

| HTS No.       | HTS article description | TSUS No. |
|---------------|-------------------------|----------|
| 1602.49.40005 | Other .....             | 107.3060 |

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because (1) the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107) requires that the USCS implement the HTS numbering system effective January 1, 1989, with the existing TSUS system in place until that date. Publication of this interim final rule, with an effective date of January 1, 1989, will provide for the continuation of the collection of assessments on imported live porcine animals, pork, and pork products under § 1230.110 of the regulations (53 FR 27478) issued under the order (7 CFR Part 1230), as authorized by the Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801-4819), by the USCS in conjunction with its regular importation processing and collection system; and (2) interested persons are afforded a 30-day comment period to submit written comments. Any comments which are received by January 30, 1989, will be considered prior to any finalization of this interim final rule.

#### List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Live porcine animal, Marketing agreement, Meat and meat products, Pork and pork products.

For the reasons set forth in the preamble, 7 CFR Part 1230 is amended as follows:

#### PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR Part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801-4819.

2. Amend Subpart B—Rules and Regulations, by revising § 1230.110 to read as follows:

#### § 1230.110 Assessments on imported live porcine animals, pork, and pork products.

The following HTS categories of imported live porcine animals are subject to assessment at the rate specified.

| Live Porcine animals | Assessment                          |
|----------------------|-------------------------------------|
| 0103.10.00004...     | 0.25 percent customs entered value. |
| 0103.91.00006...     | 0.25 percent customs entered value. |
| 0103.92.00005...     | 0.25 percent customs entered value. |

The following HTS categories of pork and pork products are subject to assessment at the rate specified.

| Pork and Pork products | Assessment    |
|------------------------|---------------|
| 0203.11.00002.....     | .18 cents/lb. |
| 0203.12.10009.....     | .18 cents/lb. |
| 0203.12.90002.....     | .18 cents/lb. |
| 0203.19.20000.....     | .21 cents/lb. |
| 0203.19.40006.....     | .18 cents/lb. |
| 0203.21.00000.....     | .18 cents/lb. |
| 0203.22.10007.....     | .18 cents/lb. |
| 0203.22.90000.....     | .18 cents/lb. |
| 0203.29.20008.....     | .21 cents/lb. |
| 0203.29.40004.....     | .18 cents/lb. |
| 0206.30.00006.....     | .18 cents/lb. |
| 0206.41.00003.....     | .18 cents/lb. |
| 0206.49.00005.....     | .18 cents/lb. |
| 0210.11.00003.....     | .18 cents/lb. |
| 0210.12.00208.....     | .19 cents/lb. |
| 0210.12.00404.....     | .19 cents/lb. |
| 0210.19.00005.....     | .21 cents/lb. |
| 1601.00.20007.....     | .25 cents/lb. |
| 1602.41.20203.....     | .28 cents/lb. |
| 1602.41.20409.....     | .28 cents/lb. |
| 1602.41.90002.....     | .18 cents/lb. |
| 1602.42.20202.....     | .28 cents/lb. |
| 1602.42.20408.....     | .28 cents/lb. |
| 1602.42.40002.....     | .18 cents/lb. |
| 1602.49.20009.....     | .25 cents/lb. |
| 1602.49.40005.....     | .21 cents/lb. |

Done at Washington, DC, on December 22, 1988.

J. Patrick Boyle,

Administrator.

[FR Doc. 88-29915 Filed 12-28-88; 8:45 am]

BILLING CODE 3410-02-M

#### 7 CFR Part 1260

[No. LS-88-101]

#### Beef Promotion and Research

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

**SUMMARY:** This interim final rule amends the Beef Promotion and Research Order (Order) to (1) change the Tariff Schedule of the United States (TSUS) numbers which identify imported cattle, beef, and beef products subject to assessments under the Order to conform with a new numbering system—the Harmonized Tariff System to be implemented by the U.S. Customs Service; (2) expand the table concerning the assessment rates for imported cattle, beef, and beef products to include four new categories for edible meat offal of bovine animals; and (3) clarify the language pertaining to the expenses of the Cattlemen's Beef Promotion and Research Board (Board).

**DATES:** Effective January 1, 1989.

Comments must be received by January 30, 1989.

**ADDRESS:** Send two copies of comments to Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service; USDA, Room 2610-S; P.O. Box 96456; Washington, DC 20090-6456. Comments will be available for public inspection during regular business hours at the above office in Room 2610 South Building, 14th and Independence Avenue, SW; Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch, (202) 447-2650.

**SUPPLEMENTARY INFORMATION:** This interim final rule has been reviewed under USDA procedures established to implement Executive Order No. 12291 and Departmental Regulation 1512-1, and is hereby classified as a nonmajor rule under the criteria contained therein.

This action was also reviewed under the Regulatory Flexibility Act (RFA), (5 U.S.C. 601 et seq.). Many importers may be classified as small entities. This interim final rule (1) revises the table containing the numbers identifying imported cattle, beef, and beef products listed in table 1260.172 in the Order (7 CFR 1260.172) from the former Tariff Schedule of the United States (TSUS) numbers to the Harmonized Tariff System (HTS) numbers to conform with the USCS conversion to the new HTS, (2) expands the table to include four new categories for edible meat offal of bovine animals, and (3) clarifies the language pertaining to expenses of the

Cattlemen's Beef Promotion and Research Board. Except for the second change, this action will not impose any requirements on importers beyond those previously discussed in the July 18, 1986, issue of the *Federal Register* (51 FR 26132), when it was determined that the Order would not have a significant effect upon a substantial number of small entities. The conversion to the new HTS numbering system to be implemented by the USCS is merely a technical change and will impose no new requirements on the industry. It is estimated that the increase in total assessments collected on imports as a result of the change made in this interim final rule will be less than 1 percent over a 12-month period as a result of the new assessments. This impact will be minimal. Any additional costs will be outweighed by the benefits derived from the operations of the Beef Promotion and Research Program. The changes in the language pertaining to the expenses of the Board are merely for clarification. Accordingly, the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact upon a substantial number of small entities.

The Beef Promotion and Research Act of 1985 (7 U.S.C. 2901 *et seq.*) approved December 23, 1985, authorizes the establishment of a national beef promotion and research program. The program is funded by a \$1.00 per head assessment on all cattle marketed in the United States and an equivalent amount of assessment on imported cattle, beef, and beef products. The final Order establishing a beef promotion and research program was published in the July 18, 1986, issue of the *Federal Register* (51 FR 26132) and assessments began on October 1, 1986. The Order requires importers of cattle to pay to the USCS, upon importation, an assessment of \$1.00 per head of cattle imported. Also importers of beef and beef products, which includes veal, must pay to the USCS, upon importation, an assessment equivalent to \$1.00 per head. As a matter of practicality, the assessment on imported beef and beef products is expressed in dollars per

pound for each type of such products. The formula for converting the live animal equivalent of \$1.00 per head to an assessment per pound is described in the supplementary information accompanying the Order and published in the July 18, 1986, issue of the *Federal Register* (51 FR 26136). The initial schedule of assessments is listed in a table in § 1260.172 (7 CFR 1260.172) of the Order for each type of beef and beef product identified by a TSUS number. Edible meat offal of bovine animals was not previously included in the list of TSUS numbers listed in the Order as subject to assessment upon importation. It is estimated that total assessments collected on imports will increase by less than 1 percent over a 12-month period as a result of these assessments.

The USCS is implementing a new numbering system, the Harmonized Commodity Description and Coding System, otherwise known as the Harmonized Tariff System (HTS), to replace the current Tariff Schedule of the United States numbering system. The HTS numbering system will become effective January 1, 1989, as part of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107).

One of the purposes of this interim final rule is to revise the present table found under § 1260.172 (7 CFR 1260.172) of the Order to reflect the change from the current TSUS numbering system listed therein to the HTS numbering system. This revised table lists (1) the HTS numbers for imported cattle, beef, and beef products which conform to the previously listed TSUS numbers and are subject to assessment under the Order, and (2) the HTS numbers for edible meat offal of bovine animals which were not identified under the previous TSUS numbering system but are subject to assessment under the Order. This change permits the USCS to continue to collect assessments due on imported cattle, beef, and beef products already being assessed, and begin collection of assessments due on edible meat offal of bovine animals in conjunction with its regular importation processing and collection system.

The new HTS system uses an 11 digit number to identify specific imports such as cattle, beef, or beef products compared with a 7 digit number used in the TSUS system. Under the HTS, some of the major TSUS categories for cattle, beef, and beef products subject to assessment have been subdivided and the new categories have been assigned HTS numbers; other major TSUS categories remained unchanged, but were renumbered with HTS numbers; and the veal category under the TSUS numbering system has been subdivided and renumbered with HTS numbers.

Under the TSUS system, edible beef offal was not identified by a specific TSUS number as were other types of beef and beef products. Consequently, edible beef offal was not included in the table in § 1260.172 (7 CFR 1260.172) of the Order for assessment purposes. However, under the new HTS, edible beef offal is identified by four separate HTS numbers. These numbers have been included in the revised table.

As a result of these changes from the TSUS system to the HTS system there are 8 categories which cover imported cattle subject to assessment compared with the previous 10 TSUS categories. The 16 TSUS categories of beef and beef products listed in the table in the Order subject to assessment have been expanded to 24 HTS categories and 2 subcategories. Four new categories have been added. The cattle, beef, and beef products subject to assessment and the assessment under the TSUS system remain unchanged. The four new categories will be assessed at a rate equivalent to \$1.00 per head according to the formula described in the supplementary information accompanying the Order and published in the July 18, 1986, issue of the *Federal Register* (51 FR 26136). The assessment rate is .20 cents per pound for each new category. The following chart lists a comparison of the new HTS numbers and the former TSUS numbers for imported cattle, beef, and beef products subject to assessment under the Act and Order.

| HTS No.                     | HTS article description    | TSUS No. |
|-----------------------------|----------------------------|----------|
| <b>Imported Live Cattle</b> |                            |          |
|                             | Live bovine animals:       |          |
|                             | Purebred breeding animals: |          |
|                             | Dairy:                     |          |
| 0102.10.00103               | Male .....                 | 100.0130 |
| 0102.10.00201               | Female .....               | 100.0140 |
|                             | Other:                     |          |
| 0102.10.00309               | Male .....                 | 100.0130 |
| 0102.10.00504               | Female .....               | 100.0150 |

| HTS No.                                                                                                                 | HTS article description                                                                                                                      | TSUS No.                                      |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| 0102.90.20004                                                                                                           | Other:<br>Cows imported specially for dairy purposes.....                                                                                    | 100.5000                                      |
| 0102.90.40206                                                                                                           | Other:<br>Weighing less than 90 kg each.....                                                                                                 | 100.4000/100.4300                             |
| 0102.90.40402                                                                                                           | Weighing 90 kg or more but less than 320 kg each.....                                                                                        | 100.4500                                      |
| 0102.90.40607                                                                                                           | Weighing 320 kg or more each.....                                                                                                            | 100.5300/100.5500                             |
| <b>Imported Beef and Beef Products</b>                                                                                  |                                                                                                                                              |                                               |
| <b>Meat of bovine animals, fresh or chilled:</b>                                                                        |                                                                                                                                              |                                               |
| <b>Carcasses and half-carcasses:</b>                                                                                    |                                                                                                                                              |                                               |
| 0201.10.00103                                                                                                           | Veal.....                                                                                                                                    | 106.1080                                      |
| 0201.10.00906                                                                                                           | Other.....                                                                                                                                   | 106.1020                                      |
| <b>Other cuts with bone in:</b>                                                                                         |                                                                                                                                              |                                               |
| <b>Processed:</b>                                                                                                       |                                                                                                                                              |                                               |
| 0201.20.20009                                                                                                           | High-quality beef cuts.....                                                                                                                  | 107.6100                                      |
| 0201.20.40005                                                                                                           | Other.....                                                                                                                                   | 107.6200                                      |
| 0201.20.60000                                                                                                           | Other.....                                                                                                                                   | 106.1020                                      |
| <b>Boneless:</b>                                                                                                        |                                                                                                                                              |                                               |
| <b>Processed:</b>                                                                                                       |                                                                                                                                              |                                               |
| 0201.30.20007                                                                                                           | High-quality beef cuts.....                                                                                                                  | 107.6100                                      |
| 0201.30.40003                                                                                                           | Other.....                                                                                                                                   | 107.6200                                      |
| 0201.30.60008                                                                                                           | Other.....                                                                                                                                   | 106.1060                                      |
| <b>Meat of bovine animals, frozen:</b>                                                                                  |                                                                                                                                              |                                               |
| <b>Carcasses and half-carcasses:</b>                                                                                    |                                                                                                                                              |                                               |
| 0202.10.00102                                                                                                           | Veal.....                                                                                                                                    | 106.1080                                      |
| 0202.10.00905                                                                                                           | Other.....                                                                                                                                   | 106.1040                                      |
| <b>Other cuts with bone in:</b>                                                                                         |                                                                                                                                              |                                               |
| <b>Processed:</b>                                                                                                       |                                                                                                                                              |                                               |
| 0202.20.20008                                                                                                           | High-quality beef cuts.....                                                                                                                  | 107.6100                                      |
| 0202.20.40004                                                                                                           | Other.....                                                                                                                                   | 107.6200                                      |
| 0202.20.60009                                                                                                           | Other.....                                                                                                                                   | 106.1040                                      |
| <b>Boneless:</b>                                                                                                        |                                                                                                                                              |                                               |
| <b>Processed:</b>                                                                                                       |                                                                                                                                              |                                               |
| 0202.30.20006                                                                                                           | High-quality beef cuts.....                                                                                                                  | 107.6100                                      |
| 0202.30.40002                                                                                                           | Other.....                                                                                                                                   | 107.5500/107.6200                             |
| 0202.30.60007                                                                                                           | Other.....                                                                                                                                   | 107.6200                                      |
| <b>Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled, or frozen:</b> |                                                                                                                                              |                                               |
| 0206.10.00000                                                                                                           | Of bovine animals, fresh or chilled.....                                                                                                     | na                                            |
| 0206.21.00007                                                                                                           | Of bovine animals, frozen:                                                                                                                   | na                                            |
| 0206.22.00006                                                                                                           | Tongues.....                                                                                                                                 | na                                            |
| 0206.23.00009                                                                                                           | Livers.....                                                                                                                                  | na                                            |
| 0206.29.00009                                                                                                           | Other.....                                                                                                                                   | na                                            |
| 0210.20.0002                                                                                                            | Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:<br>Meat of bovine animals..... | 107.4000/107.4500/(na-<br>edible beef offal). |
| <b>Sausages and similar products, of meat, meat offal or blood; food preparations based on these products:</b>          |                                                                                                                                              |                                               |
| <b>Other:</b>                                                                                                           |                                                                                                                                              |                                               |
| 1601.00.40003                                                                                                           | Beef in airtight containers.....                                                                                                             | 107.2000                                      |
| 1601.00.60204                                                                                                           | Other.....                                                                                                                                   | 107.2520                                      |
| <b>Other prepared or preserved meat, meat offal or blood:</b>                                                           |                                                                                                                                              |                                               |
| <b>Of bovine animals:</b>                                                                                               |                                                                                                                                              |                                               |
| 1602.50.05004                                                                                                           | Offal.....                                                                                                                                   | 107.4000/107.4500                             |
| <b>Other:</b>                                                                                                           |                                                                                                                                              |                                               |
| <b>Not containing cereals or vegetables:</b>                                                                            |                                                                                                                                              |                                               |
| 1602.50.09000                                                                                                           | Cured or pickled.....                                                                                                                        | 107.4820/107.4840                             |
| <b>Other:</b>                                                                                                           |                                                                                                                                              |                                               |
| <b>In airtight containers:</b>                                                                                          |                                                                                                                                              |                                               |
| <b>Corned beef:</b>                                                                                                     |                                                                                                                                              |                                               |
| 1602.50.10203                                                                                                           | In containers holding less than 1 kg.....                                                                                                    | 107.4820/107.4840                             |
| 1602.50.10409                                                                                                           | Other.....                                                                                                                                   | 107.4840                                      |
| <b>Other:</b>                                                                                                           |                                                                                                                                              |                                               |
| 1602.50.20201                                                                                                           | In containers holding less than 1 kg.....                                                                                                    | 107.5220/107.5240                             |
| 1602.50.20407                                                                                                           | Other.....                                                                                                                                   | 107.5240                                      |
| 1602.50.60006                                                                                                           | Other.....                                                                                                                                   | 107.6300                                      |

This interim final rule also clarifies the language pertaining to the expenses of the Cattlemen's Beef Promotion and Research Board found in § 1260.151(a) of the Order (7 C.F.R. 1260.151(a)) and established in the final rule on July 18, 1986, at 51 FR 26141. That section provides that the Board is authorized to incur such expenses (including provision for a reasonable reserve) as the

Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and enable it to exercise its powers and perform its duties in accordance with that subpart. It further provides that such expenses incurred by the Board shall not exceed 5 percent of the projected revenue of that fiscal period. The same provision in the proposed rule, found at 51 FR 8990 and

designated as § 1260.171, stated that "administrative expenses" incurred by the Board shall not exceed 5 percent of the projected revenue of that fiscal period.

