rare earth facility this fiscal year, so no budgeted resources are allocated to this fee class, and no annual fee will be published in FY 2014.

g. Materials Users

For FY 2014, budget costs of \$33.1 million for materials users would be recovered through annual fees assessed to 10 CFR parts 30, 40, and 70 licensees.

Table XVI shows the calculation of the FY 2014 annual fee amount for materials users licensees. The FY 2013 values are shown for comparison. Note the following fee categories under § 171.16 are included in this fee class: 1.C., 1.D., 1.F., 2.B., 2.C. through 2.F., 3.A. through 3.S., 4.A. through 4.C., 5.A., 5.B., 6.A., 7.A. through 7.C., 8.A., 9.A. through 9.D., and 17. (Individual values may not sum to totals due to rounding.)

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS  
[Dollars in millions]

Summary fee calculations	FY 2013 final	FY 2014 final
Total budgeted resources .....	\$30.7	\$32.8
Less estimated 10 CFR part 170 receipts .....	– 1.2	– 0.9
Net 10 CFR part 171 resources .....	29.5	31.9
Allocated generic transportation .....	1.5	1.3
Fee-relief adjustment/LLW surcharge .....	0.2	0.2
Billing adjustments .....	– 0.0	– 0.3
Total required annual fee recovery .....	31.2	33.1

The total required annual fees to be recovered for materials licensees increase in FY 2014 mainly for oversight activities. To equitably and fairly allocate the \$33.1 million in FY 2014 budgeted costs to be recovered in annual fees assessed to the approximately 3,000 diverse materials users licensees, the NRC continues to base the annual fees for each fee category within this class 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 continues to provide 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 continues to consider the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

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

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

The constant is the multiple necessary to recover approximately \$23.8 million in general costs (including allocated generic transportation costs) and is 1.59 for FY 2014. The average inspection cost is the average inspection hours for each fee category multiplied by the hourly rate of \$279. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is the multiple necessary to recover approximately \$8.8 million in inspection costs, and is 2.4 for FY 2014. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2014, approximately

\$238,500 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 to be assessed to each licensee also includes a share of the fee-relief assessment of approximately \$34,000 allocated to the materials users fee class (see Table IV, "Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2014," in Section II, "Discussion," of this document), and for certain categories of these licensees, a share of the approximately \$319,000 surcharge costs allocated to the fee class. The annual fee for each fee category is shown in § 171.16(d).

h. Transportation

Table XVII shows the calculation of the FY 2014 generic transportation budgeted resources to be recovered through annual fees. The FY 2013 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION  
[Dollars in millions]

Summary fee calculations	FY 2013 final	FY 2014 final
Total budgeted resources .....	\$8.2	\$8.0
Less estimated 10 CFR part 170 receipts .....	-2.7	-3.1
Net 10 CFR part 171 resources .....	5.5	4.9

The NRC must approve any package used for shipping nuclear material before shipment. If the package meets NRC requirements, the NRC issues a Radioactive Material Package Certificate of Compliance (CoC) to the organization requesting approval of a package. Organizations are authorized to ship radioactive material in a package approved for use under the general licensing provisions of 10 CFR part 71, "Packaging and Transportation of Radioactive Material." The resources associated with generic transportation activities are distributed to the license fee classes based on the number of CoCs benefitting (used by) that fee class, as a proxy for the generic transportation resources expended for each fee class.

The total FY 2014 budgetary resources for generic transportation activities,

including those to support DOE CoCs, are \$4.9 million. The decrease in 10 CFR part 171 resources in FY 2014 is primarily due to the winding down of 10 CFR parts 71 and 72 rulemaking activities and increased 10 CFR part 170 billing activities. Generic transportation resources associated with fee-exempt entities are not included in this total. These costs are included in the appropriate fee-relief category (e.g., the fee-relief category for nonprofit educational institutions).

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC will recover generic transportation costs unrelated to DOE as part of existing annual fees for license fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category

18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

The distribution of these resources to the license fee classes and DOE is shown in Table XVIII. The distribution is adjusted to account for the licensees in each fee class that are fee-exempt. For example, if four CoCs benefit the entire research and test reactor class, but only 4 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 reactor annual fees equals  $(4/31) \times 4$ , or 0.5 CoCs.

TABLE XVIII—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2014

[Dollars in millions]

License fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Total .....	85.5	100.0	\$4.89
DOE .....	20.0	23.4	1.14
Operating Power Reactors .....	20.0	23.4	1.14
Spent Fuel Storage/Reactor Decommissioning .....	11.0	12.9	0.63
Research and Test Reactors .....	0.5	0.6	0.03
Fuel Facilities .....	11.0	12.9	0.63
Materials Users .....	23.0	26.9	1.32

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds and does not allocate these DOE-related resources to other licensees' annual fees, because these resources specifically support DOE. Note that DOE's annual fee includes a reduction for the fee-relief surplus adjustment (see Table IV, "Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2014," in Section II, "Discussion," of this document), resulting in a total annual fee of \$1,084,000 for FY 2014. The annual fee decreases in FY 2014 are primarily due to the conclusion of 10 CFR parts 71 and 72 rulemaking activities and an increase in 10 CFR part 170 billings.

#### Administrative Changes

The NRC also makes the following nine administrative changes:

(1) *Amends the Definition for "Research Reactor" under 10 CFR 170.3, "Definitions," to Correct Reference.* A final rule was published in the **Federal Register** on August 1, 1968 (33 FR 10924), that added 10 CFR part 170 to the *Code of Federal Regulations*. The definitions section was contained in § 170.3 and included the definitions for "research reactor" and "testing facility." However, the definitions section also originally included paragraph designations of (a), (b), (c), etc. The definition for "research reactor" was paragraph (h) and referenced paragraph (m), which was the definition for "testing facility." In a final rule published on May 23, 1990 (55 FR 21179), the paragraph designations were removed and the definitions placed in alphabetical order. However, the reference contained in the definition for "research reactor" was not corrected to refer to the definition for "testing facility" and not "paragraph (m)." Therefore, the NRC amends the definition for "research reactor" to remove the reference to paragraph (m), which no longer exists. The final definition correctly references the definition for "testing facility."

(2) *Deletes the Language under 10 CFR 170.12, "Payment of Fees," Regarding Deferred Application Costs, Which is Not Applicable to the Current Fleet of Licensees.* The NRC staff recently queried the NRC's cost accounting system and determined current installment payment plans between the NRC and licensees have installment payment plan duration periods of up to 3 years in FY 2014, and current language regarding application costs deferred before August 9, 1991, is no longer applicable. Therefore, the NRC modifies paragraph (b)(3) and deletes paragraphs (b)(5), (b)(6), and (b)(7) of this section.

(3) *Amends the Language under 10 CFR 170.12, "Payment of Fees," to Address Underpayment of Fees.* The NRC modifies 10 CFR 170.12 to include a provision to allow for the collection of any underpayment in fees resulting from an error by the NRC. This provision provides clarity to licensees that the NRC must collect fees resulting from billing errors to satisfy the requirements of OBRA-90, as amended.

(4) *Modifies the Language under 10 CFR 170.31, "Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses," to Avoid Duplicate Billing.* As currently written, the regulations in this section could allow licensees in certain fee categories to be charged duplicate fees for identical activities in similar fee categories. Therefore, the NRC modifies the descriptions for three fee categories in this section by adding footnotes for fee categories 2.B., 3.P., and 7.C. These footnotes provide an exemption from other fee category codes with identical activities associated with the license to avoid duplicate billing.

(5) *Adds a New Paragraph Regarding Filing Fee Exemption Requests.* The current placement of the language identifying the time period to file an exemption request under 10 CFR 171.11, "Exemptions," implies that only one exemption criterion is subject to the

filing period, when all exemption criteria are subject to the same filing period. Therefore, the NRC removes the language currently under paragraph (b) concerning the filing period for fee exemption requests and moves it to a new paragraph (a) to emphasize the time period is required for all exemption requests filed by licensees with the NRC. Current paragraphs (a), (b), (c), and (d) are redesignated as paragraphs (b), (c), (d), and (e), respectively.

(6) *Modifies the Language under 10 CFR 171.15, "Annual Fees: Reactor Licenses and Spent Fuel Storage Reactor Licenses," to Correct the Types of Non-Power Reactors.* The NRC modifies the language under paragraphs (a) and (e) by replacing "and" with "or" to clarify that research reactors and test reactors are two types of non-power reactors.

(7) *Modifies the Language under 10 CFR 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," to Delete Footnote Reference.* Removes reference to footnote 5 (which indicates that there is no licensee under a particular fee category) for fee category 1.A.(2)(a) in paragraph (d) due to an existing licensee that was recently moved into this fee category.

