

**Section 170.21 Schedule of Fees for Production and Utilization Facilities, Review of Standard Reference Design Approvals, Special Projects, Inspections and Import and Export Licenses**

The licensing and inspection fees in this section, which are based on full-cost recovery, are revised to reflect the FY 1995 budgeted costs and to recover costs incurred by the NRC in providing licensing and inspection services to identifiable recipients. The fees assessed for services provided under the schedule are based on the professional hourly rate, as shown in § 170.20, for the reactor program and any direct program support (contractual services) costs expended by the NRC. Any professional hours expended on or after the effective date of this final rule will be assessed at the FY 1995 hourly rate for the reactor program as shown in § 170.20. Although the average amounts of time to review import and export licensing applications have not changed, the fees in § 170.21, facility Category K, have decreased from FY 1994 as a result of the decrease in the hourly rate.

For those applications currently on file and pending completion, footnote 2 of § 170.21 is revised to provide that the professional hours expended up to the effective date of the final rule will be assessed at the professional rates in effect at the time the service was rendered. For topical report applications currently on file which are still pending completion of the review and for which review costs have reached the applicable fee ceiling established by the July 2, 1990 rule, the costs incurred after any applicable ceiling was reached through August 8, 1991, will not be billed to the applicant. Any professional hours expended for the review of topical report applications, amendments, revisions, or supplements to a topical report on or after August 9, 1991, are assessed at the applicable rate established by § 170.20.

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

The licensing and inspection fees in this section, which are based on full-cost recovery, are modified to recover the FY 1995 costs incurred by the NRC in providing licensing and inspection services to identifiable recipients. The fees assessed for services provided under the schedule will be based on both the professional hourly rate as shown in § 170.20 for the materials program and any direct program support (contractual services) costs expended by

the NRC. Those licensing fees, which are based on the average time to review an application ("flat" fees), are adjusted to reflect both the revised average professional staff hours needed to process a licensing action (new license, renewal, and amendment) and the decrease in the professional hourly rate from \$133 per hour in FY 1994 to \$116 per hour in FY 1995. The "flat" materials inspection fees in § 170.31 are eliminated and combined with the materials annual fees in § 171.16(d). Because there is no annual fee for licensees operating under reciprocity in non-Agreement States, the application fee includes the costs of inspections.

As previously indicated, the CFO Act requires that the NRC conduct a review, on a biennial basis, of fees and other charges imposed by the agency for its services and revise those charges to reflect the costs incurred in providing the services. Consistent with the CFO Act requirement, the NRC has completed its most recent review of license and inspection fees assessed by the agency. The review focused on the flat fees that are charged to nuclear materials users for licensing actions (new licenses, renewals, and amendments). The full cost license and inspection fees (e.g., for fuel facilities) and annual fees were not included in this biennial review because the hourly rate for full cost fees and the annual fees are reviewed and updated annually in order to recover 100 percent of the NRC budget authority.

To determine the licensing flat fees for materials licensees and applicants, the NRC uses historical data to determine the average number of professional hours required to perform a licensing action for each license category. These average hours are multiplied by the revised materials program professional hourly rate of \$116 per hour for FY 1995. Because the professional hourly rate is updated annually and the NRC is eliminating materials "flat" inspection fees, the FY 1995 biennial review examined only the average number of hours per licensing action with regard to the 10 CFR Part 170 fees. The review indicated that the NRC needed to modify the average number of hours on which the current licensing flat fees are based in order to recover the cost of providing licensing services. The average number of hours required for licensing actions was last reviewed and modified in 1993 (58 FR 38666; July 20, 1993). Thus the revised hours used to determine the fees for FY 1995 reflect the changes in the licensing program that have occurred since that time. For example, new initiatives underway for certain types of licenses

and management guidance that reviewers conduct more detailed reviews of certain renewal applications based on historical enforcement actions in order to insure public health and safety have been incorporated into the revised fees. For new licenses and amendments, the licensing fees for FY 1995 are reduced in approximately 50 percent of the cases, while the fees for renewals have increased in over 70 percent of the cases.

The amounts of the licensing flat fees were rounded by applying standard rules of arithmetic so that the amounts rounded would be de minimis and convenient to the user. Fees that are greater than \$1,000 are rounded to the nearest \$100. Fees under \$1,000 are rounded to the nearest \$10.

The licensing flat fees are applicable to fee categories 1.C and 1.D; 2.B and 2.C; 3.A through 3.P; 4.B through 9.D, 10.B, 15A through 15E and 16. Applications filed on or after the effective date of the final rule are subject to the revised fees in this final rule. Although the average amounts of time to review import and export licensing applications have not changed, the fees in Category 15 have decreased from FY 1994 as a result of the decrease in the hourly rate.

For those licensing, inspection, and review fees assessed that are based on full-cost recovery (cost for professional staff hours plus any contractual services), the materials program hourly rate of \$116, as shown in § 170.20, applies to those professional staff hours expended on or after the effective date of the final rule.

**Part 171**

**Section 171.13 Notice**

The language in this section is revised to reflect more accurately when the NRC expects to publish its annual proposed fee rules. The NRC's experience indicates that the agency has been unable to publish the proposed rule during the first quarter of the fiscal year as indicated in the current FY 1994 rule. Therefore, this section is revised to indicate that the NRC will publish the proposed rule in the **Federal Register** as early as is practicable but no later than the third quarter of the fiscal year.

**Section 171.15 Annual Fee: Reactor Operating Licenses**

The annual fees in this section are revised to reflect FY 1995 budgeted costs. Paragraphs (a), (b)(3), (c)(1), (c)(2), (d), and (e) are revised to comply with the requirement of OBRA-90 to recover approximately 100 percent of the NRC budget for FY 1995. Table IV shows the