The Beef Promotion and Research Act (7 U.S.C. 2901 *et seq.*) which authorizes the Order limits only "administrative expenses" to the 5 percent limit. Section 2904(4)(D) (7 U.S.C. 2904 (4)(D)) provides

that the total costs of collection of assessments and administrative staff incurred by the Board during any fiscal year shall not exceed 5 percentum of the projected total assessments to be collected by the Board for such fiscal year.

It is in a separate provision, not subject to the 5 percent limitation, that the Act authorizes a reasonable reserve. Section 2904(8)(C) (7 U.S.C. 2904(8)(C)) provides that the assessments shall be used for payment of the costs of plans and projects as provided for in paragraph (4), and expenses in administering the Order, including administrative costs incurred by the Secretary after the order has been promulgated, and to establish a reasonable reserve.

Thus, under the Act, only those expenses associated with the annual cost of collecting assessments and maintaining the Board's administrative staff ("administrative expenses") are subject to the 5 percent limit. The Act does not include the reserve as an administrative expense and therefore the reserve is not to be included in the 5 percent limit.

To clarify that the reserve is not subject to the 5 percent limitation under the Act and the Order, this interim final rule substitutes the word "Administrative" for the word "such" as the first word in the second sentence of § 1260.151(a) (7 CFR 1260.151(a)) and the phrase "expenses authorized in the paragraph" is substituted for the word "such" in the last sentence of that same paragraph.

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because: (1) The Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107) requires that the USCS implement the HTS numbering system effective January 1, 1989 with the existing TSUS system in place until that date. Publication of this interim final rule with an effective date of January 1, 1989 will provide for the continuation of the collection of assessments on imported cattle, beef, and beef products under the Beef Promotion and Research Act (7 U.S.C. 2901 *et seq.*) and Order (7 CFR Part 1260) by the USCS in conjunction with its regular importation processing and collection system; (2) this action expands the table concerning the assessment rates for imported cattle,

beef and beef products to include four new categories for edible meat offal which will appear in the new HTS numbering system and therefore, these changes should be implemented concurrently with the HTS numbering changes; (3) the remaining changes in this action concerning the expenses of the Board are for clarity; and (4) interested persons are afforded a 30-day comment period to submit written comments. Any comments which are received by January 30, 1989 will be considered prior to any finalization of this interim final rule.

#### List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Beef and beef products.

For the reasons set forth in the preamble, 7 CFR Part 1260 is amended as follows:

#### PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for 7 CFR Part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901 *et seq.*

2. Revise 1260.151 to read as follows:

##### § 1260.151 Expenses.

(a) The Board is authorized to incur such expenses (including provision for a reasonable reserve), as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with this subpart. Administrative expenses incurred by the Board shall not exceed 5 percent of the projected revenue of that fiscal period. Expenses authorized in this paragraph shall be paid from assessments collected pursuant to § 1260.172.

3. Revise § 1260.172(b)(2) to read as follows:

##### § 1260.172 Assessments.

(b) \* \* \*

(2) The assessment rates for imported cattle, beef, and beef products are as follows:

|                     | Assessment |
|---------------------|------------|
| <b>Live cattle:</b> |            |
| 0102.10.00103.....  | \$1.00/hd. |
| 0102.10.00201.....  | 1.00/hd.   |
| 0102.10.00309.....  | 1.00/hd.   |
| 0102.10.00504.....  | 1.00/hd.   |

|                                | Assessment    |
|--------------------------------|---------------|
| 0102.90.20004.....             | 1.00/hd.      |
| 0102.90.40206.....             | 1.00/hd.      |
| 0102.90.40402.....             | 1.00/hd.      |
| 0102.90.40607.....             | 1.00/hd.      |
| <b>Beef and beef products:</b> |               |
| 0201.10.00103.....             | .77 cents/lb. |
| 0201.10.00906.....             | .20 cents/lb. |
| 0201.20.20009.....             | .28 cents/lb. |
| 0201.20.40005.....             | .27 cents/lb. |
| 0201.20.60000.....             | .20 cents/lb. |
| 0201.30.20007.....             | .28 cents/lb. |
| 0201.30.40003.....             | .27 cents/lb. |
| 0201.30.60008.....             | .27 cents/lb. |
| 0202.10.00102.....             | .77 cents/lb. |
| 0202.10.00905.....             | .20 cents/lb. |
| 0202.20.20008.....             | .28 cents/lb. |
| 0202.20.40004.....             | .27 cents/lb. |
| 0202.20.60009.....             | .20 cents/lb. |
| 0202.30.20006.....             | .28 cents/lb. |
| 0202.30.40002.....             | .27 cents/lb. |
| 0202.30.60007.....             | .27 cents/lb. |
| 0206.10.00000.....             | .20 cents/lb. |
| 0206.21.00007.....             | .20 cents/lb. |
| 0206.22.00005.....             | .20 cents/lb. |
| 0206.29.00009.....             | .20 cents/lb. |
| 0210.20.00002.....             | .35 cents/lb. |
| 1601.00.40003.....             | .25 cents/lb. |
| 1601.00.60204.....             | .25 cents/lb. |
| 1602.50.05004.....             | .35 cents/lb. |
| 1602.50.09000.....             | .35 cents/lb. |
| 1602.50.10203.....             | .35 cents/lb. |
| 1602.50.10409.....             | .35 cents/lb. |
| 1602.50.20201.....             | .37 cents/lb. |
| 1602.50.20407.....             | .37 cents/lb. |
| 1602.50.60006.....             | .38 cents/lb. |

Done at Washington, D.C. on December 22, 1988.

J. Patrick Boyle,  
Administrator.

[FR Doc. 88-29914 Filed 12-28-88; 8:45 am]

BILLING CODE 3410-02-M

#### Animal and Plant Health Inspection Service

##### 9 CFR Part 78

[Docket No. 88-196]

#### Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

**SUMMARY:** We are affirming without change an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Puerto Rico from Class Free to Class A.

**EFFECTIVE DATE:** January 30, 1989.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jan Huber, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, Room 812, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8389.

**SUPPLEMENTARY INFORMATION:****Background**

In an interim rule published in the *Federal Register* and effective September 20, 1988 (53 FR 36433-36434, Docket Number 88-134), we amended the regulations in 9 CFR Part 78 governing the interstate movement of cattle because of brucellosis by changing the classification of Puerto Rico from Class Free to Class A. Comments on the interim rule were required to be postmarked or received on or before November 21, 1988. We did not receive any comments. The facts presented in the interim rule still provide a basis for this rule.

**Executive Order 12291 and Regulatory Flexibility Act**

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle are moved interstate for slaughter, for use as breeding stock, or for feeding. Changing the brucellosis status of Puerto Rico from Class Free to Class A imposes certain testing and other requirements on the interstate movement of cattle from Puerto Rico. However, these requirements will not affect the interstate movement of cattle to recognized slaughtering establishments or quarantined feedlots, or the interstate movement of cattle from certified brucellosis free herds. The change in the brucellosis status of Puerto Rico may decrease the opportunity for other movements of cattle out of Puerto Rico since, in most cases, the cattle would first have to be tested and found negative for brucellosis. However, no cattle are being moved out of Puerto Rico, either interstate or into foreign countries.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has

determined that this action will not have a significant economic impact on a substantial number of small entities.

**Paperwork Reduction Act**

The regulations in this part contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

**List of Subjects in 9 CFR Part 78**

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

**PART 78—BRUCELLOSIS**

Accordingly, we are adopting as a final rule without change, the interim rule that amended 9 CFR Part 78 and that was published at 53 FR 36433-36434 on September 20, 1988.

Authority: 21 U.S.C. 111-114a-1, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, D.C., this 22nd day of December 1988.

James Glosser,

Administrator, Animal and Plant Health Inspection Service.

December 21, 1988.

[FR Doc. 88-29913 Filed 12-28-88; 8:45 am]

BILLING CODE 3410-34-M

**NUCLEAR REGULATORY COMMISSION****10 CFR Parts 170 and 171****Revision of Fee Schedules**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (Commission or NRC) is amending its regulations by revising its fee schedules contained in 10 CFR Parts 170 and 171. The revised fee schedules will result in those power reactor, fuel cycle facility and materials applicants and licensees requiring the greatest expenditure of NRC resources paying the greatest fees. This permits NRC to more completely recover under 10 CFR Part 170 costs incurred for identifiable services for power reactor, fuel cycle facility and major materials applicants and licensees. This action also

implements fee legislation enacted by Congress in December 1987. All applicants and licensees currently subject to fees under 10 CFR Parts 170 and 171 are affected by this rule.

**EFFECTIVE DATE:** January 30, 1989.

**ADDRESSES:** Copies of the written public comments are available for public inspection and copying for a fee at the NRC Public Document Room at 2120 L Street NW., Washington, DC, in the lower level of the Gelman Building.

**FOR FURTHER INFORMATION CONTACT:** Lee Hiller, Assistant Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20055, Telephone: 301-492-7351.

**SUPPLEMENTARY INFORMATION:****I. Background****II. Responses to Comments****III. Changes Included in the Final Rules****IV. Section-by-Section Analysis****V. Environmental Impact: Categorical****Exclusion****VI. Paperwork Reduction Act Statement****VII. Regulatory Analysis****VIII. Regulatory Flexibility Certification****IX. Backfit Analysis****I. Background**

On June 27, 1988 (53 FR 24077-24093), the Commission published in the *Federal Register* a notice of proposed rulemaking for revisions to 10 CFR Part 170 ("Fees for Facilities and Materials Licensees and Other Regulatory Services \* \* \*") and Part 171 ("Annual Fees for Power Reactor Operating Licenses"). This action was necessary for the Commission to update the current fee schedules in Part 170 and to implement the requirements of section 5601 of the Omnibus Budget Reconciliation Act of 1987, as signed into law on December 22, 1987 (Pub. L. 100-203). Section 5601 amended section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA—Pub. L. 99-272), which requires the Commission to collect annual charges from its licensees. As discussed in the notice of proposed rulemaking published on June 27, 1988, the amendment requires the NRC to collect under 10 CFR Parts 170 and 171, as well as under other provisions of law, not less than 45 percent of the Commission's budget for each of Fiscal Years 1988 and 1989 (Option 1).

The proposed rule also sought comments on a second option to not change 10 CFR Part 170, but only raise the annual fees under 10 CFR Part 171 to reach the 45 percent mandate of Pub. L. 100-203 for FY 1988. On August 12, 1988, the Commission published an interim final rule for 10 CFR Part 171 (53 FR 30423) applicable to collections for FY

1988 based upon the second option. The interim rule increased collections from 33 percent to 45 percent of the Commission's FY 1988 budget. Adjusted invoices based on the interim rule were sent to reactor licensees on August 16, 1988.

As discussed in the interim rule, the Commission will proceed with option 1 rather than option 2 as a long-term rule for annual fees. The method for assessing annual fees in this final rule presents a more equitable distribution among the licensed nuclear power reactors of the amount needed to be collected by taking into account the kind of reactor, its location and other considerations in relation to the generic research and other costs associated with power reactor regulation. Under the revised rule, those who require the larger expenditure of NRC resources will pay the larger fees.

## II. Responses to Comments

The Commission received thirty-two (32) letters commenting on the proposed rule. Twenty letters were from persons mainly concerned with Part 50 facilities and twelve commented on fees for materials licenses.

The comments fell into the following categories:

### Part 170 Comments:

1. Removal of ceilings.
2. Removal of routine inspection frequencies.
3. Fees for standardized design review.
4. Disparity in certain materials fee categories.

### Part 171 Comments:

1. Legality of fees.
2. Allocate costs to all persons.
3. Exclude costs serving an independent public benefit.
4. Base fees on specific identifiable services.
5. Exclude research until NRC acts on that research.
6. Include fines, penalties, and interest in fee collections.
7. Other Comments.

The Commission's responses to the comments are as follows:

### Comments on Part 170

1. Removal of ceilings for reactor and major fuel cycle permits, licenses, amendments, reactor related topical reports and services; and for transportation cask packages and shipping containers. Commenters' main concern about the removal of ceilings for applications and other services is that it removes the predictability of costs for budgeting purposes. In the area

of topical reports, commenters were concerned that it would discourage participation in the topical report program as well as defeat the overall objective of encouraging new and improved predictive models and products.

*Response:* Ceilings are being removed because the Commission strongly supports the concept that those requiring the greatest expenditure of NRC resources should pay the greatest fees. Ceilings contradict that objective. Appendices A and B that were included in the proposed rule of June 27, 1988 (53 FR 24092 and 24093), are non-binding schedules of estimated fees which may still be used for planning purposes in the absence of ceilings and provide adequate information for planning purposes. The upper range in these schedules would only be increased slightly for FY 1989 as a result of using FY 1988 budget costs which changed the hourly rate from \$80 (based on FY 1988 budget) to \$86 for FY 1989. With respect to topical report reviews, the Commission finds no compelling argument to justify retaining a ceiling since those who request reviews of topical reports that require considerable staff work should bear their share of the review costs. The Commission recognizes, however, that there may be some topical reports that are of particular importance and use to the NRC. Therefore, as a matter of agency policy, the NRC may, upon its own initiative or at the request of the applicant, exempt all or part of the topical report fee pursuant to § 170.11(b)(1).

2. Removal of routine inspection frequency. Most materials commenters are concerned that the removal of the frequency for routine inspections will take away their ability to predict what they should budget for inspection fees and create a potential for more frequent inspections than are needed.