(8) *Modifies the Language under 10 CFR 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," to Avoid Duplicate Billing.* As currently written, the regulations in this section could allow licensees in certain fee categories to be charged duplicate fees for identical activities in similar fee categories. Therefore, the NRC modifies the descriptions for three fee categories in this section by adding footnotes for fee categories 2.B., 3.P., and 7.C. These footnotes provide an exemption from other fee category codes that have

identical activities associated with the license to avoid duplicate billing.

(9) *Amends the Language under 10 CFR 171.19, "Payment," to Address Underpayment of Fees.* The NRC modifies 10 CFR 171.19 to include a provision to allow for the collection of any underpayment in fees resulting from an error by the NRC. This provision provides clarity to licensees that the NRC must collect fees resulting from billing errors to satisfy the requirements of OBRA-90, as amended.

**FY 2014 Billing**

The FY 2014 final fee rule is a major rule as defined by the Congressional Review Act of 1996 (5 U.S.C. 801-808). Therefore, the NRC's fee schedules for FY 2014 will become effective 60 days after date of publication of the final rule in the **Federal Register**. Upon publication of the final rule, the NRC will send an invoice for the amount of the annual fees to reactor licensees, 10 CFR part 72 licensees, major fuel cycle facilities, and other licensees with annual fees of \$100,000 or more. For these licensees, payment is due on the effective date of the FY 2014 final rule. Because these licensees are billed quarterly, the payment amount due is the total FY 2014 annual fee less payments made in the first three quarters of the fiscal year.

Materials licensees with annual fees of less than \$100,000 are billed annually. Those materials licensees whose license anniversary date during FY 2014 falls before the effective date of the FY 2014 final rule will be billed for the annual fee during the anniversary month of the license at the FY 2013

annual fee rate. Those materials licensees whose license anniversary date falls on or after the effective date of the FY 2014 final rule will be billed for the annual fee at the FY 2014 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

**III. Opportunities for Public Participation**

The NRC published the FY 2014 Proposed Fee Rule in the **Federal Register** on April 14, 2014 (79 FR 21036), for a 30-day public comment period. The rule proposed to amend the licensing, inspection, and annual fees charged to the NRC's applicants and licensees in order to implement OBRA-90, as amended, which requires the NRC to recover through fees approximately 90 percent of its budget authority in FY 2014, not including amounts appropriated for WIR, amounts appropriated for generic homeland security activities, and IG services for the DNFSB. These fees represent the cost of the NRC's services provided to applicants and licensees. The public comment period for the proposed rule closed on May 14, 2014.

**IV. Public Comment Analysis**

*Overview of Public Comments*

The NRC received 20 comment submissions, including one duplicate submission, for the proposed rule. A comment submission means 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. Seven of the comment submissions were received after the 30-day comment period closed, and the NRC has addressed all seven of the late-filed comment submissions as part of this final rule.

All 20 commenters are opposed to the hourly rate increase and the fee increases in the FY 2014 Proposed Fee Rule. The primary concern for the majority of the commenters is that the FY 2014 Proposed Fee Rule lacked adequate justification to support an increase in fees and the hourly rate, denying the public an opportunity to submit meaningful commentary for consideration in the FY 2014 Final Fee Rule. The commenters are listed in Table XIX, and are classified as follows: One private citizen (John Public); one government agency (DOE); three members of the uranium industry (Kennecott Uranium Company, National Mining Association (NMA), and Wyoming Mining Association (WMA)); three utilities (Florida Power & Light Company (FPLC), PPL Susquehanna, LLC, and South Carolina Electric and Gas Company (SCEG-1 and SCEG-2)); one materials licensee (Indiana University Medical Center (IU/Medical Center)); and nine members of the nuclear industry (Dominion Resources Services, Inc. (Dominion), Duke Energy (Duke), Exelon Generation, LLC (Exelon), FirstEnergy Nuclear Operating Company (FENOC), Luminant Generation Company, LLC (Luminant Power), NAC International (NAC), Nuclear Energy Institute (NEI), Public Service Enterprise Group Nuclear, LLC (PSEG), and STARS Alliance).

TABLE XIX—FY 2014 PROPOSED FEE RULE COMMENTER SUBMISSIONS

Commenter	Affiliation	ADAMS ML #	Acronym
Mack L. Richard .....	Indiana University, Medical Center .....	ML14106A340 (#1)	IU/Medical Center.
John Public .....	N/A .....	ML14118A245 (#2)	Private Citizen.
Michael Pacilio .....	President and Chief Nuclear Officer, Exelon Generation Company, LLC.	ML14132A374 (#3)	Exelon.
Anthony R. Pietrangelo ..	Senior Vice President and Chief Nuclear Officer, Nuclear Generation, Nuclear Energy Institute.	ML14133A245 (#4)	NEI.
Travis Deti .....	Assistant Director, Wyoming Mining Association .....	ML14133A694 (#5)	WMA.
James M. Petro, Jr. ....	Nuclear Licensing and Regulatory Compliance Director, Florida Power & Light Company.	ML14134A467 (#6)	FPLC.
Gregory H. Hanlon .....	FENOC Director, Fleet Regulatory Affairs, FirstEnergy Nuclear Operating Company.	ML14134A519 (#7)	FENOC.
Jon A. Franke .....	Site Vice President, PPL Susquehanna, LLC .....	ML14134A529 (#8)	PPL Susquehanna.
Alfred M. Paglia .....	Manager, Nuclear Licensing, New Nuclear Deployment, South Carolina Electric and Gas Company.	ML14134A582 (#9)	SCEG-1.
Oscar Paulson .....	Facility Supervisor, Kennecott Uranium Company .....	ML14134A601 (#10)	Kennecott Uranium Company.
Travis Deti .....	Assistant Director, Wyoming Mining Association .....	ML14135A328 (#11)	WMA.
Thomas D. Gatlin .....	Vice President, Nuclear Operations, South Carolina Electric and Gas Company.	ML14135A332 (#12)	SCEG-2.
Robert Braun .....	Senior Vice President and Chief Operating Officer, PSEG Nuclear LLC.	ML14135A336 (#13)	PSEG.
Katie Sweeney .....	National Mining Association .....	ML14135A344 (#14)	NMA.
Scott A. Bauer .....	Regulatory Affairs Functional Area Manager, STARS Alliance LLC.	ML14135A354 (#15)	STARS Alliance, LLC.

TABLE XIX—FY 2014 PROPOSED FEE RULE COMMENTER SUBMISSIONS—Continued

Commenter	Affiliation	ADAMS ML #	Acronym
Thomas R. Huber .....	Director, Nuclear Licensing and Operations Support, Dominion Resources Services, Inc.	ML14135A547 (#16)	Dominion.
Tony L. Patko .....	Director, Licensing, NAC International, Inc .....	ML14136A318 (#17)	NAC.
Thomas C. Pauling .....	Director, Office of Site Operations, Office of Legacy Management, U.S. Department of Energy.	ML14148A454 (#18)	DOE.
Benjamin C. Waldrep .....	Duke Energy .....	ML14148A469 (#19)	Duke.
Fred W. Madden .....	Director, External Affairs, Luminant Generation Company LLC (Luminant Power).	ML14160B112 (#20)	Luminant Power.

Information about obtaining the comment submissions is available in Section XV, “Availability of Documents,” of this document.

#### Public Comments and Overall NRC Responses

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

#### A. Inadequate Explanation and Transparency

##### 1. Uranium Recovery

*Comment:* The FY 2014 Proposed Fee Rule does not provide any details regarding how the FY 2014 rebaselining effort resulted in a 21 percent increase in the annual fees for uranium recovery licenses. (WMA)

*Response:* The NRC disagrees with the comment. The NRC established the rebaselined methodology for calculating annual fees through public notice and comment rulemaking in the FY 1999 fee rule (64 FR 31448; June 10, 1999), determining that base annual fees will be re-established (i.e., rebaselined) at every third year, and more frequently, if there is a substantial change in the total NRC budget or in the magnitude of the budget allocated to a specific class of licenses. The NRC staff allocates the total budget resources for uranium recovery facilities to individual uranium recovery fee categories in accordance with the effort/benefit fee determination matrix developed for the FY 1995 final fee rule (60 FR 32217; June 20, 1995). The NRC uses this matrix to determine the level of effort associated with conducting the generic regulatory actions for the different (non-DOE) licensees in the uranium recovery fee class.

The FY 2014 Proposed Fee Rule described the methodology used by the NRC staff to determine the annual fees for uranium recovery facilities. In addition, Tables IX through XII of the proposed rule show the application of the NRC’s rebaselining methodology. The supporting work papers for the fee calculations are publicly available and

were referenced in the proposed rule. The work papers provided detail on the FTE and contract resources for each product activity that were allocated to uranium recovery fee class. The work papers also provided information on all the values of the effort/benefit factors used in the uranium recovery matrix for FY 2014. No change was made to the final rule in response to this comment.

