

part 170 fees, without a ceiling, for the review and approval of topical reports was reconfirmed. For these reasons, the NRC is not establishing a fee ceiling for topical reports in this final rule.

7. Comment

Several comments were received from uranium recovery licensees.

Commenters suggested (1) a tiered fee system that would result in full fees for operating facilities and reduced fees for facilities in shutdown or standby status; (2) a licensee review board be established to review NRC fees annually; (3) the NRC establish standards for its activities, such as a schedule for response intervals for processing licensing actions; and (4) 10 CFR part 170 bills be itemized to show hours spent, a description of the work performed, the names of individuals who completed the work and the dates the work was performed.

Response. In response to a petition for rulemaking from the American Mining Congress (60 FR 20918), the NRC addressed each of these comments in the **Federal Register** on April 28, 1995. While denying the petition, the NRC noted that it would continue its current practice of providing available backup data to support Part 170 licensing and inspection billings upon request by the licensee or applicant.

8. Establish Reimbursable Agreements With Agreement States and Other Government Agencies

Comment. Several commenters chose to comment on this change, even though the NRC indicated in the proposed rule that the issue of reimbursable agreements falls outside the scope of the proposed rulemaking. The commenters indicated that such action by NRC will affect the levels of fees to be paid by licensees. Those commenting on this change were encouraged by the NRC's initiative in seeking a better way to charge these expenses and supported the NRC's decision to increase the use of reimbursable agreements to eliminate certain costs that do not benefit NRC licensees. Most of the commenters on this issue, however, encouraged the NRC to proceed immediately to negotiate these reimbursable agreements and not wait until FY 1997 because NRC licensees are currently paying for these costs. One commenter suggested that, in the interest of properly and fairly allocating costs, this program be expanded to cover more, if not all, of the costs of the regulatory support to and oversight of Agreement States (about \$20 million) rather than limit recovery under reimbursable agreement to costs associated with training, travel and

technical support provided to Agreement States.

In addition, several commenters believe that the NRC should assess the Environmental Protection Agency (EPA) for NRC work such as review of regulations promulgated by EPA relating to radionuclide emission standards. One commenter stated that costs to support certain activities related to international treaties may best be covered by the Department of State, the Department of Energy or the Agency for International Development.

On April 5 and 6, 1995, the NRC hosted an Agreement State Managers Workshop in Rockville, Maryland. At that meeting, the Agreement States expressed strong opposition to the reimbursable agreement concept, arguing that such agreements would have a negative impact on their programs. The NRC has also received letters from Agreement States expressing strong disagreement with the reimbursable program.

Response. The NRC indicated in the proposed rule (60 FR 14672; March 20, 1995) that it planned to increase the use of reimbursable agreements with Agreement States and Federal agencies and because this change affected the budget and does not alter fee policies or methods, it falls outside the scope of this rulemaking for FY 1995. It is, however, a subject that has generated strong responses, both positive and negative, on the part of licensees and Agreement States. As indicated previously, this policy does not affect the issuance of this FY 1995 rule and the NRC is proceeding to issue the FY 1995 final rule. The reimbursable agreement issue will be addressed as a separate policy issue in the future.

With respect to the interaction between the NRC and EPA on the promulgation of regulations, the Independent Offices Appropriation Act of 1952, as amended, precludes the NRC from charging fees to Federal agencies for specific services rendered. While the NRC can assess annual fees to Federal agencies holding NRC licenses, the EPA is not considered a licensee of the NRC with respect to regulations promulgated by EPA relating to radionuclide emission standards. Further, NRC interactions with EPA are an integral part of NRC's responsibilities under the Atomic Energy Act. Therefore, NRC must include the costs of this work in its budget and cannot perform such work under reimbursable agreements.

With respect to the NRC's international activities, the NRC budget includes certain international activities that are not directly related to NRC applicants or licensees. These activities

are performed because of their benefit to U.S. national interests. The NRC is required to perform some of these activities by the Atomic Energy Act (AEA) and, therefore, must budget for them. Over the past several years, the NRC has considered various means to recover the costs for international activities involving broad U.S. national interests, but has found no viable, fair way to do so. Further, it would not be practical to assess fees to foreign organizations, foreign governments, or to the State Department to whom some of the support is provided. For example, assessment of such fees might create foreign policy tensions that could complicate U.S. goals such as foreign reactor safety and nuclear non-proliferation. Until such time as legislation is enacted allowing the NRC to exclude the cost of international activities from the fee base, the cost of these activities must continue to be recovered from NRC licensees. These costs will be recovered from the broadest base of NRC licensees as described in the response to Comment A.1.

9. Fee Deferral Policy for Standard Plant and Early Site Reviews

Comment. One commenter urged the NRC to reestablish the NRC's previous fee deferral policy for standard plant and early site reviews in order to encourage the development of standardized designs and in light of the NRC decision to issue designs to be certified through rulemaking rather than by granting a license for the certified design.

Response. The Commission decided in its FY 1991 final fee rule that the costs for standardized reactor design reviews, whether for domestic or foreign applicants, should be assessed under 10 CFR part 170 to those filing an application with the NRC for approval or certification of a standardized design (56 FR 31478; July 10, 1991). Recently, the Commission revisited this issue as part of its review of fee policy required by EPA-92 and reconfirmed its FY 1991 decision. The NRC continues to believe that the costs of these reviews should be assessed to advanced reactor applicants. The NRC finds no compelling justification for singling out these types of applications for special treatment and shifting additional costs to operating power reactors or other NRC licensees, and does not believe the points made by the commenter are sufficient to change current policy.