*Response:* The Commission's routine inspection program is a structured program to assure that licensees comply with their license conditions and Commission regulations and standards to the extent that the health and safety of the company employees and public are not endangered. As long as a licensee's operations are in compliance with the NRC-issued license, regulations, and standards, the frequency of inspections is not generally expected to be more frequent than what was stipulated in the previous regulation. Therefore, from a budgeting standpoint, if a licensee operates in conformance with its license and the Commission's regulations and standards, the predictability for

inspection fee budget costs remains essentially unchanged.

3. Fees for standardized design. Nuclear power industry commenters questioned the Commission's proposal to defer fees for review of standardized reference designs until referenced by an applicant, or at the end of 5 years (10 years if a design is certified) after design approval, whichever comes first. A few commenters felt that fees should not be charged or should be waived for standardized design reviews to remove any disincentive for the standardization program and what could possibly be unusually extensive costs as a result of the review being a "first-of-a-kind" that might require extensive safety reviews.

*Response:* The Commission's decision to defer fees for standard reference design reviews is based upon a balancing of policy considerations. On the one hand, it is clearly the policy of the Government, and the intent of the Congress, that the Commission collect fees for services rendered to applicants. Thus, standard reference design reviews are not to be performed free of charge. On the other hand, there is a sound and persuasive public policy need to avoid a disincentive to the submittal of standard designs by vendors incorporating the best safety features available for a future generation of reactors. For years, the Commission has supported the use of standard designs (see, e.g., 10 CFR Part 50, Appendix O, and 10 CFR 2.110). On balance, the Commission believes that the deferral of fees for standard design reviews is a reasonable compromise that serves the public interest. Accordingly, the Commission will retain its proposed treatment of fees for standard reference designs.

4. Disparity in certain materials fee categories. Two materials licensees questioned why the license and inspection fees in certain areas are higher when compared with other areas.

*Response:* The NRC recognizes that a part of the current Part 170 fee schedule for materials licenses is outdated and needs revision. For example, the labor rates (staff hours and fees applied) used in calculating fees are based on data that is several years old. The NRC has determined that this is not the appropriate rulemaking to make the necessary adjustments. The NRC contemplates initiating a rulemaking on this issue next year.

### Part 171 Comments

The Commission notes that the rulemaking to which the following comments are again addressed is of a very limited scope with respect to Part 171. The rulemaking adds two new

definitions to which no comments were addressed, it changes the percent of recovery from 33 percent of the Commission's budget to at least 45 percent, enters a more refined allocation of the annual fee among different classes of power reactors, and eliminates the provision for refunds of collections in excess of 45 percent. The Commission received some comments that go beyond these limited subjects and are therefore not relevant to this rulemaking. Nonetheless, the Commission is responding to them. The response to comments beyond the scope of the rulemaking should not, however, be taken as an admission by the Commission that the issues raised are again open to challenge. Responses to these comments are seen as a matter of courtesy to the commenters and not as reopening these issues to further litigation. These comments and the responses thereto are:

1. **Legality of fees.** Several commenters, in particular law firms representing operators of nuclear power reactors, commented on issues of a legal nature.

*Response.* These comments for the most part repeated comments addressed to the first issuance of 10 CFR Part 171 (final rule issued September 18, 1986; 51 FR 33224) promulgated to implement section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985. That rule was challenged and upheld in its entirety in *Florida Power & Light Co. et al. v. United States*, 846 F.2d 765 (D.C. Cir. 1988). A petition for writ of certiorari challenging that decision is pending in the Supreme Court (*Florida Power & Light Co. v. United States*, No. 88-234).

2. **Allocation of costs.** Some commenters stated that annual fees should be levied on all persons such as materials licensees receiving services from the Commission.

*Response.* Congress provided the Commission with the discretion to determine which categories of licensees or other persons should be charged an annual fee by the Commission. The Commission's decision not to charge materials licensees annual fees was upheld in *Florida Power & Light v. United States*, supra. The Commission has reaffirmed its determination that it will not impose an annual fee on its materials licensees. The Commission has more than 8000 materials licensees. Regulation of these entities requires a minimal expenditure of NRC resources (less than 3 percent of the NRC budget). Moreover, these licensees are an extremely varied class, ranging from large uranium processing operators to small operators involving well logging,

radiography, or the use of gauging devices. In light of the relatively minor resources devoted to regulating these entities and the obvious administrative difficulties in determining how to calculate appropriate annual fees for this large, diverse class of licensees, the Commission will not impose an annual fee on these licensees at this time.

3. Some commenters asserted that the cost basis for annual fees should exclude costs serving an independent public benefit.

*Response.* The concept that costs related to an independent public benefit should not be charged to licensees derives from the case law on application of the Independent Offices Appropriation Act of 1952, 31 U.S.C. 9701 (IOAA). It is not a concept applicable to annual fees charged under COBRA, as amended. The annual fee statute has its own standard independent of the standards applicable to IOAA. In any case, the research performed by the NRC primarily benefits power reactor licensees as part of the system under which those facilities are regulated and allowed to operate in a manner that provides adequate protection to the public health and safety. Therefore, none of the services for which fees are charged provide "independent public benefits" even if this concept were deemed applicable. The Commission's position on this issue was also upheld in *Florida Power & Light v. United States*, supra.

4. Some commenters took the position that fees should be based on specific identifiable services benefitting individual licensees and not on generic agency action.

*Response.* The concept that fees should be levied only for specific services to identifiable recipients is an IOAA standard. It is not a standard that applies to annual fees under COBRA, as amended. It is the Commission's continuing view that the Congress did not intend that IOAA principles be applied to the collection of annual fees under COBRA, as amended. The Commission's determinations in this area were upheld in *Florida Power & Light v. United States*, supra.

5. Some commenters stated that the Commission should not include in its cost basis for annual fees research cost until the Commission acts upon that research and it is shown to provide a benefit.

*Response.* It is the position of the Commission that research devoted to the continued safety of nuclear power reactors is a present service and benefit. This research either confirms that reactors are safe, that some changes will improve safety, or that certain

regulations may no longer be necessary for safe operation. The conduct of research resulting in any of these outcomes is a present benefit. This research provides continuing confidence that licensed reactors can be operated consistent with the public health and safety and the Commission's regulations. We again note that the DC Circuit Court of Appeals in *Florida Power & Light v. United States*, supra, upheld the Commission's decision to include such costs in its annual fee basis.

6. One commenter felt that monies from the collection of fines, penalties and interest should be included in the 45 percent required to be collected.

*Response.* Although related here to the 45 percent level of collection, the same comment was presented with respect to the rule promulgating the 33 percent ceiling. The Commission adheres to its prior position. Fines, penalties and interest are not cost recovery measures, but are disciplinary and intended to deter persons who violate Commission regulations and orders, as well as other licensees, from future violations. Public policy dictates that those paying penalties, fines, or interest should not benefit by recovering a portion of the penalty, fine or interest through a reduced fee. Again, this Commission decision was upheld in *Florida Power & Light v. United States*, supra.

7. **Other Comments on Part 171 Amendments.**

a. Some licensees and their vendors have stated that the additional costs assessed for B&W type reactors are not justified because these plants are not problem plants requiring the greatest expenditure of staff funds and manpower when compared with other reactors.

*Response.* The basis for assessing B&W owners under Part 171, or any licensee (by vendor type), is not based upon performance, but it is an allocation of fee based upon corresponding costs (FTE and obligations) to the NRC to perform generic type activities associated with that type of reactor (vendor type). Some specific activities questioned (i.e., "Continuing Experimental Capability" and "Technical Integration Center") have been reallocated based upon a more detailed identification matrix of licensee groups.

b. *Florida Power Corporation* commented that Agency and industry research supports exclusion of reactors east of the Rockies from the list of reactors benefitting from special seismic studies.

*Response.* Although its service area lies within a region of low seismicity, the Florida Power Corporation, as explained below, benefits substantially from NRC seismic research, including maintenance of the NRC-funded seismograph networks east of the Rocky Mountains. Seismic research through the years has shown that Florida is less prone to earthquakes than a large part of the eastern and central U.S., and thus allows for less stringent seismic design bases for critical facilities. Ongoing seismic monitoring will continue to confirm that conclusion or identify possible errors of judgment.

Recent experience (1982 New Brunswick and New Hampshire earthquakes, the 1987 southern Illinois earthquake and the reservoir induced seismicity at Monticello Reservoir, South Carolina) indicates that high accelerations at relatively high frequencies can be generated locally by moderate to small magnitude earthquakes, usually at relatively shallow depths (several kilometers). It is possible that earthquakes of these sizes could occur in Florida (although the probability is low). Accelerations can result that exceed OBE or SSE design bases for critical facilities. We do not believe that these ground motions (short duration, high accelerations at high frequencies) are the kind that result in damage to seismically designed critical facilities, but research in this area is ongoing. The occurrences are extremely difficult to handle even with no evidence of damage. The seismic networks are the main sources of data that are basic to resolving this issue.

Another major issue regarding eastern U.S. seismicity is the nature of the tectonic structures that are currently responsible for the earthquakes. Suspect structures include faults in rocks ranging in age from Paleozoic through Triassic and into Tertiary (several hundred million years old to several million years old). These faults are widely distributed in rocks throughout the east, including rocks beneath Florida. Much of current seismic and geologic research funded by the NRC is focused on identifying and defining the tectonic structures that are causing the earthquakes. The most definitive information about seismic sources, which are deeply buried, is obtained from the analysis of recordings of earthquake ground motions. Builders and operators of critical facilities in low seismic areas derive as much benefit from this type of research as those in more seismic areas in view of the relatively short historic seismic record.

c. Level of budget detail. Several utilities' overall criticism of the proposed rule concerns their perception of the need to breakout budgeted obligations to a level lower than the Program—Program Element—Activity structure used in the NRC planning process in the area of research. These utilities further comment on the fact that the budget detail, maintained at the activity level and provided to the Public Document Room (PDR) does not allow them access to greater detail (to see if the NRC developed its budget, thus its user charges, accurately).

*Response.* This suggestion has been adopted. We have gone one level below the activity level to the project level (FIN) in developing fees for research activities. Using the FIN level permits a more detailed breakout of fee categories. However, FIN information used in developing these fees cannot be placed in the PDR now because it contains predecisional contracting information—amounts set aside for specific procurements that have not yet been awarded. To release this information before contracts are awarded would be in violation of the Federal Procurement Law. Accordingly, we do not envision placing the FIN data used in developing this fee schedule in the PDR until sometime during the following fiscal year.

d. MIST program costs. Several commenters stated that the Commission agreed to share in the funding of Multi-Loop Integral System Test (MIST), the program with the B&W Owners Group (OG). However, it is in the research costs set forth in Table IV of the proposed rule. It is inappropriate for NRC to pass its share of the MIST costs on to B&W Owners through license fees.

*Response.* The NRC does provide funding for the MIST program as well as other cooperative programs. Being an agency cost item, the MIST program as well as the costs for all other current and future cooperative programs should be used in the cost allocation data base. Moreover, we do not view this as a breach of the co-funding agreement by NRC with the OG because the current agreement is about to expire and a new agreement is being negotiated. All of the \$2.7 million included in the user fee base is for activities that would be funded by the new agreement rather than the existing one. Before entering the new agreement, this final rule will have been promulgated putting the OG on notice of the agency's revised user fee policies.

It should also be pointed out that in the past two phases of MIST co-op research (Phase 3 and Phase 4), the owners group paid only about one-half

of the NRC contributions for Phase 3 and did not contribute any funds for Phase 4. Because almost 90 percent of all funds budgeted in areas subject to fee recovery under Part 171 will be collected through user fees, if co-op research programs were exempt from the fee base, the co-op groups would receive fee exemptions not available for other research—inequitably shifting the fee burden to other licensees.

e. Comments on specific changes to Part 171. Comments on the proposed changes to Part 171 fall into three primary groups: (1) The Commission is in error in considering the 45 percent collection target as a floor, and not as a ceiling, (2) the Commission is in error in eliminating the provision for refunds for excess annual fee collections (§ 171.21), and (3) the Commission should adopt option 2 identified in the notice of proposed rulemaking. Under that option, the previously adopted method for calculating annual fees would be retained. The only significant change would be raising the annual fee to collect 45 percent of the NRC budget. Other commenters suggested that Option 2 not be adopted.

*Response.* The Commission addressed all three of these issues in its notice of interim rule published August 12, 1988, in the *Federal Register* (53 FR 30423). There the Commission stated its view that reading the 45 percent in Omnibus Budget Reconciliation Act (OBRA) (amending COBRA) as a ceiling would be contrary to the language and plain meaning of the statute, quoting, " \* \* \* in no event shall such percentage be less than a total of 45 percent of such costs in each such fiscal year." (Section 5601, Omnibus Budget Reconciliation Act of 1987.) The Commission adheres to that view again emphasizing that fees will exceed the 45 percent target by a trivial amount.

The elimination of the provision for refunds results from the Commission's view of the operative effect of the 45 percent constituting a floor for collections. In presenting the 45 percent as a floor, and not a ceiling, OBRA removed the necessity to make refunds which was implicit in COBRA when the latter imposed a 33 percent ceiling prior to its amendment. In short, the change in the law from a 33 percent ceiling to a 45 percent floor for collections eliminates the need to make a refund of amounts collected in excess of 45 percent. Accordingly, consistent with its view of Congressional intent, the Commission is permanently removing § 171.21 from its regulations.

With respect to the suggestion that option 2 be adopted and the fee

collection methodology remain unchanged, the Commission does not support this approach. The Commission is firmly committed to assessing fees based on the principle that those licensees requiring the greatest expenditure of NRC resources pay the greatest fees. Option 2 is contrary to this policy.

f. One commenter requested that consideration of the utility's rate base be included among the exemption criteria in 10 CFR 171.11.

*Response.* This comment is also outside the scope of the rulemaking because the rulemaking does not propose any change to the exemption criteria in Part 171. Nonetheless, the Commission believes that factors related to a utility's rate base may be considered in passing on requests for exemptions in § 171.11. Rate base matters may be considered under § 171.11(c) and under § 171.11(e). In the Commission's view, the commenter's request is already accommodated in Part 171 as initially codified.

### III. Changes Included in the Final Rules

The changes included in the final rule are as follows and permit the NRC to recover approximately, but not less than, 45 percent of its budgeted costs for fiscal years 1988 and 1989, respectively. These changes were set forth in the proposed rule published on June 27, 1988 (53 FR 24077). Any differences between the final rule and the proposed rule are explained in the following discussion.

1. Changing the hourly rates under 10 CFR 170.20 which range from \$53 to \$62 for the various program offices to \$86 for all program offices based on the FY 1989 budget and providing for an annual adjustment if there is a need for increase or decrease. The \$86 hourly rate is an increase from the proposed \$80 hourly rate. This increase is as a result of using the FY 1989 budget in lieu of the FY 1988 budget. The method used for calculating the hourly rate is exactly the same as that used in the proposed rule. An analysis of the budget which generated this rate is provided in the Part 171 Section-by-Section Analysis.

2. Removing the 10 CFR Part 170 fee ceilings for application reviews, services, and inspections for reactors; fuel cycle facilities; transportation cask packages and shipping containers.

3. Amending 10 CFR 170.31 to charge for each routine inspection conducted by the NRC and to delete the maximum billing frequency. For user convenience, the fee schedule previously included in 10 CFR 170.32 has been incorporated in 10 CFR 170.31.

4. In 10 CFR Part 170, removing the application fee and deferring the

payment of costs for the review of applications for standardized reactor design reviews and certifications until a standardized design is referenced.