##### 2. Operating Reactor Fees

*Comment:* The increase in hourly rates charged under 10 CFR part 170 to \$279 is not adequately explained and does not appear justified. The increase is due primarily to a higher overall budget in combination with a decrease in the number of mission-direct FTEs. The commenter believes this increase is unjustified and that hourly fees should be held constant at the FY 2013 level of \$272 through a combination of process efficiencies, an increase in mission-direct FTE, and meaningful prioritization and closure of regulatory matters. (NEI)

*Response:* The NRC disagrees with the comment that the basis for the hourly rate is not adequately explained and that the hourly rate should remain constant at \$272. The NRC discussed the process for calculating the hourly rate in the proposed rule’s Hourly Rate section, and the process is also summarized in this final rule. The hourly rate is derived by dividing the sum of recoverable budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and (3) agency corporate support and the IG, by mission-direct FTE hours. The mission-direct FTE hours are the product of the mission-direct FTE multiplied by the hours per direct FTE. For FY 2014, the NRC is unable to keep the hourly rate constant because most of the components used to calculate the hourly rate are dependent on the NRC’s FY 2014 appropriation. Because the NRC’s FY 2014 appropriation increased from FY 2013, the allocation of our budgetary resources through the various NRC programs also changed in FY 2014;

therefore, this change is reflected in the components used to calculate the hourly rate, and results in an increase in the hourly rate from \$272 to \$279. No change was made to the final rule in response to this comment.

*Comment:* The 21.4 percent operating reactor increase in fees from FY 2013 to FY 2014 is not warranted and places an unacceptable burden upon electric customers who then have to pay higher electricity rates. The NRC should be restricted to increases that do not exceed cost of living increases and be required to make cost reductions as needed to balance their books. (John Public)

*Response:* The operating reactor fee increase is warranted because the NRC’s fees are based on its annual appropriations. The NRC’s budget authority for FY 2014 is \$1,055.9 million, an increase of \$70.3 million from FY 2013. The OBRA–90 (codified at 42 U.S.C. 2214), as amended, requires the NRC to collect an amount that approximates 90 percent of its budget authority through annual fees. For FY 2014, the operating reactor annual fee increase is due to increases from the previous year’s budget, reductions in the estimated amount of 10 CFR part 170 billings, and a decrease in the number of operating reactors. The 10 CFR part 170 estimated billings are reduced due to a decline in current year licensing actions and delays in five major applications for design certification and combined operating licenses. Because of the shutdown of the SONGS, Units 2 and 3, power reactors in FY 2013, the operating reactors budget must be spread amongst fewer operating reactors, thereby increasing the share of the annual fee per operating reactor. Further in FY 2013, there was a one-time, prior-period collection resulting in an increase of \$20.9 million in collections of fees for services (10 CFR part 170), which resulted in a one-time reduction in annual fees. Approximately 21 percent of the increase in annual fees between FY 2013 and FY 2014 is due to that one-time adjustment.

Finally, the NRC cannot restrict license fee increases to the cost of living increases as measured by the Consumer Price Index or any other price index because OBRA-90, as amended, requires the NRC to collect an amount that approximates 90 percent of its budget authority in the fiscal year. No change was made to the final rule in response to this comment.

*Comment:* The proposed fee rule and work papers do not provide sufficient detail on how the 10 CFR parts 170 and 171 operating reactor fee estimates were calculated, denying the public meaningful opportunity to comment and rendering the proposed fee rule arbitrary and capricious. Neither the proposed rule nor the work papers provide any information showing the specific costs that are being recovered through annual fees. The work papers merely list all items comprising the entire NRC budgeted resources for new reactors, operating reactors, and unexplained materials licensing activities and derive the annual fee by subtracting the portion of estimated 10 CFR part 170 collections attributed to entities paying user fees (\$280.5 million).

As a consequence, it is impossible to determine which of the specific line items are being recovered through user fees and which are being recovered under annual fees. The descriptions of the line items are very vague, preventing one from determining whether they are generic, and potentially appropriate for recovery under 10 CFR part 171, or attributable to a service provided to an identifiable beneficiary, and therefore, appropriate for recovery under 10 CFR part 170. (Exelon)

*Response:* The NRC disagrees with the comment that the work papers are too vague. Consistent with prior years, license fees are based on the NRC's budget formulation structure hierarchy of business lines, product lines, and products. The NRC provides those business lines, product lines, and products in its work papers. Detailed information below the product level (e.g. cost centers) is determined when the budget is executed. The work papers do not distinguish by specific budget line items which fees are recovered through user and annual fees because it is impractical for the NRC to determine in advance what precise percent of a given business line will be recovered through 10 CFR part 170 user fees versus 10 CFR part 171 annual fees. No change was made to the final rule in response to this comment; however, the NRC is open to input for improving transparency in the FY 2015 fee rule package.

*Comment:* The FY 2014 Proposed Fee Rule does not provide a description of the specific work that the NRC FTEs will complete during the 1375 hours allotted, only that the NRC will bill licensees that amount of hours to meet the budget. The NRC should provide an estimate of the specific work that will be completed and assessed under 10 CFR parts 170 and 171 for each licensee. (Kennecott Uranium Company)

*Response:* The NRC disagrees with the comment. The NRC presumes that "specific work" means a detailed description or an itemization of the work to be performed by NRC FTEs during the allotted 1375 hours of the fiscal year. Neither the applicable regulations in 10 CFR parts 170 and 171 nor the Administrative Procedure Act require that level of detail for the proposed fee rule. Such a detailed or itemized description is not cost-effective, and it would not result in a reduction of fees. Further, with respect to 10 CFR part 170 fees, licensing and inspection actions may be difficult to prioritize in advance and the amount of time spent on any particular licensing or inspection action may vary considerably, depending on the novelty and complexity of the license application under review or the facility being inspected. Similarly, with respect to 10 CFR part 171 annual fees, the nature of the generic research, safety, environmental, or safeguards activities that apply to materials licenses, may also vary considerably, given changes in Commission priorities, external events, interactions with Agreement States, other Federal agencies, state, local and tribal governments, the regulated industry, and members of the public. No change was made to the final rule in response to this comment.

*Comment:* The proposed rule and the work papers do not state how the estimated \$324.5 million in 10 CFR part 170 costs are calculated for licensees. (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 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 work load 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, let alone explanations for every calculation such that each individual calculation became accessible and understandable to members of the public. No change was made to the final rule in response to this comment.

*Comment:* The work papers allocate to operating reactors certain budgeted resources for the business lines pertaining to fuel facilities, nuclear materials users, and decommissioning and low-level waste. There is no explanation of how these activities apply to operating reactors. The line items under these business lines with amounts allocated to operating reactors relate predominantly to training. If there are not direct program support activities allocable to operating reactors under these business lines, it is unclear how there can be training costs allocable to reactors. (NEI)

*Response:* Although the work papers provide adequate detail for the purpose of the fees, the NRC will explore opportunities to provide greater transparency for our stakeholders and licensees. The costs described under the fuel facilities, nuclear materials users, and decommissioning and low-level waste categories are for things such as (but not limited to) generic low-level waste disposal, dosimeter, and high-level/spent fuel disposal costs.

*Comment:* The work papers allocate to operating reactors over \$10 million for SFST. As there is no meaningful description, one cannot determine whether the allocated costs are attributable solely to the Waste Confidence rulemaking or include other activities as well. The \$10 million is in addition to the \$27.5 million for spent fuel storage and decommissioning activities recovered through an annual fee on power reactors and 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license. The NRC should inform the operating reactors whether the SFST costs assessed to operating reactors includes activities pertaining to spent fuel disposal activities listed in the FY 2014 CBJ. These costs should be counted separately or be an offset from the carry-over appropriation relating to the review of Yucca Mountain license application or recovered through user fees assessed to DOE or the NWF. The NRC should also provide a detailed



breakdown of the annual fee for SFST costs by specifying any amounts that are attributable to spent fuel disposal activities for long-term storage attributable to the DOE's failure to meet its contractual obligations. Any activities relating to DOE's obligations under the Nuclear Waste Policy Act should either be offset by the carry-over appropriation from the NWF or recovered from DOE through a user fee. (Exelon)

*Response:* A small portion of the operating reactors' fees include SFST business line activities pertaining to analysis, data collection, modeling future alternate strategies for disposal of spent fuel and high-level waste, and monitoring national-level developments stemming from the report of the Blue Ribbon Commission on America's Nuclear Future and DOE's response to that report. Beginning in FY 2011, the NRC began budgeting for potential alternatives for the ultimate geological disposal of spent nuclear fuel, which was driven by the recognition of DOE's intent not to pursue the proposed repository at Yucca Mountain. At that time, the NRC determined that it was appropriate to include these SFST resources in the power reactors fee class because power reactors ultimately benefit from disposal of spent nuclear fuel. The user fees assessed to DOE are specifically for DOE's transportation and uranium recovery activities, and are not related to the ultimate disposal of spent nuclear fuel. Further, it is neither feasible nor appropriate for the NRC to parse out fees for activities that might be attributable to DOE's contractual obligations with respect to spent fuel versus those fees that would have been borne by licensees even if DOE had performed. Finally, with respect to offsetting fees from the carryover appropriations relating to the review of the Yucca Mountain license application or recovering costs through user fees assessed to the NWF, the NRC disagrees with the comment. Funds appropriated from the NWF may only be used for activities prescribed in Section 302(d) of the Nuclear Waste Policy Act, which includes licensing activities associated with the Yucca Mountain high-level waste repository. That section covers neither the NRC's work on future alternative strategies for disposal of high-level waste, nor monitoring national-level developments stemming from the report of the Blue Ribbon Commission. Therefore, these activities are not chargeable to NWF appropriations. No change was made to the final rule in response to this comment.