5. In 10 CFR Part 170, removing application filing fees for reactor applications and for reactor related topical reports.

6. Increasing the annual fees assessed under 10 CFR Part 171 and charging based on the principle that licensees requiring the greatest expenditure of NRC resources shall pay the greatest fee. Again, as in the development of the hourly rate, the method used for determining the annual fee is the same as that described in the proposed rule except that budget obligations have been identified one level below the detail shown in the proposed rule based on the comments received, and FY 1989 budget data have been used in lieu of the FY 1988 data used in the proposed rule.

7. Including in the NRC collection, moneys recovered from the Nuclear Waste Fund, as managed by the Department of Energy under the Nuclear Waste Policy Act, as amended, for costs incurred by the NRC in preparing for licensing a high-level waste repository.

The agency workpapers which support the changes to 10 CFR Parts 170 and 171 are available in the Public Document Room, at 2120 L Street, NW., Washington, DC, in the lower level of the Gelman Building.

### IV. Section-by-Section Analysis

The following section-by-section analysis of the affected sections provides additional explanatory information. All references are to Title 10, Chapter I, Code of Federal Regulations.

#### Part 170

##### Section 170.12 Payment of fees.

Paragraphs (c), (d), (e), and (f) are changed to remove the \$150 application fee for reactor license amendments and other approvals.

Within paragraph (e), Approval fees, the current reference to facility standard reference design approvals is changed to remove the application fee and to permit deferral of review and certification fees until the design is referenced, payable thereafter in 20 percent increments as the design is referenced. However, regardless of whether the design is referenced, the full costs of a preliminary design approval (PDA)/final design approval (FDA) will be recovered by the NRC from the holder of the design approval within 5 years from the date of approval. If the design is certified, the five-year period is

extended to 10 years from the date of the design certification with the same proviso that 20 percent of the costs will be payable each time the design is referenced. In the event the standardized design approval application is denied, withdrawn, suspended, or action on the application is postponed, fees will be collected when the review, to that point, is completed and the five (5) installment payment procedure will not apply.

##### Section 170.20 Average cost per professional staff-hour.

This section is modified to reflect an agency-wide professional staff-hour rate based on the FY 1989 budget. The section is also modified to reflect that the hourly rate will be adjusted each fiscal year, with notice of the new rate published in the *Federal Register* if the hourly rate increases or decreases. Accordingly, the professional staff rate for the NRC for FY 1989 is \$86 per hour, or \$150.9 thousand per FTE (professional staff year) rather than \$80 per hour as set forth in the proposed rule. An analysis of the budget which generated this rate is provided in the Part 171 section-by-section analysis. In each subsequent year, the hourly rate will be adjusted to reflect current cost per direct staff FTE.

On August 19, 1987, Part 170 and other regulations under Title 10 of the Code of Federal Regulations were amended to reflect NRC organizational changes. These revisions as published August 21, 1987 (52 FR 31601), in final form, inadvertently changed 10 CFR 170.20 to delete the \$53 hourly rate for regional staff inspection and other identifiable services. In computing costs for invoices, the \$53 hourly rate will continue to be used for regional review staff time until the effective date of this final rule at which time the \$86 hourly rate will be used.

##### Section 170.21 Schedule of fees for production and utilization facilities, review of standard reference design approvals, special projects, and inspections.

Within the schedule of fees, all services (other than most application filing fees) will be changed from the current specified cost to "Full Cost." The schedule for Standard Reference Design Review is modified to reflect the amendment of § 170.12 addressed above.

With the removal of ceilings for certain services, the costs for those reviews for which a ceiling previously established has been reached will not be billed if prior to the effective date of this

rule the review of the application is completed. For administrative reasons, where the review has not yet been completed, NRC will not seek to recover those costs which it incurred after the current ceiling was reached and before this revised rule becomes effective. Costs incurred after the effective date of this final rule will be billed. The professional staff-hours expended up to the effective date of this rule will be at the professional rates established for the June 20, 1984 rule. Any professional hours expended after the effective date of this rule will be assessed at the FY 1989 rates reflected in this final rule. The same applies to the removal of ceilings under the revisions of § 170.31 below. The footnotes to this schedule also are modified to bring them into conformity with the amendments to this schedule.

*Section 170.31 Schedule of fees for materials licenses and other regulatory services.*

Like § 170.21, this section is modified to (a) reflect the removal of ceilings on certain categories of fees, (b) charge full costs for those services, and (c) incorporate the inspection fee schedule previously set forth in § 170.32.

Inspection fee ceilings for selected services are also removed and the remaining fixed fees are retained since the ratio of NRC costs to fees collected is approximately equivalent to the percentage of the budget to be collected into the General Treasury. Currently if the frequency of inspection, for example, for a category is 2 years and an inspection is next conducted 1 year and 11 months after the previous inspection, no fee is assessed. Often times inspections of different licensees are scheduled because of their close proximity. This scheduling represents a more efficient use of resources. Accordingly, § 170.31 and the footnotes are being revised to indicate that fees will be assessed for each inspection conducted by the NRC. Footnotes to the schedule that are affected by this action are revised to be consistent with this revision. Previous inspection footnotes 1 through 4 are now being combined as one footnote and will become 1(e) and footnote 5 remains as 5.

*Section 170.32 Schedule of fees for health, safety, and safeguards inspections for materials licenses.*

Under the proposed rule, § 170.32 was published as a separate schedule to cover inspection fees for materials licensees. The reformatting to include materials inspection fees under § 170.31 is for user convenience and to shorten the rule. By doing this, as in § 170.21, all fees for each license category are now

together rather than in two different schedules. The rule has not been changed from its proposed form. Footnotes have been consolidated and renumbered as specified above.

*Part 171*

The following is a section-by-section analysis of those areas affected by this final rule. All references are to Title 10, Chapter I, Code of Federal Regulations.

*Section 171.5 Definitions.*

The following definitions are being added.

The term "Budgeted obligations" is defined to be the projected obligations of the NRC that likely will result in payments by the NRC during the same or a future fiscal year to provide regulatory services to licensees. Budgeted obligations include, but are not limited to amounts of orders to be placed, contracts to be awarded, and services to be provided to licensees. Fees billed to licensees are based on budgeted obligations because the NRC's annual budget is prepared on an obligation basis.

The term "Overhead costs" is defined to include three components: (1) Government benefits for each employee such as leave and holidays, retirement and disability costs, health and life insurance costs, and social security costs; (2) Travel costs; (3) Direct overhead, e.g., supervision, program support staff, etc.; and (4) Indirect costs, e.g., funding and staff for administrative support activities. Factors have been developed for these overhead costs which are applied to hourly rates developed for employees providing the regulatory services within the categories and activities applicable to specified types or classes of reactors. The Commission views these costs as being reasonably related to the regulatory services provided to the licensees and, therefore, within the meaning of section 7601, COBRA.

*Section 171.13 Notice.*

Under the current rule, one fee is applicable to all licensed reactors. Under this final rule, each reactor will be assessed fees based on those NRC activities from which it benefits as a type or within a class of reactors. Accordingly, annual fees are expected to be different for each of the various types or classes of reactor operating licenses. Each bill will reflect those specific activities applicable to each operating license as required by the revised § 171.15 discussed below.

*Section 171.15 Annual Fee: Power reactor operating licenses.*

Paragraph (c) is modified to reflect a minimum target percentage of 45 percent rather than a maximum percentage of 33 percent. The formula used to calculate the annual fee is modified to reflect the inclusion of moneys expected to be collected from the Nuclear High Level Waste (HLW) Fund administered by the Department of Energy and the estimated collections under Part 170 for each fiscal year. Funds will be collected from the Nuclear HLW fund beginning in FY 1989. The sum of these funds will be subtracted from the amount reflecting 45 percent of the NRC budget prior to determining the annual fee for each licensed power reactor.

In FY 1989, the Commission must recover not less than 45 percent of its congressionally enacted budget of \$420,000,000. Applying the fee rates set out in this rule, the NRC estimates that it will collect in FY 1989 \$50 million pursuant to Part 170 and \$15 million from the Nuclear Waste Fund. In accordance with the formula provided in § 171.15, for FY 1989: \$189 million minus approximately \$50 million for Part 170 plus \$15 million for Nuclear Waste Fund equals approximately \$124 million to be recovered through annual fees. Because at least 45 percent is to be collected, the amount charged under Part 171 will also be dependent on the number of exemptions granted pursuant to § 171.11 and the number of new power reactor licenses issued during the fiscal year.

The following areas are those NRC programs which comprise the annual fee. They have been expressed in terms of the NRC's FY 1989 budget program elements and associated activities in lieu of the FY 1988 activities used in the proposed rule.

| Program element                         | Activity                                                                        |
|-----------------------------------------|---------------------------------------------------------------------------------|
| —Reactor Performance Evaluation.        | —Generic Communications.<br>—Engineering/Safety Assessments.                    |
| —Reactor Maintenance and Surveillance.  | —Maintenance and Surveillance.                                                  |
| —License Performance Evaluation.        | —Quality Assurance.                                                             |
| —License and Examine Reactor Operators. | —Program Development and Assessment/Regional Oversight.<br>—Generic Activities. |
| —Region-Based Inspections.              | —Lab and Technical Support.<br>—Regional Assessment.                            |
| —Specialized Inspections.               | —Vendor Inspections.                                                            |

| Program element                                   | Activity                                                                                                                                                            | Program element                                            | Activity                                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| —Regulatory Improvements.                         | —Technical Specifications.<br>—Safety Goal Implementation.<br>—Inspection/Licensing Integration and Research and Standards Coordination.                            | —Reactor Accident Risk Analysis.                           | —Integrated Codes and Applications.<br>—Hydrogen Transport and Combustion.<br>—Severe Accident Management.<br>—Risk model development.<br>—Risk Uncertainty Methodology.<br>—Risk Rebaseline Analyses.<br>—Risk-Based Management Methodology.                                                                                                                                  |
| —Licensee Reactor Accident Management Evaluation. | —Concept of Operations and Implementing Technical Procedures.<br>—Regional Assistance Committees.                                                                   | —Severe Accident Program Implementation.                   | —Severe Accident Policy Implementation.<br>—Regulatory Application of New Source Terms.<br>—Reduce Uncertainty in Health Risk Estimates.<br>—Health Physics Technology Improvements.<br>—Dose reduction.<br>—Engineering Issues.                                                                                                                                               |
| —Safeguards Licensing and Inspection.             | —Regulatory Effectiveness Reviews.                                                                                                                                  | —Radiation Protection and Health Effects.                  | —Reactor System Issues.<br>—Human Factors Issues.<br>—Severe Accident Issues.<br>—Management of Safety Issue Resolution.<br>—Regulation Development or Modification.<br>—Independent Review and Control of Rulemaking.<br>—Regulatory Analysis of Regulation.<br>—Rules for License Renewal.<br>—Safety Guide Implementation.                                                  |
| —Reactor Vessel and Piping Integrity.             | —Pressure Vessel Safety.<br>—Piping Integrity.<br>—Inspection Procedures and Techniques.<br>—Chemical Effects.<br>—Aging Research.                                  | —Generic and Unresolved Safety Issues.                     | —Manage Performance Indicator Program.<br>—Conduct Diagnostic Evaluations of Licensee Performance.<br>—Management Incident Investigation Program.<br>—Emergency Response Data System.<br>—Develop and Maintain Response Center Equipment, Procedures and Analytical Tools.<br>—Program Coordination and Development.<br>—Operations Officers.<br>—PWR/BWR Technology Training. |
| —Aging of Reactor Components.                     | —Equipment Qualification Methods.<br>—Earth Sciences.<br>—Component Response to Earthquakes.<br>—Validation of Seismic Analysis.<br>—Seismic Design Margin Methods. | —Developing and Improving Regulations.                     | —Analysis of Operational Experience.<br>—Analysis of Operational Trends and Patterns.<br>—Collect, Screen and Feed Back Operational Data.<br>—Operational and Reliability Data Systems.<br>—Section Supervision.                                                                                                                                                               |
| —Reactor Equipment Qualification.                 | —Seismic and Fire Protection Research                                                                                                                               |                                                            |                                                                                                                                                                                                                                                                                                                                                                                |
| —Accident Management...                           | —Individual Plant Examinations.<br>—Ex-Vessel Accident Management.<br>—In-Vessel Accident Management.<br>—External Event Safety Margins.                            | —Performance Indicators...                                 |                                                                                                                                                                                                                                                                                                                                                                                |
| —Reactor Applications.....                        | —Containment/Balance of Plant.<br>—Technical Support Center.<br>—Nuclear Plant Analyzer/Database/Simulator.                                                         | —Diagnostic Evaluations...                                 |                                                                                                                                                                                                                                                                                                                                                                                |
| —Plant Performance.....                           | —B&W Testing.<br>—PWR Large Break LOCA Testing.<br>—PWR Small Break LOCA Testing.<br>—Other Experimental Programs.<br>—Modeling.                                    | —Incident Investigation.....                               |                                                                                                                                                                                                                                                                                                                                                                                |
| —Human Performance.....                           | —Human Factors Research.<br>—Human Error Data Collection and Analysis.                                                                                              | —NRC Incident Response.                                    |                                                                                                                                                                                                                                                                                                                                                                                |
| —Reliability of Reactor Systems.                  | —Performance Indicators.<br>—Plant and Systems Risk and Reliability.<br>—Dependent Failure Analysis.                                                                | —Technical Training Center.<br>—Operational Data Analysis. |                                                                                                                                                                                                                                                                                                                                                                                |
| —Core Melt and Reactor Coolant System Failure.    | —Fission Product Behavior and Chemical Form.<br>—Natural Circulation in the Reactor Coolant System.                                                                 | —Operational Data Collection and Dissemination.            |                                                                                                                                                                                                                                                                                                                                                                                |
| —Reactor Containment Safety.                      | —Core Melt Progression and Hydrogen Generation.<br>—Steam Explosion.<br>—Core/Concrete Interactions.<br>—Direct Containment Heating.                                |                                                            |                                                                                                                                                                                                                                                                                                                                                                                |

Each of these activities is related to providing services to operating nuclear power plants. NRC's efforts in each of these areas contribute to the licensees' continued safe operation of their facilities and therefore are of benefit to them. A broader description of these programs is contained in the NRC's annual budget submission to Congress. See NUREG-1100, Volume 4, "Budget Estimates Fiscal Year 1989" (February 1988).<sup>1</sup> While these activities also provide benefits to the public, because they benefit our licensees, these are not "independent public benefits" as that term is used in user fee case law. Accordingly, it is legally permissible to charge licensees for these services.

Paragraph (c) is being revised to reflect that the basis for each annual fee will be the budgeted obligations for activities (regulatory services) applicable to each nuclear power reactor as one of a type or class of reactors, e.g., boiling water reactors or pressurized water reactors. Using this approach, the Commission will, each year, establish the budgeted obligations (including overhead costs) for each activity on a per reactor unit basis, and establish the total costs for those regulatory services provided to each reactor licensed to operate. NRC labor costs attributable to these activities will be determined using the hourly rates established on the basis of an analysis of direct and indirect (overhead as defined herein) staffing costs attributable to the regulatory services provided.

Paragraphs (d) and (e) of the current rule are being deleted as superfluous to the proposed approach to annual fees.