#### B. Fairness of Fees

*Comment:* The increase in operating power reactor fees is significant and problematic, particularly since it is being noticed well after licensee budgets for the year have been established. The problem is compounded due to the fact that the FY 2014 Proposed Fee Rule is being issued one month later than the historical practice, and the fourth quarter billing adjustment will impose an increase of \$1 million per reactor than in previous quarters. (NEI)

*Response:* The NRC recognizes that the increase in fees will have a significant impact on licensee budgets. However, the NRC cannot schedule its assessment of generic activities to coincide with licensee budget planning. The OBRA-90 requires that the NRC collect an amount that approximates 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 own budget. The budget is established by Congress on a schedule that the NRC does not control. No change was made to the final rule in response to this comment.

*Comment:* The proposed fee rule fails to subtract from the NRC budget the cost of activities that are covered by appropriations and carry-over appropriations from the NWF. (Exelon)

*Response:* The NRC disagrees with the comment. The NRC's FY 2014 activities related to review of the Yucca Mountain high-level waste repository are being charged to the carryover balance of the NRC's NWF appropriations from prior years and will not be billed to licensees. The OBRA-90, as amended, specifies that the NRC must deduct from the annual charges collected from all licensees any "amounts appropriated to the Commission from the Nuclear Waste Fund for the fiscal year." 42 U.S.C. 2214(c)(2)(A)(ii) (emphasis added). But in FY 2014, the NRC did not receive any new appropriations from the NWF. Therefore, there was no NWF amount to subtract from the budget in calculating FY 2014 annual fees; all the carryover money that the NRC is using in FY 2014 was already deducted during the years in which it was appropriated. No change was made to the final rule in response to this comment.

*Comment:* The proposed fee rule fails to recover user fees from every person who receives a service or thing of value the full cost of such service or thing of value. Of the \$930 million that the Commission must recover through fees, only \$324.5 million is estimated to be recovered through 10 CFR part 170 user fees. This could be correct only if approximately two-thirds of the NRC's

budget does not benefit any identifiable entity, which is presumed not the case. As an example, user fees do not appear to be imposed for vendor inspections despite the fact that vendors are identifiable persons receiving the benefit of NRC inspections to establish their qualifications to provide safety-related services. Also, the costs for advanced reactor research should be recovered through user fees charged to applicants or pre-applicants. (Exelon)

*Response:* Initially, the NRC notes that the comment is outside of the scope of the proposed fee rule. As proposed, the rule would simply amend the licensing, inspection, and annual fees charged to the applicants and licensees currently subject to the NRC's fee rules for FY 2014. The NRC does not charge nuclear industry vendors user fees. Establishing vendors as a new recipient of user fees would require the NRC to revise its existing 10 CFR part 171 regulations. The NRC process for initiating a rulemaking to consider such a change is included under 10 CFR 2.802, "Petition for Rulemaking."

That being said, the NRC notes that NRC licensees are ultimately responsible for ensuring the acceptability of the items and services they receive from vendors. The NRC's vendor inspections are intended to provide an additional level of safety, not to relieve the applicant or licensee of its responsibility for providing vendor oversight. As for the costs associated with advanced reactor research, these are, by their nature, generic costs that the NRC cannot charge to a specific applicant or pre-applicant. No changes will be made to the final rule as a result of this comment.

*Comment:* The NRC should consider imposing an annual fee for activities on holders of design certifications, design approvals and manufacturing licenses, licensees that hold or have active applications for combined licenses, and holders of active construction permits. Because OBRA-90 authorizes annual charges collected from "licensees and certificate holders" under 42 U.S.C. 2214(c), the NRC should define a new reactor licensee for the purpose of the fee rule to include holders of design certifications, design approvals or any other approvals. This would impose new reactor costs on those entities that have the closest relationship to the regulatory services being provided and would be the most fair and equitable allocation. Many operating reactor licenses are not pursuing any new reactor licensing applications; therefore, the NRC is not fairly allocating fees to the new reactor applicants that directly benefit from NRC new reactor activities

as required by OBRA–90. If the NRC is unable to recover the full amount of its new reactor costs through user fees, then the NRC should define a new, more focused class of licensees that should be assessed the annual fee needed to collect the remainder of these fees. (Exelon)

*Response:* Initially, the NRC notes that the comment is outside of the scope of the proposed fee rule. As proposed, the rule would simply amend the licensing, inspection, and annual fees charged to the applicants and licensees currently subject to the NRC's fee rules for FY 2014. Establishing a new class to capture new reactor activities would require the NRC to completely overhaul its existing 10 CFR part 171 regulations. The NRC process for initiating a rulemaking to consider such a change is included under 10 CFR 2.802, "Petition for Rulemaking."

That being said, the NRC disagrees with the comment that the proposed FY 2014 fee rule violates OBRA–90. To the extent that the NRC's reactor safety work directly benefits a licensee or applicant, then the NRC assesses 10 CFR part 170 user fees upon that licensee or applicant. As a result, existing operating reactor licensees are not paying any fees for new reactor work that directly benefits an entity engaged in new reactor activities. As for the portion of the new reactor work that is not collected through 10 CFR part 170 user fees, OBRA–90, as amended, requires that the NRC allocate those costs of this work fairly and equitably. Because the NRC's generic new reactor work yields indirect benefits for existing operating reactor licensees, the NRC's current system of allocating all operating reactor costs to existing licensees satisfies OBRA–90's requirements.

The NRC generic work prompted by new reactor applications benefits operating reactor licensees in several ways. First, regulations and guidance that are on their face directed at future nuclear power plants reactors may also benefit existing reactor licensees. For example, if an existing licensee sought to obtain NRC approval for a design change to a safety significant structure at an operating plant, then the NRC may use guidance that was developed for new reactor applications to analyze the design change. As a specific example, the regulatory guidance developed to support the review of seismic and flooding issues for new reactors has informed the review of Fukushima NTF Recommendation 2.1 for current operating plants. This is just one example of how the distinction between new reactor work and operating reactor

work is less rigid than the comment implies.

Second, entities holding licenses for currently operating reactors may also be, either now or in the future, applicants for new nuclear power plant licenses. Given the evolving nature of the new reactor landscape, the NRC concludes that there is no practicable or reliable method to determine which existing NRC licensees will develop an interest in future reactor activities.

Third, all power plant licensees indirectly benefit from rulemaking or other generic activities that enhance and develop the new reactor licensing framework because these generic activities help to establish and maintain the regulatory infrastructure at the NRC. This provides existing nuclear reactor licensees with regulatory predictability that is useful for business planning purposes. Along those lines, the NRC performs generic activities related to license renewal. These costs are spread among all holders of power reactor operating licenses without regard to whether the operating license holder intends to seek renewal. This is because a stable and efficient regulatory regime for license renewal indirectly benefits all existing power plants even if an existing power reactor has no immediate plans to seek license renewal. The same is true for new reactor licensing.

Ultimately, identification of fee classes is a matter of drawing practical distinctions. By virtue of being a generic activity without a specific, concrete beneficiary, all the activities that fall in the 10 CFR part 171 annual fee category could be theoretically parsed into an almost infinite amount of fee classes. For example, if the NRC were to base fees on distinctions such as whether generic work benefited boiling-water reactors versus pressurized-water reactors or coastal versus inland reactors, the exercise would result in distinctions that are both artificial and unduly burdensome from an administrative and recordkeeping standpoint. Therefore, the NRC's decision to draw the fee class line in such a way that encompasses generic new reactor work satisfies OBRA–90's requirement that costs be allocated fairly and that, "[t]o the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services." No change was made to the final rule in response to this comment.

*Comment:* The annual fee for operating reactors should not be assessed solely on the 100 current operating licensees licensed under 10 CFR part 50, but should also include holders of combined licenses (COLs)

under 10 CFR part 52. The NRC generic activities for operating reactors, such as Fukushima NTF activities, benefit 10 CFR part 52 combined license holders as much as 10 CFR part 50 operating licensees. Assigning costs only to 10 CFR part 50 operating licenses is inequitable, particularly because the current COL holders are far better positioned to recover these costs than many current operating licensees because they remain electric utilities able to recover costs through rates and regulatory costs during construction are largely capitalized. (Exelon)

*Response:* Initially, the NRC notes that the comment is outside of the scope of the proposed fee rule. As proposed, the rule would simply amend the licensing, inspection, and annual fees charged to the applicants and licensees currently subject to the NRC's fee rules for FY 2014. Enlarging the annual fee class for operating reactors to include COL holders would require the NRC to completely overhaul its existing 10 CFR part 171 regulations. The NRC process for initiating a rulemaking to consider such a change is included under 10 CFR 2.802, "Petition for Rulemaking."

That being said, the NRC disagrees with the proposed recommendation. Historically, plants licensed under 10 CFR part 50 did not enter into the fee class of operating plants until permission was granted by the NRC to load fuel and begin power operation. Although combined license holders under 10 CFR part 52 do hold an operating license, they do not approach a comparable status to plants licensed under 10 CFR part 50 until the Commission determines that the inspections, tests, analyses, and acceptance criteria are satisfied (10 CFR 52.103(g) finding) and all operational programs are functional and program compliance with regulations demonstrated. Therefore, the NRC believes that fairness concerns dictate that the NRC should not charge COL holders the same fees as operating plants during their construction and pre-operation phases. No change was made to the final rule in response to this comment.

### C. Other Issues

*Comment:* Fukushima NTF Tier 1 and Tier 2 actions transition from generic activities (10 CFR part 171) to site specific activities (10 CFR part 170), and as Fukushima-related rulemakings are finalized, the NRC should restore greater balance in the distribution of fee-for-service and annual fee costs. (NEI)

*Response:* The NRC learned many lessons from Fukushima, some of which were immediately implemented at sites

through orders and requests for information, and some of which required further policy development and technical study (rulemakings, spent fuel pool impacts). As the NRC completes generic regulatory actions (e.g., rulemakings) which resulted from the Fukushima NTF report, the costs related to those actions will decline. And as the affected licensees and certificate holders implement the regulatory actions, follow-on activities will likely result in site-specific action on the part of the NRC. This shift in activities will likely cause an increase in fees for site specific activities (10 CFR part 170) the costs related to site-specific actions to increase for that workload. These changes in costs can be reflected in the fee basis. However, many generic regulatory actions that resulted from the Fukushima NTF report are still in progress and the current cost distribution reflects that workload. No change was made to the final rule in response to this comment.

*Comment:* One commenter stated that the FY 2014 proposed increase in annual fees and hourly rates for operating reactors will result in unplanned regulatory expenses approaching \$4,000,000 and may impact already planned activities, and could result in the deferral of planned improvements enhancing safety. (FENOC)

*Response:* The NRC recognizes that the increase in fees will have a significant impact on licensee budgets. However, the NRC cannot schedule its rulemaking process to coincide with licensee budget planning. The NRC expects licensees to comply with all safety requirements, notwithstanding fluctuations in revenues and expenses. No change was made to the final rule in response to this comment.

*Comment:* The NRC should provide relief if licensees elect to combine licenses under fee categories 7.A. and 7.B., since there would be an administrative cost savings to the NRC and institutions. The NRC should maintain the annual fee for category 7.B., as it is the broad medical license which drives most of the radiation safety program (e.g., administrative processes, approval of authorized users, review of incidents, etc.), and reduce the annual fee for fee category 7.A. by at least 50 percent. This would provide an incentive to combine licenses. (IU/ Medical Center)

*Response:* The NRC computes the material licenses fee categories, which includes fee categories 7.A. and 7.B, based on 10 CFR part 170 application fees and estimated inspection costs for each fee category. The NRC believes that

the current fee category descriptions and annual fees associated with these fee categories accurately reflect the NRC's cost of providing generic activities and other regulatory costs to the licensees. For example, licensees that fall into the 7.A. fee category have unique regulatory requirements over and above the requirements of 7.B. licensees. Fee category 7.A. licensees require additional licensing and inspection actions and guidance documents that are specific to the large sources they are authorized to possess.

#### D. Department of Energy Comments

*Comment:* The basis for the NRC's determination of generic/other uranium recovery costs and other line items affecting the DOE annual fee amount, including the specific regulatory actions and activities that account for the fees, is not provided. Considering the NRC proposes to collect 70 percent of the uranium recovery licensee fees from DOE, the NRC has not demonstrated that more than half of the uranium recovery license support scope is the direct result of DOE oversight, particularly since DOE is invoiced separately for site-specific document reviews. The DOE is aware of significant uranium recovery license activity involving specific licensees while the pace of Title II site transitions to DOE-Legacy Management has slowed as the NRC evaluates groundwater remedies at former mill sites that are regulated under specific licenses. Greater detail in the work papers is warranted to justify this allocation. (DOE)

*Response:* The NRC described the overall methodology for determining fees for uranium recovery facilities, including DOE, in the 2002 fee rule (67 FR 42612; June 24, 2002). The NRC recovers fees from DOE through both user fees charged under 10 CFR part 170 for specific UMTRCA oversight activities and annual fees charged under 10 CFR part 171 for generic and other costs related to UMTRCA and other uranium recovery activities. As shown in the work papers referenced in the proposed FY 2014 rule, the NRC calculated the total amount of budgeted resources for UMTRCA activities related to DOE sites in the FY 2014 appropriation by computing the cost of staff hours budgeted to conduct the work (in terms of full-time equivalent, or FTE) and the budgeted contract costs. The total amount of budgeted resources was reduced by the amount expected to be recovered by direct fees for site-specific UMTRCA activities. The NRC estimated the amount of direct fees by analyzing billing data and the actual contractual work charged to DOE for the

previous four quarters. The estimate, therefore, reflects any recent reductions in NRC oversight activities. The remainder of the UMTRCA budgeted amount related to DOE sites was charged to DOE for generic activities. In addition to those generic costs, DOE was charged for 10 percent of the overall generic costs attributable to the uranium recovery program. The remaining 90 percent of the overall generic costs was charged to other members of the uranium recovery class. Therefore, DOE is not paying a disproportionate amount for NRC costs for generic regulatory efforts.

The NRC performs several types of activities in its oversight of UMTRCA sites that have been transferred to DOE for long-term surveillance and maintenance. The NRC staff reviews the reports generated by DOE, including routine ground water monitoring reports, annual site remediation performance reports, annual inspection reports and other technical reports generated by DOE. The NRC staff also reviews and provides comments on non-routine reports such as the reports developed by DOE concerning Many Devils Wash at the Shiprock site and the Phytoremediation Pilot Study at the Monument Valley site. In addition, if DOE proposes to revise a ground water corrective action plan or remediation plan at a site, the NRC staff would review and concur on the revised plan. The NRC staff also performs observational site visits at UMTRCA sites to observe the DOE, and DOE contractors, performing the annual inspections of the UMTRCA sites required by the site long-term surveillance plan. Other significant staff actions include participating in the activities related to the development and implementation of the 5-year plan to address uranium contamination on the Navajo Nation. No change was made to the final rule in response to this comment.

*Comment:* The NRC should explain why the work paper line item includes \$36,000 in contract dollars since this line item has been a non-zero cost item since 2007. (DOE)

*Response:* The NRC agrees with this comment, and provided the analysis of the DOE pilot study to DOE staff on April 28, 2014. The \$36,000 was to support a contract with the Center for Nuclear Waste Regulatory Analysis for the review of the DOE report, "Monitored Natural and Enhanced Attenuation of the Alluvial Aquifer and Subpile Soils at the Monument Valley, Arizona Site: Final Pilot Study Report," dated April 2013. No change was made

to the final rule in response to this comment.

*Comment:* The hourly rate increased by 2.6 percent from FY 2013 to FY 2014, in contrast to long-term surveillance charges, which assumes a discount rate of 1 percent annually. The funds collected for long-term surveillance at any given site will be exhausted if the cost of inflation outpaces the discount rate, after which long-term surveillance and maintenance costs will be borne by the tax payer. (DOE)

*Response:* The hourly fee established for this rule is used to assess fees is applicable to all NRC activities for which fees are charged. The long-term surveillance charges referred to by the commenter are paid by mill operators into the general treasury of the United States or an appropriate State agency to cover costs of long-term surveillance after termination of the mill license. The NRC regulations in appendix A to 10 CFR part 40, criterion X, state that the total charge must be such that, with an assumed 1 percent annual real interest rate, the collected funds will yield interest in an amount sufficient to cover annual surveillance costs. Long-term surveillance is an activity that is carried out by DOE, but not the NRC. The matter of whether surveillance charges will be sufficient to cover DOE's surveillance costs is, therefore, not within the scope of the NRC's fee rule. The DOE is free to file a rulemaking petition to request a change in criterion X if the current provisions are insufficient to ensure that sufficient funds are collected to cover surveillance costs in the long term.