#### *Supplemental Analysis on Annual Fee Determination Under § 171.15*

Under current legislation, the NRC is to collect and deposit to the General Fund of the Treasury, an amount to approximate but not be less than 45 percent of its budget. In fiscal year 1989 the President's budget for the NRC is \$420.0 million. Thus, in FY 1989 the NRC should collect at least \$189 million. In FY 1989, it is estimated that approximately \$50 million will be collected from specific licensees under Part 170, and \$15 million from the

<sup>1</sup> Copies of NUREG-1100, Vol. 4 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151. A copy is also available for public inspection and/or copying at the NRC Public Document Room, 2120 L Street NW., Lower Level of the Gelman Building, Washington, DC.

Department of Energy High-Level Waste Fund. Thus, the remaining funds, at least \$124 million (\$189 million less \$65 million), will have to be collected under Part 171. A multiplier will be used such that the amount to be collected will be equal to Part 170 collections, plus High-Level Waste Fund collections, plus Part 171 potential collections multiplied by a factor "M," which in FY 1989, will probably be less than one. Thus "M" equals

124

148

or .84 of the budget base.

For FY 1989, the budgeted obligations by direct program are: (1) Salaries and Benefits, \$184.0 million; (2) Administrative Support, \$70.0 million; (3) Travel, \$12.0 million, and (4) Program Support, \$154.0 million. In FY 1989, 1603.4 FTEs are considered to be in direct support of NRC programs applicable to fees (See Table I). About 337 FTEs are utilized in efforts associated with Part 171, with the remainder being utilized in efforts associated with Part 170, or to be recovered from the DOE Nuclear Waste Fund or other efforts. Of the total 3,180 FTEs, 1,577 FTEs will be considered overhead (supervisory and support) or exempted (due to their program function). Of the 3,180 FTEs, a total of 291 FTEs and the resulting \$23.9 million in support are exempted from the fee base due to the nature of their functions (i.e., enforcement activities and other NRC functions currently exempted by Commission policy).

TABLE I.—ALLOCATION OF DIRECT FTEs BY OFFICE

| Office        | Number of direct FTEs <sup>1</sup> |
|---------------|------------------------------------|
| NRR/SP.....   | 968.0                              |
| Research..... | 155.0                              |
| NMSS.....     | 307.2                              |
| AEOD.....     | 93.0                               |
| ASLAP.....    | 5.2                                |
| ASLBP.....    | 17.0                               |
| ACRS.....     | 25.0                               |
| OGC.....      | 33.0                               |
|               | 1603.4                             |

<sup>1</sup> Regional employees are counted in the office of the program each supports.

In determining the cost for each direct labor FTE (an FTE whose position/function is such that it can be identified to a specific licensee or class of licensees) whose function, in the NRC's judgment, is necessary to the regulatory process, the following rationale is used:

1. All such direct FTEs are identified by office.

2. NRC plans, budgets, and controls on the following four major categories (see Table II):

- Salaries and Benefits.
- Administrative Support.
- Travel.
- Program Support.

3. Program Support, the use of contract or other services for which the NRC pays for support from outside the Commission, is charged to various categories as used.

4. All other costs (i.e., Salaries and Benefits, Travel, and Administrative Support) represent "in-house" costs and are to be collected by allocating them uniformly over the total number of direct FTEs.

Although this method differs from previous methods for recovery of costs, it is equally as accurate because it allocates all "in-house" resource requirements over the universe of direct FTEs (those staff members who would be billed to licensees based upon work performed either directly for a specific licensee or a specific group of licensees).

Using this method which was described in the proposed rule and the FY 1989 budget, and excluding budgeted Program Support obligations, the remaining \$242 million allocated uniformly to the direct FTEs (1603.4) results in a calculation of \$150.9 thousand per FTE for FY 1989 (an hourly rate of \$86).

TABLE II.—FY 1989 BUDGET BY MAJOR

CATEGORY

[\$ in Millions]

|                             |       |
|-----------------------------|-------|
| Salaries and benefits.....  | \$184 |
| Administrative support..... | 70    |

TABLE II.—FY 1989 BUDGET BY MAJOR

CATEGORY—Continued

[\$ in Millions]

|                                           |     |
|-------------------------------------------|-----|
| Travel.....                               | 12  |
| Total nonprogram support obligations..... | 266 |
| Program support.....                      | 154 |
| Total budget.....                         | 420 |

The Direct FTE Productive Hourly Rate (\$86/hour rounded down) is calculated by dividing the annual nonprogram support costs (\$266 million) less the amount applicable to exempted functions (\$23.9 million) by the product of the direct FTE (1,603.4 FTE) and the number of productive hours in one year (1,744 hours) as indicated in OBM Circular A-76, "Performance of Commercial Activities."

Because Part 171 is designed to collect fees for NRC efforts of a generic or multi-license nature concerning licensees with power reactor operating licenses, the most feasible method to accomplish this is to develop fees based on NRC budgeted obligations for each NRC generic or multi-licensee program concerning plants with operating licenses. Additionally, because many of the research programs expend effort for specific types of reactors (i.e., Westinghouse, CE, B&W, and GE), containment types (i.e., Mark I, II, III, etc.), or plants in a specific geographic location (e.g., reactors east of the Rockies), these parameters were also used in refining NRC cost by reactor/operating license. Table III presents a summary of Part 171 fees, by reactor category, using the FY 1989 budget for Program Support costs and FTEs.

As can be seen from Table III, a reactor which is a B&W reactor, east of the Rockies would have a fee (\$1,592) imposed which is higher than the fee (\$1,121) imposed on a GE Mark I reactor west of the Rockies. This example also represents the normal range of fees to be charged under Part 171 of \$1,121 thousand to \$1,592 thousand. Table IV provides a detailed presentation of the budgeted obligations by budget program element and activity and shows how the annual fees were determined for the various types of reactors. Table V is a specific listing of the annual fee to be assessed for each reactor in FY 1989.

Table III.—With Minor Adjustments for Plants West of Rockies or Westinghouse Plants With Ice Condensers the Following Apply to Plant/Containment

[Fees in millions]

| Type                                             | No.  | Budget base X.84 | Fee     | Total collection |
|--------------------------------------------------|------|------------------|---------|------------------|
| <b>Part 171 Fees By Reactor Category—Summary</b> |      |                  |         |                  |
| GE Mark I.....                                   | (24) | \$1.349          | \$1.133 | \$27.19          |
| GE Mark II.....                                  | (7)  | 1.443            | 1.212   | 8.48             |

TABLE III.—WITH MINOR ADJUSTMENTS FOR PLANTS WEST OF ROCKIES OR WESTINGHOUSE PLANTS WITH ICE CONDENSERS THE FOLLOWING APPLY TO PLANT/CONTAINMENT—Continued

[Fees in millions]

| Type               | No.  | Budget<br>base X.84 | Fee   | Total<br>collection |
|--------------------|------|---------------------|-------|---------------------|
| GE Mark III .....  | (4)  | 1.373               | 1.153 | 4.61                |
| B&W .....          | (8)  | 1.896               | 1.592 | 12.74               |
| CE .....           | (15) | 1.391               | 1.168 | 17.52               |
| Westinghouse ..... | (48) | 1.352               | 1.135 | 54.48               |
|                    | 106  |                     |       | 125.0               |

## Fee Basis by Vendor/Containment Type—Summary (\$000)

|                        |                   |                                         |                                                                             |
|------------------------|-------------------|-----------------------------------------|-----------------------------------------------------------------------------|
| All GE Mark I's .....  | <sup>1</sup> (24) | \$1,219<br>98<br>18<br>14               | (All).<br>(All BWR).<br>(Mark I).<br>(East of Rockies).                     |
| All GE Mark II's ..... | <sup>1</sup> (7)  | 1,349<br>1,219<br>98<br>70<br>42<br>14  | (All).<br>(All BWRs).<br>(Mark II).<br>(Mark II/III).<br>(East of Rockies). |
| All Mark III's .....   | <sup>1</sup> (4)  | 1,443<br>1,219<br>98<br>42<br>14        | (All).<br>(All BWR).<br>(Mark II/III).<br>(East of Rockies).                |
| All B&Ws .....         | <sup>1</sup> (8)  | 1,373<br>1,219<br>112<br>7<br>544<br>14 | (All).<br>(All PWR).<br>(All PWR-LDC).<br>(All B&W).<br>(East of Rockies).  |
| All CE's .....         | <sup>1</sup> (15) | 1,896<br>1,219<br>112<br>7<br>39<br>14  | (All).<br>(All PWR).<br>(All PWR-LDC).<br>(All CE).<br>(East of Rockies).   |
| All Westinghouse ..... | <sup>1</sup> (48) | 1,391<br>1,219<br>112<br>7<br>14        | (All).<br>(All PWR).<br>(All PWR-LDC).<br>(East of Rockies).                |
|                        |                   | 1,352                                   |                                                                             |

## Fee Basis by Category—Summary (\$000)

|                                            |       |         |  |
|--------------------------------------------|-------|---------|--|
| All Plants .....                           | (106) | \$1,219 |  |
| All PWRs .....                             |       | 112     |  |
| Plus PWRs with LDC .....                   |       | 7       |  |
| Plus All B&Ws or .....                     |       | 544     |  |
| All CE's .....                             |       | 39      |  |
| All BWRs .....                             |       | 98      |  |
| Plus All Mark I's .....                    |       | 18      |  |
| Plus All Mark II's .....                   |       | 70      |  |
| Plus All Mark II's & III's .....           |       | 42      |  |
| All Plants East of Rockies (SEISMIC) ..... |       | 14      |  |

<sup>1</sup> All except plants west of Rockies which pay \$14,000 less.<sup>2</sup> 8 Westinghouse plants with ice condenser are not charged this \$7,000 fee.

TABLE IV.—FEE BASIS FOR ALL REACTORS—DETAIL (\$000)

|                               |   | PT\$      | FTE\$             |
|-------------------------------|---|-----------|-------------------|
| Generic (All Reactors) (106): |   |           |                   |
| NRR/SP.....                   |   | \$4,092   | \$19,949          |
| AEOD.....                     |   | 9,255     | 13,355            |
| RES (All).....                |   | 29,251    | 8,149             |
| RES (PWRs & BWRs).....        |   | 36,212    | 5,915             |
| RES SEISMIC (All).....        |   | 2,603     | 438               |
|                               |   | 81,413    | 47,806            |
| Total.....                    |   |           | \$129,219         |
| Total.....                    | = | \$129,219 | 1,219 Per Reactor |
| Number Reactors.....          | = | 106       |                   |

BILLING CODE 7590-01-M

- 42 -

FEE BASIS FOR ADDITIONAL  
CHARGES BY NUCLEAR STEAM SUPPLY SYSTEM  
VENDOR AND CONTAINMENT TYPE - DETAIL

| <u>PRESSURIZED WATER REACTORS</u>                   |   | PT\$<br>(\$000)      | FTE\$<br>(\$000)       |
|-----------------------------------------------------|---|----------------------|------------------------|
| NSSS, ALL PWRs (71)                                 |   | \$6,200              | \$1,720                |
| TOTAL - PWRs                                        | = |                      | <u>\$7,920</u>         |
| TOTAL                                               | = | $\frac{\$7,920}{71}$ | = \$111.55 Per Reactor |
| NSSS (ALL LARGE DRY CONTAINMENT<br>[LDC] PWRs) (63) |   | \$335                | \$105                  |
| TOTAL PWR LDCs                                      | = |                      | \$ <u>440</u>          |
| TOTAL PWR LDCs                                      | = | \$ <u>440</u>        | = \$6.98 Per Reactor   |
| NUMBER OF REACTORS                                  | = | <u>63</u>            |                        |
| NSSS LDC B&W ONLY (8)                               |   | \$3,975              | \$ 377                 |
| TOTAL LDC - B&Ws                                    |   |                      | <u>\$4,352</u>         |
| TOTAL LDC - B&Ws                                    | = | $\frac{\$4,352}{8}$  | = \$544.00 Per Reactor |
| NUMBER OF REACTORS                                  | = | <u>8</u>             |                        |
| NSSS, LDC - CE ONLY (15)                            |   | \$475                | \$105                  |
| TOTAL LDC - CEs                                     |   |                      | <u>\$ 580</u>          |
| TOTAL LDC - CEs                                     | = | \$ $\frac{580}{15}$  | = \$ 38.67 Per Reactor |
|                                                     |   |                      |                        |
| <u>BOILING WATER REACTORS</u>                       |   |                      |                        |
| NSSS, ALL BWRs (35)                                 |   | \$3,048              | \$377                  |
| TOTAL - BWRs                                        | = |                      | <u>\$3,425</u>         |
| TOTAL BWRs                                          | = | $\frac{3,425}{35}$   | = \$97.86 Per Reactor  |
| NUMBER OF REACTORS                                  | = | <u>35</u>            |                        |

- 43 -

|                                                     | PTS\$<br>(\$000)          | FTE\$<br>(\$000)          |
|-----------------------------------------------------|---------------------------|---------------------------|
| NSSS, BWRs (Mark I) (24)                            | \$ 400                    | \$30                      |
| TOTAL MARK I                                        |                           | <u>\$ 430</u>             |
| TOTAL MARK Is =<br>NUMBER OF REACTORS =             | $\frac{\$430}{24} =$      | \$17.92<br>Per<br>Reactor |
| NSSS, BWRs (MARK II) (7)                            | \$400                     | \$ 90                     |
| TOTAL MARK II                                       |                           | <u>\$490</u>              |
| TOTAL MARK IIs =<br>NUMBER OF REACTORS =            | $= \$ \frac{490}{7} =$    | \$70.00<br>Per<br>Reactor |
| NSSS, BWRs (TOTAL MARK II/MARK III)<br>(7/4)        | \$325                     | \$135                     |
| TOTAL MARK II/MARK III S                            |                           | <u>\$460</u>              |
| TOTAL MARK II/MARK IIIs =<br>NUMBER OF REACTORS =   | $\frac{\$460}{11} =$      | \$41.82<br>Per<br>Reactor |
| SEISMIC WORK - ALL PLANTS                           | \$2,603                   | \$438                     |
| TOTAL SEISMIC - ALL PLANTS                          |                           | <u>\$3,041</u>            |
| TOTAL SEISMIC ALL PLANTS<br>NUMBER OF REACTORS =    | $= \frac{\$3,041}{106} =$ | \$28.69<br>Per<br>Reactor |
| SEISMIC WORK (APPLICABLE PLANTS<br>EAST OF ROCKIES) | \$1,220                   | \$151                     |
| TOTAL EAST OF ROCKIES                               |                           | <u>\$1,371</u>            |
| TOTAL EAST OF ROCKIES<br>NUMBER OF PLANTS =         | $= \frac{\$1,371}{95} =$  | \$14.43<br>Per<br>Reactor |

|                                                                               | FY 1989            |       |
|-------------------------------------------------------------------------------|--------------------|-------|
|                                                                               | Program support \$ | FTE   |
| Part 171 Work by NRR<br>Generic Effort—All Plants                             |                    |       |
| 1. Reactor Performance Evaluation:                                            |                    |       |
| a. Generic Communications.....                                                | \$0                | 10.5  |
| b. Engineering/Safety Assessments.....                                        | 387                | 6.4   |
| 2. Reactor Maintenance and Surveillance.....                                  | 175                | 2.2   |
| 3. Licensee Performance Evaluation Quality Assurance Program.....             | 0                  | 4.5   |
| 4. License and Examine Reactor Operators:                                     |                    |       |
| a. Program Development and Assessment/Regional Oversight.....                 | 0                  | 8.1   |
| 5. Region-Based Inspections:                                                  |                    |       |
| a. Lab and Technical Support.....                                             | 670                | 10.6  |
| b. Regional Assessment.....                                                   | 0                  | 0     |
| 6. Specialized Inspections, Vendor Inspections.....                           | 815                | 15.1  |
| 7. Section Supervision.....                                                   | 0                  | 37.3  |
| 8. Regulatory Improvements:                                                   |                    |       |
| a. Technical Specifications.....                                              | 345                | 11.9  |
| b. Safety Goal Implementation.....                                            | 0                  | .6    |
| c. Generic Issues/Rules/Reg. Guides/Policy.....                               | 150                | 11.4  |
| 9. Licensee Reactor Accident Management Evaluation:                           |                    |       |
| a. Emergency Procedures.....                                                  | 1,115              | 5.2   |
| b. Regional Assistance Committees.....                                        | 0                  | 2.0   |
| 10. Safeguards Licensing and Inspection Regulatory Effectiveness Reviews..... | 435                | 6.4   |
| Total Part 171.....                                                           | \$4,092            | 132.2 |