*Comment:* The proposed rule should indicate if the DOE annual fee includes oversight for the Moab UMTRCA Title I site, where the disposal cell is currently under construction. (DOE)

*Response:* The NRC disagrees that the rule should state whether the DOE annual fee includes oversight for the Moab UMTRCA Title I site. The NRC calculates the total annual fee for DOE, but leaves the responsibility of distributing the annual fee to specific sites to DOE as it deems appropriate. No change was made to the final rule in response to this comment.

#### E. Process Efficiencies

*Comment:* Many commenters from the nuclear industry, mining and uranium recovery industry commented about improving resource utilization and streamlining regulatory processes such as NUREG-1910, "Generic Environmental Impact Statement for *In-Situ* Leach Uranium Milling Facilities," performance-based licensing for

uranium recovery licensees and Section 106 consultation process, etc.

*Response:* Initially, the NRC notes that these comments are outside of the scope of the proposed fee rule. As proposed, the rule would simply amend the licensing, inspection, and annual fees charged to the applicants and licensees currently subject to the NRC's fee rules for FY 2014. In any event, the NRC takes process efficiencies seriously and the NRC will continue to examine ways to utilize its resources more efficiently and streamline licensing processes for licensees and applicants. The NRC is open to input from industry and would be willing to discuss areas for process improvement in a publicly noticed meeting at the request of the industry.

#### F. Out of Scope Comments

*Comments:* The NRC should implement a number of recommendations to improve the efficiency of NRC operations and the effect of perceived inefficiencies on the fees the NRC charges. Recommendations include: Favoring and enhancing risk-informed, performance-based licensing and regulatory approaches; increasing the efficiency of certain environmental reviews; adhering to existing Commission-approved guidance while working to prepare new guidance with the aid of stakeholder input; certifying standardized designs for uranium recovery facilities to streamline the application and review process; developing guidance, after an opportunity for public comment, regarding the consultation process under Section 106 of the National Historic Preservation Act; shifting experienced NRC staff personnel from the Office of New Reactors to the Office of Nuclear Reactor Regulation; and increasing the agency's focus on resource management, workload prioritization, and issue closure to promote timely NRC reviews of licensing actions and to improve management of the agency's generic activities, such as rulemakings. Some commenters also raised the concern that the higher the NRC's fees, the greater the financial burden on those required to pay them.

*Response:* These comments are out of 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 account for the appropriations 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. Procedurally, by the time the NRC is developing its fee

recovery rule, Congress has set the NRC's appropriation and, thus, the amount the NRC must collect in fees. This situation leaves little to no room for the NRC to make substantial operational or regulatory changes during the development of the fee recovery rule that could meaningfully impact the fees that the rulemaking is addressing. Consequently, making changes to the way the NRC operates as an agency, manages its personnel, or conducts regulatory activities is, therefore, not within the scope of this rulemaking.

With that said, 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. Though comments addressing these issues may not be within the scope of this fee rulemaking, the NRC takes input of this type very seriously and will consider these comments in our program operations.

#### V. Section-by-Section Analysis

The following paragraphs describe the specific amendments for this final rule.

##### *10 CFR 170.3, Definitions*

The NRC amends the definition of "research reactor" to correctly reference the definition of "testing facility."

##### *10 CFR 170.12, Payments of Fees*

The NRC modifies paragraph (b)(3) and deletes paragraphs (b)(5), (b)(6), and (b)(7) based on the latest accounting cost system information, which deems the language referencing application costs deferred before August 9, 1991, as obsolete. The NRC also adds a new paragraph (g) to clarify that the NRC is authorized to collect any underpayment of fees from licensees to satisfy the requirements of OBRA-90, as amended.

##### *10 CFR 170.20, Average Cost per Professional Staff Hour*

The NRC revises this section to reflect the hourly rate for FY 2014.

*10 CFR 170.21, Schedule of Fees for Production or Utilization Facilities, Review of Standard Referenced Design Approvals, Special Projects, Inspections, and Import and Export Licenses*

The NRC revises fees for fee category code K. to reflect the FY 2014 hourly rate for flat fee applications.

*10 CFR 170.31, Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses*

The NRC revises the fee category description for 2.B. by adding footnotes 6, 7, and 8 to avoid duplicate billing and to provide exemptions of fees from fee category codes with identical requirements. The NRC revises the fee category descriptions for 3.P. and 7.C. by adding footnotes 9 and 10, respectively, for the same reasons.

*10 CFR 171.11, Exemptions*

The NRC redesignates paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e), respectively, adds a new paragraph (a), and revises newly redesignated paragraph (c) to clarify the time period for filing exemption requests applies to all exemption criteria instead of one exemption criterion.

*10 CFR 171.15, Annual Fees: Reactor Licenses and Independent Fuel Storage Licenses*

The NRC revises paragraph (a) to allow an ISFSI licensee to be charged an annual fee only when the licensee has the ability to use or to derive benefit from the license. The NRC further revises paragraph (a) by replacing “and” with “or” to clarify that research reactors and test reactors are two separate types of non-power reactors. The NRC revises paragraph (b)(1) to reflect the required FY 2014 annual fee to be collected from each operating power reactor by September 30, 2014. The NRC revises the introductory text of paragraph (b)(2) to reflect FY 2014 in reference to annual fees and fee relief adjustment. The NRC revises paragraph (c)(1) and the introductory text of paragraph (c)(2) to reflect the FY 2014 spent fuel storage/reactor decommissioning and spent fuel storage annual fee for 10 CFR part 50 licenses and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license, and the FY 2014 fee relief adjustment. The NRC revises the introductory text of paragraph (d)(1) and paragraphs (d)(2) and (d)(3) to reflect the FY 2014 fee-relief adjustment for the operating reactor power class of licenses, the number of operating power reactors, and

the FY 2014 fee relief adjustment for spent fuel storage reactor decommissioning class of licenses. The NRC revises paragraph (e) to reflect the FY 2014 annual fees for research reactors and test reactors. The NRC further revises paragraph (e) by replacing “and” with “or” to clarify that research reactors and test reactors are two separate types of non-power reactors.

*10 CFR 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*

The NRC revises paragraphs (d) and (e) to reflect FY 2014 annual fees and the FY 2014 fee-relief adjustment. The NRC removes the reference to footnote 5 (which indicates that there is no licensee under a particular fee category) for fee category 1.A.(2)(a) in paragraph (d) due to a licensee that was recently moved to this fee category. The NRC revises the fee category code description to 2.B. to add footnotes 16, 17, and 18 to avoid duplicate billing and to provide an exemption of fees from fee category codes with identical requirements. The NRC also revises fee category code descriptions 3.P. and 7.C. to add footnotes 19 and 20, respectively, for the same reasons.

*10 CFR 171.19, Payment of Fees*

The NRC adds paragraph (f) to clarify that the NRC is authorized to collect any underpayment of fees from licensees to satisfy the requirements of OBRA-90, as amended.

## VI. Regulatory Flexibility Certification

Section 604 of the Regulatory Flexibility Act requires agencies to perform an analysis that considers the impact of a rulemaking on small entities. The NRC prepared a FY 2013 biennial regulatory flexibility analysis in accordance with the FY 2001 final rule (66 FR 32467; June 14, 2001). This rule also stated the small entity fees will be reexamined every 2 years and in the same years the NRC conducts the biennial review of fees as required by the Chief Financial Officer Act of 1990. For the FY 2013 final rule, small entity fees increased to \$2,800 for the maximum upper-tier small entity fee and increased to \$600 for the lower-tier small entity fee as a result of the biennial review, which factored in the number of increased hours for application reviews and inspections in the fee calculations. These fees remain unchanged for this final rule. The NRC's

regulatory flexibility analysis for the FY 2013 final rule is available as indicated in Section XV, “Availability of Documents,” of this document. The next small entity biennial review is scheduled for FY 2015.

## VII. Regulatory Analysis

Under OBRA-90, as amended, and the AEA, the NRC is required to recover 90 percent of its budget authority, or total appropriations of \$1,055.9 million, in FY 2014. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and more fee methodology guidelines through the establishment of 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy in order to ensure that the NRC continues to comply with the statutory requirements for cost recovery in OBRA-90 and the AEA.

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

## VIII. 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.

## IX. 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).

## X. National Environmental Policy Act

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

## XI. Paperwork Reduction Act

This rule does not contain any information collection requirements and, therefore, is not subject to the

requirements of 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.

**XII. Congressional Review Act**

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

**XIII. Voluntary Consensus Standards**

The National Technology Transfer and Advancement Act of 1995, Pub. L. 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 fee rule, the NRC amends 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 2014, as required by OBRA–90, as amended. This action does not constitute the establishment of a standard that contains generally applicable requirements.

**XIV. 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 NRC 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 2013 final fee rule. This document, which has been relabeled for FY 2014, is available as indicated in Section XV, “Availability of Documents,” of this document. The next compliance guide will be developed when the NRC completes the next small entity biennial review in FY 2015.

**XV. Availability of Documents**

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

Document	ADAMS Accession No./Web link/Federal Register citation
FY 2014 Final Fee Rule Work Papers .....	ML14064A394
FY 2013 Regulatory Flexibility Analysis .....	ML13067A088
FY 2014 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide.	ML14055A070
NUREG–1100, Volume 29, “Congressional Budget Justification: Fiscal Year 2014” (April 2013).	<a href="http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1100/v29/">http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1100/v29/</a>
NRC Form 526, Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171.	<a href="http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf">http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf</a>
FY 2014 Proposed Fee Rule, “Revision of Fee Schedules; Fee Recovery for Fiscal Year 2014; Proposed Fee Rule,” published April 14, 2014.	<a href="http://www.gpo.gov/fdsys/pkg/FR-2014-04-14/pdf/2014-08221.pdf">http://www.gpo.gov/fdsys/pkg/FR-2014-04-14/pdf/2014-08221.pdf</a>
SECY–05–0164, “Annual Fee Calculation Method,” September 15, 2005.	ML052580332
“Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights From the Fukushima Dai-ichi Accident,” July 12, 2011.	ML111861807

**List of Subjects**

*10 CFR Part 170*

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

*10 CFR Part 171*

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

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 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:** Independent Offices Appropriations Act sec. 501 (31 U.S.C. 9701); Atomic Energy Act sec. 161(w) (42 U.S.C. 2201(w)); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Chief Financial Officers Act sec. 205 (31 U.S.C. 901, 902); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act secs. 623, Energy Policy Act of 2005 sec. 651(e), Pub. L. 109–58, 119 Stat. 783 (42 U.S.C. 2201(w), 2014, 2021, 2021b, 2111).

■ 2. In § 170.3, revise the definition “research reactor” to read as follows:

**§ 170.3 Definitions.**

\* \* \* \* \*

*Research reactor* means a nuclear reactor licensed by the Commission

under the authority of subsection 104c of the Act and pursuant to the provisions of § 50.21(c) of this chapter for operation at a thermal power level of 10 megawatts or less, and which is not a *testing facility* as defined in this section.

\* \* \* \* \*

■ 3. In § 170.12, revise paragraph (b)(3), remove paragraphs (b)(5), (b)(6), and (b)(7), and add a new paragraph (g) to read as follows:

**§ 170.12 Payment of fees.**

\* \* \* \* \*

(b) \* \* \*

(3) The NRC intends to bill each applicant or licensee at quarterly intervals for all accumulated costs for each application the applicant or licensee has on file for NRC review, until the review is completed.

\* \* \* \* \*

(g) *Collection of underpayment of fees.* The NRC is entitled to collect any

underpayment of fees as a result of an error by the NRC.

■ 4. 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 \$279 per hour.

■ 5. In § 170.21, in the table, revise the 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 <sup>1 2</sup>
* * * * *	
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 <sup>4</sup> (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 .....	\$18,200
2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a). Application—new license, or amendment; or license exemption request .....	\$9,800
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 .....	\$3,400
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 .....	\$1,400

<sup>1</sup> 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.

<sup>2</sup> 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.

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

■ 6. 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 <sup>1</sup>	Fee <sup>2 3</sup>
1. Special nuclear material:	
A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities:	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130] .....	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210] ...	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities:	
(a) Facilities with limited operations [Program Code(s): 21310, 21320] .....	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities .....	Full Cost.
(c) Others, including hot cell facilities .....	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200].	Full Cost.
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. <sup>4</sup>	
Application [Program Code(s): 22140] .....	\$1,300.

## SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees <sup>1</sup>	Fee <sup>2,3</sup>
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. <sup>4</sup>	
Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	\$2,600.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200] .....	Full Cost.
F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter. <sup>4</sup> [Program Code(s): 22155].	Full Cost.
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, <i>in-situ</i> recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities [Program Code(s): 11100] .....	Full Cost.
(b) Basic <i>In Situ</i> Recovery facilities [Program Code(s): 11500] .....	Full Cost.
(c) Expanded <i>In Situ</i> Recovery facilities [Program Code(s): 11510] .....	Full Cost.
(d) <i>In Situ</i> Recovery Resin facilities [Program Code(s): 11550] .....	Full Cost.
(e) Resin Toll Milling facilities [Program Code(s): 11555] .....	Full Cost.
(f) Other facilities [Program Code(s): 11700] .....	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000].	
(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. <sup>6,7,8</sup>	
Application [Program Code(s): 11210] .....	\$1,230.
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] .....	\$6,900.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter.	
Application [Program Code(s): 11230, 11231] .....	\$2,000.
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] .....	\$2,800.
F. All other source material licenses.	
Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810] .....	\$2,800.
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] .....	\$13,100.
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] .....	\$3,900.
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] .....	\$3,200.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03511] .....	\$6,500.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03521] .....	\$62,400.
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] .....	\$5,100.



## SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees <sup>1</sup>	Fee <sup>2,3</sup>
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] .....	\$11,500.
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03240, 03241, 03243] .....	\$2,000.
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.	
Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613] .....	\$5,500.
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] .....	\$3,700.
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] .....	\$7,400.
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] .....	\$4,100.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. <sup>9</sup>	
Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130].	\$2,000.
Q. Registration of a device(s) generally licensed under part 31 of this chapter.	
Registration .....	\$400.
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. <sup>5</sup>	
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] .....	\$2,600.
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] .....	\$2,000.
S. Licenses for production of accelerator-produced radionuclides.	
Application [Program Code(s): 03210] .....	\$13,200.
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101].	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03234] .....	\$6,000.
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] .....	\$5,000.
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] .....	\$3,900.
B. Licenses for possession and use of byproduct material for field flooding tracer studies.	
Licensing [Program Code(s): 03113] .....	Full Cost.
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	
Application [Program Code(s): 03218] .....	\$22,300.
7. Medical licenses:	

## SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees <sup>1</sup>	Fee <sup>2,3</sup>
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] .....	\$9,000.
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. <sup>10</sup>	
Application [Program Code(s): 02110] .....	\$8,700.
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] .....	\$3,400.
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] .....	\$2,600.
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 .....	\$5,400.
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 .....	\$9,100.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	
Application—each source .....	\$5,300.
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 .....	\$1,060.
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 .....	\$4,200.
Inspections .....	Full Cost.
2. Users:	
Application .....	\$4,200.
Inspections .....	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities .....	Full Cost.
12. Special projects:	
Including approvals, pre-application/licensing activities, and inspections:	
Application [Program Code: 25110] .....	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance .....	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter .....	Full Cost.
14. A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including MMLs. Application [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200]	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses:	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.)	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request .....	\$18,200.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.).	
Application—new license, or amendment; or license exemption request .....	\$9,800.
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.	

## SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees <sup>1</sup>	Fee <sup>2,3</sup>
Application—new license, or amendment; or license exemption request .....	\$3,400.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities. Minor amendment .....	\$1,400.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in Appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.). <i>Category 1 (Appendix P, 10 CFR Part 110) Exports:</i>	
F. Application for export of Appendix P Category 1 materials requiring Commission review (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 .....	\$15,400.
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. Application—new license, or amendment; or license exemption request .....	\$8,900.
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 .....	\$6,700.
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 .....	\$280.
<i>Category 2 (Appendix P, 10 CFR Part 110) Exports:</i>	
J. Application for export of Appendix P Category 2 materials requiring Commission review (e.g. exceptional circumstance review under 10 CFR 110.42(e)(4)). Application—new license, or amendment; or license exemption request .....	\$15,400.
K. Applications for export of Appendix P Category 2 materials requiring Executive Branch review. Application—new license, or amendment; or license exemption request .....	\$8,900.
L. Application for the export of Category 2 materials. Application—new license, or amendment; or license exemption request .....	\$5,600.
M. [Reserved] .....	N/A.
N. [Reserved] .....	N/A.
O. [Reserved] .....	N/A.
P. [Reserved] .....	N/A.
Q. [Reserved] .....	N/A.
<i>Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):</i>	
R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment .....	\$1,400.
16. Reciprocity: Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20: Application .....	\$1,900.
17. Master materials licenses of broad scope issued to Government agencies. Application [Program Code(s): 03614] .....	Full Cost.
18. Department of Energy: A. Certificates of Compliance. Evaluation of casks, 11 packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages). B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities .....	Full Cost. Full Cost.

<sup>1</sup> *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.

<sup>2</sup>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.

<sup>3</sup>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.

<sup>4</sup>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.

<sup>5</sup>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.)

<sup>6</sup>Licensees paying fees under 3.O. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

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

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

<sup>9</sup>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.