FTE = 132.2X\$150.9      \$19,949  
 PTS                      4,092  
 Total—NRR—(All Plants) =      \$24,041

|                                                       | FY 1989            |      |
|-------------------------------------------------------|--------------------|------|
|                                                       | Program support \$ | FTE  |
| Part 171 Work by AEOD<br>Generic Effort—All Plants    |                    |      |
| 1. Diagnostic Evaluations.....                        | \$0                | 2.0  |
| 2. Incident Investigation.....                        | 50                 | 2.5  |
| 3. NRC Incident Response.....                         | 2,635              | 27.0 |
| 4. Technical Training Center.....                     | 2,650              | 22.0 |
| 5. Operational Data Analysis.....                     | 2,020              | 25.0 |
| 6. Performance Indicators.....                        | 150                | 4.0  |
| 7. Operational Data Collection and Dissemination..... | 1,750              | 6.0  |
| Total Part 171 Work by AEOD.....                      | \$9,255            | 88.5 |

FTE = 88.5X\$150.9 =      \$13,355  
 PTS                      9,255  
 Total-AEOD = (All Plants) =      \$22,610

|                                                                       | PTS \$ (\$000) | FTE |
|-----------------------------------------------------------------------|----------------|-----|
| Part 171 Work by Research                                             |                |     |
| A. Generic Efforts—All Plants                                         |                |     |
| Aging of Reactor Components Aging Research.....                       | 6,246          | 6.7 |
| Reactor Equipment Qualifications—Equipment Qualification Methods..... | 400            | .3  |
| Component Response to Earthquakes.....                                | 2,460          | 2.6 |
| Validation of Seismic Analysis.....                                   | 1,200          | 1.0 |
| Seismic Design Margin Methods.....                                    | 350            | .7  |
| Prevent Reactor Core Damage.....                                      | 200            | .3  |
| • Other Experimental Programs.....                                    |                |     |
| • Modeling.....                                                       | 50             | 0   |
| Human Performance—                                                    |                |     |
| • Human Factors Research.....                                         | 3,020          | 3.8 |
| • Human Error Data Collections and Analysis.....                      | 936            | 1.2 |
| Reliability of Reactor System—Performance Indicators.....             | 800            | 1.5 |
| Plant & System Risk & Reliability.....                                | 1,411          | 2.4 |
| Dependent Failure Analysis.....                                       | 225            | .2  |

|                                                                                              | PTS \$ (\$000) | FTE  |
|----------------------------------------------------------------------------------------------|----------------|------|
| Individual Plant Exams.....                                                                  | 1,490          | 1.1  |
| Reactor Containment Structural Integrity.....                                                | 2,970          | 2.3  |
| Regulatory Application of New Source Terms.....                                              | 25             | 1.0  |
| Radiation Protection of Health Effects—Reduce Uncertainty in Health Risk Estimates.....      | 835            | 1.8  |
| Health Physics Technology Improvements.....                                                  | 415            | 1.5  |
| Dose Reduction.....                                                                          | 825            | 1.5  |
| Generic and Unresolved Safety Issues.....                                                    | 790            | 6.2  |
| Reactor System Issues.....                                                                   | 150            | 1.2  |
| Human Factors Issues.....                                                                    | 1,000          | 1.3  |
| Severe Accident Issues.....                                                                  | 370            | 1.0  |
| Management of Safety Issues Resolution.....                                                  | 300            | 6.5  |
| Regulation Development and Modification.....                                                 | 350            | 2.9  |
| Regulatory Analysis of Regulations.....                                                      | 1,044          | 3.0  |
| Rule for License Renewal.....                                                                | 1,190          | 1.0  |
| Safety Goal Implementation.....                                                              | 200            | 1.0  |
| Generic Efforts—All Reactors—Total =                                                         | \$29,251       | 54.0 |
| B. Generic Efforts—All Plants Except HTGR                                                    |                |      |
| Integrity of Reactor Component—Reactor Vessel & Piping Integrity—Pressure Vessel Safety..... | 8,195          | 2.6  |
| Piping Integrity.....                                                                        | 1,385          | .5   |
| Inspection Procedures and Techniques.....                                                    | 1,280          | .9   |
| Chemical Effects.....                                                                        | 2,050          | 4.0  |
| Aging of Reactor Components—Aging Research.....                                              | 950            | 1.1  |
| Reactor Equipment Qualification—Standards Development.....                                   | 455            | .4   |
| Prevent Reactor Core Damage—Modeling.....                                                    | 450            | .4   |
| Reactor Applications—Containment/Balance of Plant.....                                       | 460            | 1.0  |
| Technical Support Center.....                                                                | 1,050          | 1.2  |
| NPA/Database/Simulator.....                                                                  | 400            | .8   |
| Accident Management—Vessel Accident Management.....                                          | 1,050          | 1.5  |
| In-Vessel Accident Management.....                                                           | 1,400          | 1.5  |
| External Events Safety Margins.....                                                          | 325            | .4   |
| Core Melt Progression and H2 Generation.....                                                 | 3,820          | 1.8  |
| Natural Circulation in the RCS.....                                                          | 690            | 1.0  |
| Steam Explosions.....                                                                        | 185            | 0    |
| Fission Product Behavior and Chemical Form.....                                              | 990            | .8   |
| Reactor Containment Safety—Core Concrete Interaction.....                                    | 1,750          | .8   |
| Hydrogen Transport and Combustion.....                                                       | 650            | 1.0  |
| Integrated Codes and Applications.....                                                       | 2,762          | 2.1  |
| Reactor Accident Risk Analysis—Assessment of Plant Risks.....                                | 300            | .5   |
| Risk Model Development, QA and Maintenance.....                                              | 2,025          | 3.0  |
| Risk Model Applications.....                                                                 | 2,690          | 2.0  |
| Severe Accident Policy Implementation.....                                                   | 200            | .6   |
| Regulatory Application of New Source Term.....                                               | 125            | 5.0  |
| Generic and Unresolved Safety Issues—Engineering Issues.....                                 | 75             | .6   |
| Reactor System Issues.....                                                                   | 500            | 3.7  |
| Total (PWRs & BWRs).....                                                                     | \$36,212       | 39.2 |
| C. Seismic—All Plants                                                                        |                |      |
| Seismic and Fire Protection—Earth Sciences.....                                              | 2,270          | 1.8  |
| Reactor Accident Risk Analysis—Assessment of Plant Risks.....                                | 273            | .5   |
| Resolve Safety Issues and Developing Regulations—Engineering Issues.....                     | 60             | .6   |
| Total \$3,041k.....                                                                          | 2,603          | 2.9  |
| D. Seismic—Plants East of Rockies                                                            |                |      |
| Seismic and Fire Protection—Earth Sciences.....                                              | 1,220          | 1.0  |
| E. Seismic—Plants West of Rockies                                                            |                |      |
| total = \$0.....                                                                             | 0              | 0    |
| F. Nuclear Steam Supply System                                                               |                |      |
| (PWR only).....                                                                              |                |      |
| Integrity of Reactor Component:                                                              |                |      |
| Piping Integrity.....                                                                        | 100            | 0    |
| Inspection Procedures and Techniques.....                                                    | 170            | .1   |
| Prevent Reactor Core Damage—PWR Large Break LOCA Testing.....                                | 1,000          | .9   |
| PWR Small Break LOCA Testing.....                                                            | 300            | .4   |
| Modeling.....                                                                                | 1,700          | 1.5  |
| Core Melt Progression and H2 Generation.....                                                 | 300            | .2   |
| Fission Product Behavior and Chemical Form.....                                              | 300            | .2   |
| Direct Containment Heating.....                                                              | 1,620          | 1.0  |
| Resolving Safety Issues and Developing Regulations—Engineering Issues.....                   | 235            | 2.4  |
| Reactor System Issues.....                                                                   | 475            | 4.7  |
| Total NSSS—PWR Only.....                                                                     | \$6,200        | 11.4 |
| G. NSSS—All Large Dry Containments—(PWRs Only)                                               |                |      |
| Severe Accident Implementation—Severe Accident Policy Implementation.....                    | 225            | .6   |
| Resolving Safety Issues and Developing Regulations—Reactor.....                              | 110            | .1   |
| System Issues.....                                                                           | 335            | .7   |

|                                                                      | PTS \$ (\$000) | FTE |
|----------------------------------------------------------------------|----------------|-----|
| H. NSSS PWR LDC—(Westinghouse only)                                  | 0              | 0   |
| I. NSSS LDC (B&W Only)                                               |                |     |
| Prevent Reactor Core Damage—Plant Performance—B&W Testing            | 3,500          | 1.8 |
| Reactor Accident Risk Analysis—Assessment of Plant Risks             | 475            | .7  |
|                                                                      | 475            | 2.5 |
| J. NSSS CCE—Large Dry Containments                                   |                |     |
| Reactor Accident Risk Analysis—assessment Plant Risks                | 475            | .7  |
| K. NSSS—(BWR Only)                                                   |                |     |
| Integrity of Reactor Component Piping Integrity                      | 1,080          | .5  |
| Prevent Reactor Core Damage—Modeling                                 | 800            | .7  |
| Reactor Containment Safety—Integrated Codes and Applications         | 1,128          | .9  |
| Resolve Safety Issues                                                | 40             | .4  |
|                                                                      | \$3,048        | 2.5 |
| L. GE—Mark I                                                         |                |     |
| Reactor Containment Safety—Core/Concrete Interactions                | 400            | .2  |
| M. GE—Mark II                                                        |                |     |
| Reactor Accident Risk Analysis—Assessment of Plant Risks             | 400            | .6  |
| N. GE—Mark II & III                                                  |                |     |
| Severe Accident Implementation—Severe Accident Policy Implementation | 325            | .9  |

The costs to NRC for these programs should be paid for on a prorata basis, by all plants included in the specified categories. By adding the program support costs to the NRC staff cost for each category of effort and prorating these costs over the population (plants) of that category, a fee is established which requires those licensees who require the greatest expenditure of NRC resources to pay the largest annual fee.

TABLE V.—ANNUAL FEES FOR OPERATING POWER REACTORS, FY 1989

|                        | Containment type           | Annual fee  |
|------------------------|----------------------------|-------------|
| Westinghouse reactors: |                            |             |
| 1. Beaver Valley 1     | PWR—Large dry containment. | \$1,135,000 |
| 2. Beaver Valley 2     | do                         | 1,135,000   |
| 3. Braidwood 1         | do                         | 1,135,000   |
| 4. Braidwood 2         | do                         | 1,135,000   |
| 5. Byron 1             | do                         | 1,135,000   |
| 6. Byron 2             | do                         | 1,135,000   |
| 7. Callaway 1          | do                         | 1,135,000   |
| 8. Diablo Canyon 1     | do                         | 1,124,000   |
| 9. Diablo Canyon 2     | do                         | 1,124,000   |
| 10. Farley 1           | do                         | 1,135,000   |
| 11. Farley 2           | do                         | 1,135,000   |
| 12. Ginna              | do                         | 1,135,000   |
| 13. Haddam Neck        | do                         | 1,135,000   |
| 14. Harris 1           | do                         | 1,135,000   |
| 15. Indian Point 2     | do                         | 1,135,000   |
| 16. Indian Point 3     | do                         | 1,135,000   |
| 17. Kewaunee           | do                         | 1,135,000   |
| 18. Millstone 3        | do                         | 1,135,000   |
| 19. North Anna 1       | do                         | 1,135,000   |
| 20. North Anna 2       | do                         | 1,135,000   |
| 21. Point Beach 1      | do                         | 1,135,000   |

TABLE V.—ANNUAL FEES FOR OPERATING POWER REACTORS, FY 1989—Continued

|                                  | Containment type           | Annual fee |
|----------------------------------|----------------------------|------------|
| 22. Point Beach 2                | do                         | 1,135,000  |
| 23. Prairie Island 1             | do                         | 1,135,000  |
| 24. Prairie Island 2             | do                         | 1,135,000  |
| 25. Robinson 2                   | do                         | 1,135,000  |
| 26. Salem 1                      | do                         | 1,135,000  |
| 27. Salem 2                      | do                         | 1,135,000  |
| 28. San Onofre 1                 | do                         | 1,124,000  |
| 29. Seabrook 1                   | do                         | 1,135,000  |
| 30. South Texas 1                | do                         | 1,135,000  |
| 31. Summer 1                     | do                         | 1,135,000  |
| 32. Surry 1                      | do                         | 1,135,000  |
| 33. Surry 2                      | do                         | 1,135,000  |
| 34. Trojan                       | do                         | 1,124,000  |
| 35. Turkey Point 3               | do                         | 1,135,000  |
| 36. Turkey Point 4               | do                         | 1,135,000  |
| 37. Vogtle 1                     | do                         | 1,135,000  |
| 38. Wolf Creek 1                 | do                         | 1,135,000  |
| 39. Zion 1                       | do                         | 1,135,000  |
| 40. Zion 2                       | do                         | 1,135,000  |
| 41. Catawba 1                    | PWR—Ice condenser.         | 1,130,000  |
| 42. Catawba 2                    | do                         | 1,130,000  |
| 43. Cook 1                       | do                         | 1,130,000  |
| 44. Cook 2                       | do                         | 1,130,000  |
| 45. McGuire 1                    | do                         | 1,130,000  |
| 46. McGuire 2                    | do                         | 1,130,000  |
| 47. Sequoyah 1                   | do                         | 1,130,000  |
| 48. Sequoyah 2                   | do                         | 1,130,000  |
| Combustion engineering reactors: |                            |            |
| 1. Arkansas 2                    | PWR—Large dry containment. | 1,168,000  |
| 2. Calvert Cliffs 1              | do                         | 1,168,000  |
| 3. Calvert Cliffs 2              | do                         | 1,168,000  |
| 4. Ft. Calhoun 1                 | do                         | 1,168,000  |
| 5. Maine Yankee                  | do                         | 1,168,000  |

TABLE V.—ANNUAL FEES FOR OPERATING POWER REACTORS, FY 1989—Continued

|                            | Containment type           | Annual fee |
|----------------------------|----------------------------|------------|
| 6. Millstone 2             | do                         | 1,168,000  |
| 7. Palisades               | do                         | 1,168,000  |
| 8. Palo Verde 1            | do                         | 1,157,000  |
| 9. Palo Verde 2            | do                         | 1,157,000  |
| 10. Palo Verde 3           | do                         | 1,157,000  |
| 11. San Onofre 2           | do                         | 1,157,000  |
| 12. San Onofre 3           | do                         | 1,157,000  |
| 13. St. Lucie 1            | do                         | 1,168,000  |
| 14. St. Lucie 2            | do                         | 1,168,000  |
| 15. Waterford 3            | do                         | 1,168,000  |
| Babcock & Wilcox reactors: |                            |            |
| 1. Arkansas 1              | PWR—Large dry containment. | 1,592,000  |
| 2. Crystal River 3         | do                         | 1,592,000  |
| 3. Davis Besse 1           | do                         | 1,592,000  |
| 4. Oconee 1                | do                         | 1,592,000  |
| 5. Oconee 2                | do                         | 1,592,000  |
| 6. Oconee 3                | do                         | 1,592,000  |
| 7. Rancho Seco 1           | do                         | 1,581,000  |
| 8. Three Mile Island 1     | do                         | 1,592,000  |
| General Electric plants:   |                            |            |
| 1. Browns Ferry 1          | Mark I                     | 1,133,000  |
| 2. Browns Ferry 2          | do                         | 1,133,000  |
| 3. Browns Ferry 3          | do                         | 1,133,000  |
| 4. Brunswick 1             | do                         | 1,133,000  |
| 5. Brunswick 2             | do                         | 1,133,000  |
| 6. Clinton 1               | Mark III                   | 1,153,000  |
| 7. Cooper                  | Mark I                     | 1,133,000  |
| 8. Dresden 2               | do                         | 1,133,000  |
| 9. Dresden 3               | do                         | 1,133,000  |
| 10. Duane Arnold           | do                         | 1,133,000  |
| 11. Fermi 2                | do                         | 1,133,000  |
| 12. Fitzpatrick            | do                         | 1,133,000  |

TABLE V.—ANNUAL FEES FOR OPERATING POWER REACTORS, FY 1989—Continued

|                              | Containment type                  | Annual fee |
|------------------------------|-----------------------------------|------------|
| 13. Grand Gulf 1.            | Mark III                          | 1,153,000  |
| 14. Hatch 1                  | Mark I                            | 1,133,000  |
| 15. Hatch 2                  | do                                | 1,133,000  |
| 16. Hope Creek 1.            | do                                | 1,133,000  |
| 17. LaSalle 1                | Mark II                           | 1,212,000  |
| 18. LaSalle 2                | Mark II                           | 1,212,000  |
| 19. Limerick 1               | do                                | 1,212,000  |
| 20. Millstone 1              | Mark I                            | 1,133,000  |
| 21. Monticello               | do                                | 1,133,000  |
| 22. Nine Mile Point 1.       | do                                | 1,133,000  |
| 23. Nine Mile Point 2.       | Mark II                           | 1,212,000  |
| 24. Oyster Creek             | Mark I                            | 1,133,000  |
| 25. Peach Bottom 2.          | do                                | 1,133,000  |
| 26. Peach Bottom 3.          | do                                | 1,133,000  |
| 27. Perry 1                  | Mark III                          | 1,153,000  |
| 28. Pilgrim 1                | Mark I                            | 1,133,000  |
| 29. Quad Cities 1.           | do                                | 1,133,000  |
| 30. Quad Cities 2.           | do                                | 1,133,000  |
| 31. River Bend 1.            | Mark III                          | 1,153,000  |
| 32. Susquehanna 1.           | Mark II                           | 1,212,000  |
| 33. Susquehanna 2.           | do                                | 1,212,000  |
| 34. Vermont Yankee           | Mark I                            | 1,133,000  |
| 35. Washington Nuclear 2.    | Mark II                           | 1,200,000  |
| Other Reactors: <sup>1</sup> |                                   |            |
| 1. Three Mile Island 2.      | B&W—PWR—Dry containment.          | 1,592,000  |
| 2. Shoreham                  | GE—Mark II                        | 1,212,000  |
| 3. Big Rock Point            | GE—Dry containment.               | 1,118,000  |
| 4. Yankee Rowe               | Westinghouse—PWR—Dry containment. | 1,135,000  |
| 5. Ft. St. Vrain             | High temperature gas cooled.      | 822,000    |

<sup>1</sup> These licensed reactors have not been included in the fee base since historically they have been granted either full or partial exemptions from the annual fees. The fees shown for these reactors are those fees for the particular type of reactor, no adjustments have been made based on size or particular circumstance of the reactor. Nonetheless, unless full waivers are granted, these licensees will pay at least a portion of the amount specified above.

#### Section 171.21 Refunds.

This section is being eliminated. Under current legislation, at least 45 percent should be collected. No refunds will be provided, although the fees will be calculated in such a manner as to not greatly exceed the 45 percent floor imposed by the legislation.

#### V. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described

in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

#### VI. Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

#### VII. Regulatory Analysis

Section 7601 of COBRA required the NRC, by rule, to establish an annual charge for regulatory services provided to its applicants and licensees, that when added to other amounts collected, equaled up to 33 percent of Commission costs in providing those services. Section 5601 of the Omnibus Budget Reconciliation Act of 1987 requires that the NRC, for the fiscal years 1988 and 1989, increase the moneys collected pursuant to section 7601 and other authority to at least 45 percent of the Commission's costs. For FY 1988, the NRC issued an interim rule which raised the collection of annual fees to be at least 45 percent of its budget and accordingly raised the annual fee for operating power reactors. For FY 1989 the NRC is revising its fee schedules in 10 CFR Part 170 to remove the fee ceilings on certain categories, to revise its professional hourly rate to reflect inflationary and other increases since FY 1981, to revise the ceiling of 33 percent contained in 10 CFR Part 171 to a target which approximates but will be at least 45 percent, and to include the collection of moneys from the High Level Waste Fund administered by the Department of Energy.

This final rule will not have significant impacts on state and local governments and geographical regions; on health, safety, and the environment; or, create substantial costs to licensees, the NRC, or other Federal agencies. The foregoing discussion constitutes the regulatory analysis for this final rule.

#### VIII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. In the notice of proposed rulemaking published on June 27, 1988 (53 FR 24085), the NRC invited any licensee who considered itself to be a small entity subject to this regulation who determines that, because of its size, it is likely to bear a disproportionate

adverse economic impact to notify the Commission by providing responses to four general questions. The proposed rule was mailed to approximately 10,000 licensees under 10 CFR Parts 30 through 35, 39, 40, 50, 60, 61 and 70 through 73. About 9,000 of the licensees could be considered small entities, particularly in the area of materials licensing under 10 CFR Parts 30 through 35 and 39. Of the 32 letters of comments received, only twelve were from licensees in the materials category and interest area. Of the twelve, only one licensee addressed the four questions on the impact as a small entity. This commenter was concerned that the removal of ceilings for topical reports, dry storage systems, and transport packages would have a much greater impact on that company than it would on a larger company and place an unfair competitive burden on small entities. It is readily recognized that this final rule will cause some licensees to pay more fees for topical report reviews and other services. However, the financial impact is related to the services provided by the NRC. The size of the licensee is not a factor in the costs imposed. Based upon the number of comments received on the proposed rule and on analysis of these comments, the NRC believes that this rule will not have a significant economic impact upon a substantial number of small entities.

#### IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for it because the final rule does not impose any new, more stringent safety requirements on Part 50 licensees.

#### List of Subjects

##### 10 CFR Part 170

Byproduct material, Nuclear materials, Nuclear power plants and reactors, Penalty, Source material, Special nuclear material.

##### 10 CFR Part 171

Annual charges, Nuclear power plants and reactors, Penalty.

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 AND MATERIALS 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: 31 U.S.C. 9701, 96 Stat. 1051; sec. 301, Pub. L. 92-314, 86 Stat. 222 (42 U.S.C. 2201w); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. In § 170.12, paragraphs (b) through (g) are revised to read as follows:

**§ 170.12 Payment of fees.**

(b) *License fees.* Fees for applications for permits and licenses that are subject to fees based on the full cost of the reviews are payable upon notification by the Commission. Each applicant will be billed at six-month intervals for all accumulated costs for each application the applicant has on file for review by the Commission until the review is completed. Each bill will identify the applications and costs related to each. Fees for applications for materials licenses not subject to full cost recovery must accompany the application when it is filed.

(c) *Amendment fees and other required approvals.* Fees for applications for license amendments, other required approvals and requests for dismantling, decommissioning and termination of licensed activities that are subject to full cost recovery are payable upon notification by the Commission. Each applicant will be billed at six-month intervals for all accumulated costs for each application the applicant has on file for review by the Commission, until the review is completed. Each bill will identify the applications and costs related to each. Amendment fees for materials licenses and approvals not subject to full cost reviews must accompany the application when it is filed.

(d) *Renewal fees.* Fees for applications for renewals that are subject to full cost of the review are payable upon notification by the Commission. Each applicant will be billed at six-month intervals for all accumulated costs on each application that the applicant has on file for review by the Commission until the review is completed. Each bill will identify the applications and the costs related to each. Renewal fees for materials licenses and approvals not subject to full cost reviews must accompany the application when it is filed.

(e) *Approval fees.* (1) Applications for transportation casks, packages, and shipping container approvals, spent fuel

storage facility design approvals, and construction approvals for plutonium fuel processing and fabrication plants must be accompanied by an application fee of \$150.

(2) There is no application fee for standardized design approvals. The review fees for facility reference standardized design approvals and certifications will be paid by the holder of the design approval or certification in five (5) installments based on payment of 20 percent of the application and approval/certification fee (see footnote 4 to § 170.21) as each of the first five units of the approved/certified design is referenced in an application(s) filed by a utility or utilities. If the design(s) is not referenced or if all costs are not recovered within 5 years after the preliminary design approval (PDA) or the final design approval (FDA), the vendor applicant will pay the costs, or remainder of those costs, at that time. If the design is certified, the five-year deferral period is extended to ten years from the certification with the same proviso that 20 percent of the costs will be payable each time the design is referenced.

(3) Fees for other applications that are subject to full cost reviews are payable upon notification by the Commission. Each applicant will be billed at six-month intervals until the review is completed. Each bill will identify the applications and the costs related to each. Fees for applications for materials approvals that are not subject to full cost recovery must accompany the application when it is filed.

(f) *Special project fees.* Fees for applications for special projects such as topical reports, are based on full cost of the reviews and are payable upon notification by the Commission. Each applicant will be billed at six-month intervals until the review is completed. Each bill will identify the applications and the costs related to each. All applications filed pursuant to § 170.31 must be accompanied by the \$150 application fee.

(g) *Inspection fees.* Fees for all routine and non-routine inspections will be assessed on a per inspection basis, and will be billed quarterly if they are based on full cost recovery. Inspection fees for small materials programs are billed upon completion of the inspection. Inspection fees are payable upon notification by the Commission. Inspection costs include preparation time, time on site and documentation time and any associated contractual service costs but exclude the time

involved in the processing and issuance of a notice of violation or civil penalty.

3. Section 170.20 is revised to read as follows:

**§ 170.20 Average cost per professional staff-hour.**

Fees for permits, licenses, amendments, renewals, special projects, Part 55 requalification and replacement examinations and tests, other required approvals and inspections under §§ 170.21, 170.31 and 170.32 will be calculated based upon the full costs for the review using a professional staff rate per hour equivalent to the sum of the average cost to the agency for a professional staff member, including salary and benefits, administrative support and travel. The professional staff rate will be revised on a fiscal year basis using the most current fiscal data available and the revised hourly rate will be published in the *Federal Register* for each fiscal year if the rate increases or decreases. The professional staff rate for the NRC for FY 89 is \$86 per hour.

4. Section 170.21 is revised to read as follows:

**§ 170.21 Schedule of fees for production and utilization facilities, review of standard reference design approvals, special projects, and inspections.**

Applicants for construction permits, manufacturing licenses, operating licenses, approvals of facility standard reference designs, requalification and replacement examinations for reactor operators, and special projects and holders of construction permits, licenses, and other approvals shall pay fees for the following categories of services.

**SCHEDULE OF FACILITY FEES**

(See footnotes at end of table)

| Facility categories and type of fees                                              | Fees <sup>1, 2</sup> |
|-----------------------------------------------------------------------------------|----------------------|
| <b>A. Nuclear Power Reactors</b>                                                  |                      |
| Application for Construction Permit.....                                          | \$125,000.           |
| Construction Permit, Operating License.                                           | Full cost.           |
| Amendment, Renewal, Dismantling-Decommissioning and Termination, Other Approvals. | Full cost.           |
| Inspections <sup>3</sup> .....                                                    | Full cost.           |
| <b>B. Standard Reference Design Review <sup>4</sup></b>                           |                      |
| Preliminary Design Approvals, Final Design Approvals, Certification.              | Full cost.           |
| Amendment, Renewal, Other Approvals.                                              | Full cost.           |
| <b>C. Test Facility/Research Reactor/Critical Facility</b>                        |                      |
| Application for Construction Permit.....                                          | \$5,000.             |
| Construction Permit, Operating License.                                           | Full cost.           |

## SCHEDULE OF FACILITY FEES—Continued

[See footnotes at end of table]

| Facility categories and type of fees                                              | Fees <sup>1,2</sup> |
|-----------------------------------------------------------------------------------|---------------------|
| Amendment, Renewal, Dismantling-Decommissioning and Termination, Other Approvals. | Full cost.          |
| Inspections <sup>3</sup>                                                          | Full cost.          |
| D. Manufacturing License                                                          |                     |
| Application                                                                       | \$125,000.          |
| Preliminary Design Approval, Final Design Approval.                               | Full cost.          |
| Amendment, Renewal, Other Approvals.                                              | Full cost.          |
| Inspections <sup>3</sup>                                                          | Full cost.          |
| E. Uranium Enrichment Plant                                                       |                     |
| Application for Construction Permit                                               | \$125,000.          |
| Construction Permit, Operating License.                                           | Full cost.          |
| Amendment, Renewal, Other Approvals.                                              | Full cost.          |
| Inspections <sup>3</sup>                                                          | Full cost.          |
| F. Advanced Reactors                                                              |                     |
| Application for Construction Permit                                               | \$125,000.          |
| Construction Permit, Operating License.                                           | Full cost.          |
| Amendment, Renewal, Other Approvals.                                              | Full cost.          |
| Inspections <sup>3</sup>                                                          | Full cost.          |
| G. Other Production and Utilization Facility                                      |                     |
| Application for Construction Permit                                               | \$125,000.          |
| Construction Permit, Operating License.                                           | Full cost.          |
| Amendment, Renewal, Other Approvals.                                              | Full cost.          |
| Inspections <sup>3</sup>                                                          | Full cost.          |
| H. Production or Utilization Facility Permanently Closed Down                     |                     |
| Inspections <sup>3</sup>                                                          | Full cost.          |
| I. Part 55 Reviews                                                                |                     |
| Requalification and Replacement Examinations for Reactor Operators.               | Full cost.          |
| J. Special Projects                                                               |                     |
| Approvals                                                                         | Full cost.          |

<sup>1</sup> Fees will not be charged for orders issued by the Commission pursuant to § 2.204 of this chapter nor for amendments resulting specifically from such Commission orders. Fees will be charged for approvals issued pursuant to a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., §§ 50.12, 73.5), and any other sections now or hereafter in effect regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. Fees for licenses in this schedule that are initially issued for less than full power are based on review through the issuance of a full power license (generally full power is considered 100% of the facility's full rated power). Thus, if a licensee received a low power license or a temporary license for less than full power and subsequently receives full power authority (by way of license amendment or otherwise), the total costs for the license will be determined through that period when authority is granted for full power operation. If a situation arises in which the Commission determines that full operating power for a particular facility should be less than 100% of full rated power, the total costs for the license will be at that decided lower operating power level and not at the 100% capacity.