<sup>10</sup>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**

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

**Authority:** Consolidated Omnibus Budget Reconciliation Act sec. 7601, Pub. L. 99–272, as amended by sec. 5601, Pub. L. 100–203, as amended by sec. 3201, Pub. L. 101–239, as amended by sec. 6101, Pub. L. 101–508, as amended by sec. 2903a, Pub. L. 102–486 (42 U.S.C. 2213, 2214), and as amended by Title IV, Pub. L. 109–103 (42 U.S.C. 2214); Atomic Energy Act sec. 161(w), 223, 234 (42 U.S.C. 2201(w), 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005 sec. 651(e), Pub. L. 109–58 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 8. In § 171.11, redesignate paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e), respectively, add a new paragraph (a), and revise newly redesignated paragraph (c) to read as follows:

**§ 171.11 Exemptions.**

(a) All requests for exemptions must be filed with the NRC within 90 days from the effective date of the final rule establishing the annual fees for which the exemption is sought in order to be considered. Absent extraordinary circumstances, any exemption requests filed beyond that date will not be considered. The filing of an exemption request does not extend the date on which the bill is payable. Only timely payment in full ensures avoidance of interest and penalty charges. If a partial or full exemption is granted, any

overpayment will be refunded. Requests for clarification of or questions relating to an annual fee bill must also be filed within 90 days from the date of the initial invoice to be considered.

\* \* \* \* \*

(c) The Commission may, upon application by an interested person or on its own initiative, grant an exemption from the requirements of this part that it determines is authorized by law or otherwise in the public interest.

\* \* \* \* \*

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

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

(a) Each person holding an operating license for a power, test, or research reactor; each person holding a combined license under part 52 of this chapter after the Commission has made the finding under 10 CFR 52.103(g); each person holding a part 50 or part 52 power reactor license that is in decommissioning or possession only status, except those that have no spent fuel onsite; and each person holding a part 72 license who does not hold a part 50 or part 52 license and provides notification in accordance with 10 CFR 72.80(g), shall pay the annual fee for each license held during the Federal fiscal year in which the fee is due. This paragraph does not apply to test or research reactors exempted under § 171.11(a).

(b)(1) The FY 2014 annual fee for each operating power reactor which must be collected by September 30, 2014, is \$5,223,000.

(2) The FY 2014 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 2014 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2014 base annual fee for operating power reactors are as follows:

\* \* \* \* \*

(c)(1) The FY 2014 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 \$224,000.

(2) The FY 2014 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 2014 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2014 spent fuel storage/reactor decommissioning rebaselined annual fee are:

\* \* \* \* \*

(d)(1) The fee-relief adjustment allocated to annual fees includes a surcharge for the activities listed in paragraph (d)(1)(i) of this section, plus the amount remaining after total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (d)(1)(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 (d)(1)(iii) of this section for a given FY, annual fees will be reduced. The activities comprising the FY 2014 fee-relief adjustment are as follows:

\* \* \* \* \*

(2) The total FY 2014 fee-relief adjustment allocated to the operating power reactor class of licenses is a \$621,500 fee-relief surplus, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2014 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately a \$6,094 fee relief surplus. This amount is calculated by dividing the total operating power reactor fee-relief surplus adjustment, \$621,500 by the number of operating power reactors (100).

(3) The FY 2014 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is a – \$44,500 fee-relief assessment. The FY 2014 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 – \$361 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.

(e) The FY 2014 annual fees for licensees authorized to operate a research or test (nonpower) reactor licensed under part 50 of this chapter,

unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor .....	\$84,500
Test reactor .....	84,500

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

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

\* \* \* \* \*

(d) The FY 2014 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2014 fee-relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2014 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 <sup>1 2 3</sup>
1. Special nuclear material:	
A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities:	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130] .....	\$7,175,000.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210].	\$2,469,000.
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities:	
(a) Facilities with limited operations [Program Code(s): 21310, 21320] .....	\$747,000.
(b) Gas centrifuge enrichment demonstration facilities .....	\$1,389,000.
(c) Others, including hot cell facilities .....	\$694,000.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200].	N/A. <sup>11</sup>
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. <sup>15</sup> [Program Code(s): 22140].	\$3,800.
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. <sup>15</sup> [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	\$7,400.
E. Licenses or certificates for the operation of a uranium enrichment facility [Program Code(s): 21200] .....	\$3,395,000.
F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter. <sup>15</sup> [Program Code: 22155].	\$7,500.
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].	\$1,466,000.
(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] .....	\$33,800.
(b) Basic <i>In Situ</i> Recovery facilities [Program Code(s): 11500] .....	\$42,800.
(c) Expanded <i>In Situ</i> Recovery facilities [Program Code(s): 11510] .....	\$48,500.
(d) <i>In Situ</i> Recovery Resin facilities [Program Code(s): 11550] .....	\$0.
(e) Resin Toll Milling facilities [Program Code(s): 11555] .....	N/A. <sup>5</sup>
(f) Other facilities <sup>4</sup> [Program Code(s): 11700] .....	N/A. <sup>5</sup>
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000].	N/A. <sup>5</sup>

## 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 <sup>1 2 3</sup>
(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].	\$19,200.
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820].	\$5,600.
B. Licenses that authorize possession, use, and/or installation of source material for shielding. <sup>16 17 18</sup> [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].	\$12,500.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter [Program Code(s): 11230 and 11231].	\$5,100.
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].	\$7,800.
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810] .....	\$8,600.
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].	\$55,100.
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].	\$13,800.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). [Program Code(s): 02500, 02511, 02513].	\$20,200.
D. [Reserved] .....	N/A. <sup>5</sup>
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].	\$9,500.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511].	\$13,900.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521].	\$127,900.
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255].	\$10,700.
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].	\$20,800.
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].	\$5,100.
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].	\$4,100.
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 [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613].	\$17,500.
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].	\$10,000.
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].	\$18,000.
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].	\$29,800.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. <sup>19</sup> [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130].	\$6,800.
Q. Registration of devices generally licensed under part 31 of this chapter .....	N/A. <sup>13</sup>

## 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 <sup>1 2 3</sup>
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: <sup>14</sup>	
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].	\$9,600.
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].	\$9,200.
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210] .....	\$33,000.
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101].	N/A. <sup>5</sup>
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03234].	\$21,100.
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].	\$16,700.
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 [Program Code(s): 03110, 03111, 03112].	\$13,600.
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113] ....	N/A. <sup>5</sup>
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].	\$44,400.
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. <sup>9</sup> [Program Code(s): 02110].	\$35,700.
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. <sup>9, 20</sup> [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160].	\$9,900.
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].	\$9,600.
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.	\$8,600.
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.	\$14,500.
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.	\$8,400.
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.	\$1,700.
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers:	
1. Spent Fuel, High-Level Waste, and plutonium air packages .....	N/A. <sup>6</sup>
2. Other Casks .....	N/A. <sup>6</sup>
B. Quality assurance program approvals issued under part 71 of this chapter:	
1. Users and Fabricators .....	N/A. <sup>6</sup>
2. Users .....	N/A. <sup>6</sup>
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	N/A. <sup>6</sup>
11. Standardized spent fuel facilities .....	N/A. <sup>6</sup>
12. Special Projects [Program Code(s): 25110] .....	N/A. <sup>6</sup>
13. A. Spent fuel storage cask Certificate of Compliance .....	N/A. <sup>6</sup>

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 <sup>1 2 3</sup>
B. General licenses for storage of spent fuel under 10 CFR 72.210 .....	N/A. <sup>12</sup>
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs) [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200].	N/A. <sup>7</sup>
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed.	N/A. <sup>7</sup>
15. Import and Export licenses .....	N/A. <sup>8</sup>
16. Reciprocity .....	N/A. <sup>8</sup>
17. Master materials licenses of broad scope issued to Government agencies [Program Code(s): 03614] .....	\$383,000.
18. Department of Energy:	
A. Certificates of Compliance .....	\$1,084,000. <sup>10</sup>
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities .....	\$815,000.

<sup>1</sup> 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, 2012, 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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.

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

<sup>9</sup> 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.

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

<sup>11</sup> See § 171.15(c).

<sup>12</sup> See § 171.15(c).

<sup>13</sup> 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.

<sup>14</sup> 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.)

<sup>15</sup> 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.

<sup>16</sup> Licensees paying fees under 3.O. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

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

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

<sup>19</sup> 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.

<sup>20</sup> 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 (e)(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 (e)(3) of this section for a given FY, a negative fee-relief adjustment (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2014 fee-relief adjustment are as follows:

\* \* \* \* \*

■ 11. In § 171.19, add a new paragraph (f) to read as follows:

**§ 171.19 Payment.**

\* \* \* \* \*

(f) The NRC is entitled to collect any underpayment of fees as a result of an error by the NRC.

Dated at Rockville, Maryland, this 16th day of June 2014.

For the Nuclear Regulatory Commission.

**Mary Muessle,**  
*Acting Chief Financial Officer.*

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