<sup>2</sup> All charges will be based on expenditures for professional staff time and appropriate contractual support services. However, in no event will the charges be less than the application fee or, where no application fee is specified, will charges be less than \$150. For those applications currently in file, the professional staff hours expended for the review of the application up to the effective date of this rule will be determined at the professional rates estab-

lished for the June 20, 1984 rule. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984 rule, but are still pending completion of the review, the costs incurred after the ceiling was reached up to the effective date of this rule will not be billed to the applicant. Any professional hours expended on or after the effective date of this rule will be assessed at the rate established by § 170.20. This rate will be reviewed and adjusted annually as necessary to take into consideration increased or decreased costs to the Commission. If such rate increases or decreases in a given fiscal year, the new rate will be published in the *Federal Register*. In the event a review covers a combination of licensing actions in a one-step licensing process such as a combined construction permit and operating license review (interim, temporary, or other), the fees charged will be the total of the costs for the licensing action.

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

<sup>4</sup> Collection of the review costs for a preliminary design approval (PDA) and final design approval (FDA) are deferred, respectively, for a period of five years from the approval; except that, if the design is referenced during that period, 20 percent of the total costs will be payable by the holder of the design approval or certificate as each reference is made until the full costs are paid. If the design is certified, the five year deferral period is extended to 10 years from the certification, with the same proviso that 20 percent of the costs will be payable each time the design is referenced. In the event the full costs are not recovered by the end of the applicable deferral period, the holder of the design approval or certificate must pay the remainder of any costs not previously recovered by the NRC. Applications for amendments to PDAs, FDAs and certifications are subject to full costs and will be billed upon completion of the review.

5. Section 170.31 is revised to read as follows:

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

Applicants for materials licenses and other regulatory services and holders of materials licenses shall pay fees for the following categories of services. This schedule includes fees for health and safety, and safeguards inspections, where applicable.

## 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. <i>Special nuclear material:</i>                                                                                                                                                                                                                                                                                                                                                             |                    |
| A. Licenses for possession and use of 200 grams or more of plutonium in unsealed form or 350 grams or more of contained U-235 in unsealed form or 200 grams or more of U-233 in unsealed form. This includes applications to terminate licenses and to authorize decommissioning, decontamination, reclamation, or site restoration activities as well as licenses authorizing possession only: |                    |

## 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                                                                                                                                                                                                                                                                                                   | \$150.             |
| License, Renewal, Amendment.                                                                                                                                                                                                                                                                                  | Full cost.         |
| Inspections:                                                                                                                                                                                                                                                                                                  |                    |
| Routine                                                                                                                                                                                                                                                                                                       | Full cost.         |
| Nonroutine                                                                                                                                                                                                                                                                                                    | Full cost.         |
| B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI):                                                                                                                                                                                                  |                    |
| Application                                                                                                                                                                                                                                                                                                   | \$150.             |
| License, Renewal, Amendment.                                                                                                                                                                                                                                                                                  | Full cost.         |
| Inspections:                                                                                                                                                                                                                                                                                                  |                    |
| Routine                                                                                                                                                                                                                                                                                                       | Full cost.         |
| Nonroutine                                                                                                                                                                                                                                                                                                    | Full cost.         |
| C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems: <sup>4</sup>                                                                                                                                                      |                    |
| Application—New license                                                                                                                                                                                                                                                                                       | \$230.             |
| Renewal                                                                                                                                                                                                                                                                                                       | \$120.             |
| Amendment                                                                                                                                                                                                                                                                                                     | \$60.              |
| Inspections:                                                                                                                                                                                                                                                                                                  |                    |
| Routine                                                                                                                                                                                                                                                                                                       | \$210.             |
| Nonroutine                                                                                                                                                                                                                                                                                                    | \$640.             |
| D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1A: <sup>4</sup> |                    |
| Application—New license                                                                                                                                                                                                                                                                                       | \$350.             |
| Renewal                                                                                                                                                                                                                                                                                                       | \$350.             |
| Amendment                                                                                                                                                                                                                                                                                                     | \$120.             |
| Inspections:                                                                                                                                                                                                                                                                                                  |                    |
| Routine                                                                                                                                                                                                                                                                                                       | \$320.             |
| Nonroutine                                                                                                                                                                                                                                                                                                    | \$370.             |

2. *Source material:*

A. Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, refining uranium mill concentrates to uranium hexafluoride, 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, and licenses authorizing decommissioning, reclamation or restoration activities as well as licenses authorizing the possession and maintenance of a facility in a standby mode:

|                              |            |
|------------------------------|------------|
| Application                  | \$150.     |
| License, Renewal, Amendment. | Full cost. |
| Inspections:                 |            |
| Routine                      | Full cost. |
| Nonroutine                   | Full cost. |

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</sup> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| B. Licenses for possession and use of source material for shielding, except as provided for in § 170.11(a)(8):                                                                                                                                                   |                  |
| Application—New license.....                                                                                                                                                                                                                                     | \$60.            |
| Renewal.....                                                                                                                                                                                                                                                     | \$60.            |
| Amendment.....                                                                                                                                                                                                                                                   | \$60.            |
| Inspections:                                                                                                                                                                                                                                                     |                  |
| Routine.....                                                                                                                                                                                                                                                     | \$130.           |
| Nonroutine.....                                                                                                                                                                                                                                                  | \$160.           |
| C. All other source material licenses:                                                                                                                                                                                                                           |                  |
| Application—New license.....                                                                                                                                                                                                                                     | \$350.           |
| Renewal.....                                                                                                                                                                                                                                                     | \$230.           |
| Amendment.....                                                                                                                                                                                                                                                   | \$120.           |
| Inspections:                                                                                                                                                                                                                                                     |                  |
| Routine.....                                                                                                                                                                                                                                                     | \$370.           |
| Nonroutine.....                                                                                                                                                                                                                                                  | \$690.           |
| 3. By product material:                                                                                                                                                                                                                                          |                  |
| A. Licenses of broad scope for possession and use of by-product material issued pursuant to Parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution to licensees:                     |                  |
| Application—New license.....                                                                                                                                                                                                                                     | \$1,200.         |
| Renewal.....                                                                                                                                                                                                                                                     | \$700.           |
| Amendment.....                                                                                                                                                                                                                                                   | \$120.           |
| Inspections:                                                                                                                                                                                                                                                     |                  |
| Routine.....                                                                                                                                                                                                                                                     | \$950.           |
| Nonroutine.....                                                                                                                                                                                                                                                  | \$1,000.         |
| B. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution to licensees:                                       |                  |
| Application—New license.....                                                                                                                                                                                                                                     | \$460.           |
| Renewal.....                                                                                                                                                                                                                                                     | \$460.           |
| Amendment.....                                                                                                                                                                                                                                                   | \$120.           |
| Inspections:                                                                                                                                                                                                                                                     |                  |
| Routine.....                                                                                                                                                                                                                                                     | \$480.           |
| Nonroutine.....                                                                                                                                                                                                                                                  | \$900.           |
| C. Licenses issued pursuant to §§ 32.72, 32.73, and/or 32.74 of Part 32 of this chapter authorizing the processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material: |                  |
| Application—New License.....                                                                                                                                                                                                                                     | \$1,400.         |
| Renewal.....                                                                                                                                                                                                                                                     | \$1,400.         |
| Amendment.....                                                                                                                                                                                                                                                   | \$230.           |
| Inspections:                                                                                                                                                                                                                                                     |                  |
| Routine.....                                                                                                                                                                                                                                                     | \$640.           |
| Nonroutine.....                                                                                                                                                                                                                                                  | \$850.           |
| D. Licenses and approvals issued pursuant to §§ 32.72, 32.73, and/or 32.74 of Part 32 of this chapter authorizing distribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of by-product material:      |                  |
| Application—New license.....                                                                                                                                                                                                                                     | \$700.           |
| Renewal.....                                                                                                                                                                                                                                                     | \$700.           |
| Amendment.....                                                                                                                                                                                                                                                   | \$120.           |

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</sup> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Inspections:                                                                                                                                                                                                                   |                  |
| Routine.....                                                                                                                                                                                                                   | \$370.           |
| Nonroutine.....                                                                                                                                                                                                                | \$530.           |
| 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—New license.....                                                                                                                                                                                                   | \$230.           |
| Renewal.....                                                                                                                                                                                                                   | \$170.           |
| Amendment.....                                                                                                                                                                                                                 | \$120.           |
| Inspections:                                                                                                                                                                                                                   |                  |
| Routine.....                                                                                                                                                                                                                   | \$210.           |
| Nonroutine.....                                                                                                                                                                                                                | \$320.           |
| 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:                                    |                  |
| Application—New license.....                                                                                                                                                                                                   | \$580.           |
| Renewal.....                                                                                                                                                                                                                   | \$350.           |
| Amendment.....                                                                                                                                                                                                                 | \$230.           |
| Inspections:                                                                                                                                                                                                                   |                  |
| Routine.....                                                                                                                                                                                                                   | \$270.           |
| Nonroutine.....                                                                                                                                                                                                                | \$580.           |
| 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:                                      |                  |
| Application—New license.....                                                                                                                                                                                                   | \$2,300.         |
| Renewal.....                                                                                                                                                                                                                   | \$930.           |
| Amendment.....                                                                                                                                                                                                                 | \$230.           |
| Inspections:                                                                                                                                                                                                                   |                  |
| Routine.....                                                                                                                                                                                                                   | \$480.           |
| Nonroutine.....                                                                                                                                                                                                                | \$640.           |
| H. Licenses issued pursuant to 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: |                  |
| Application—New license.....                                                                                                                                                                                                   | \$580.           |
| Renewal.....                                                                                                                                                                                                                   | \$230.           |
| Amendment.....                                                                                                                                                                                                                 | \$120.           |
| Inspections:                                                                                                                                                                                                                   |                  |
| Routine.....                                                                                                                                                                                                                   | \$320.           |
| Nonroutine.....                                                                                                                                                                                                                | \$320.           |

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</sup> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| I. Licenses issued pursuant to 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:                                                                                                                           |                  |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                                                            | \$290.           |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                                                            | \$230.           |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                                                          | \$60.            |
| Inspections:                                                                                                                                                                                                                                                                                                                                                                                            |                  |
| Routine.....                                                                                                                                                                                                                                                                                                                                                                                            | \$210.           |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                                                         | \$320.           |
| J. Licenses issued pursuant to 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: |                  |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                                                            | \$1,200.         |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                                                            | \$700.           |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                                                          | \$230.           |
| Inspections:                                                                                                                                                                                                                                                                                                                                                                                            |                  |
| Routine.....                                                                                                                                                                                                                                                                                                                                                                                            | \$320.           |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                                                         | \$320.           |
| K. Licenses issued pursuant to 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:                                                                                                                           |                  |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                                                            | \$290.           |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                                                            | \$230.           |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                                                          | \$60.            |
| Inspections:                                                                                                                                                                                                                                                                                                                                                                                            |                  |
| Routine.....                                                                                                                                                                                                                                                                                                                                                                                            | \$320.           |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                                                         | \$320.           |
| L. Licenses of broad scope for possession and use of by-product material issued pursuant to Parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution:                                                                                                                                                                                                 |                  |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                                                            | \$1,200.         |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                                                            | \$700.           |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                                                          | \$120.           |
| Inspections:                                                                                                                                                                                                                                                                                                                                                                                            |                  |
| Routine.....                                                                                                                                                                                                                                                                                                                                                                                            | \$420.           |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                                                         | \$530.           |

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> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| M. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for research and development that do not authorize commercial distribution:                                                                                                                                                                                                                                                                                                                                                         |                     |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$700.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$460.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$120.              |
| Inspections:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$370.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | \$420.              |
| N. Licenses that authorize services for other licensees, except for leak testing and waste disposal pickup services:                                                                                                                                                                                                                                                                                                                                                                                                                          |                     |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$930.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$930.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$120.              |
| Inspections:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$320.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | \$320.              |
| O. Licenses for possession and use of byproduct material issued pursuant to Part 34 of this chapter for industrial radiography operations:                                                                                                                                                                                                                                                                                                                                                                                                    |                     |
| Application—New License.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$700.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$700.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$230.              |
| Inspections: <sup>5</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$530.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | \$1,200.            |
| P. All other specific byproduct material licenses, except those in Categories 4A through 9D:                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                     |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$230.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$120.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$60.               |
| Inspections:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | \$530.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | \$530.              |
| 4. Waste disposal:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                     |
| A. Licenses specifically authorizing the receipt of waste byproduct material, source material or special nuclear material from other persons for the purpose of commercial disposal by land burial by the licensee; or licenses authorizing contingency storage of low level radioactive waste at the site of nuclear power reactors; or licenses for treatment or disposal by incineration, packaging of residues resulting from incineration and transfer of packages to another person authorized to receive or dispose of waste material: |                     |
| Application.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | \$150.              |
| License, renewal, amendment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Full cost.          |
| Inspections:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Full cost.          |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Full cost.          |

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> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 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—New License.....                                                                                                                                                                                                                                                                                                      | \$1,400.            |
| Renewal.....                                                                                                                                                                                                                                                                                                                      | \$930.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                    | \$350.              |
| Inspections:                                                                                                                                                                                                                                                                                                                      |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                      | \$1,000.            |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                   | \$740.              |
| 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—New license.....                                                                                                                                                                                                                                                                                                      | \$930.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                      | \$460.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                    | \$120.              |
| Inspections:                                                                                                                                                                                                                                                                                                                      |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                      | \$740.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                   | \$950.              |
| 5. Well logging:                                                                                                                                                                                                                                                                                                                  |                     |
| A. Licenses specifically authorizing 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—New license.....                                                                                                                                                                                                                                                                                                      | \$700.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                      | \$700.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                    | \$170.              |
| Inspections:                                                                                                                                                                                                                                                                                                                      |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                      | \$370.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                   | \$370.              |
| B. Licenses specifically authorizing use of byproduct material for field flooding tracer studies:                                                                                                                                                                                                                                 |                     |
| Application.....                                                                                                                                                                                                                                                                                                                  | \$150.              |
| License, renewal, amendment.                                                                                                                                                                                                                                                                                                      | Full cost.          |
| Inspections:                                                                                                                                                                                                                                                                                                                      |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                      | \$320.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                   | \$480.              |
| 6. Nuclear laundries:                                                                                                                                                                                                                                                                                                             |                     |
| A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material:                                                                                                                                                                                    |                     |
| Application—New license.....                                                                                                                                                                                                                                                                                                      | \$700.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                      | \$700.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                    | \$170.              |
| Inspections:                                                                                                                                                                                                                                                                                                                      |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                      | \$530.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                   | \$850.              |

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> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 7. Human use of byproduct, source, or special nuclear material:                                                                                                                                                                                                                                                                                                       |                     |
| A. Licenses issued pursuant to 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 teletherapy devices:                                                                                                                                                         |                     |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                          | \$580.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                          | \$350.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                        | \$230.              |
| Inspections:                                                                                                                                                                                                                                                                                                                                                          |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                                                          | \$530.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                       | \$850.              |
| B. Licenses of broad scope issued to medical institutions or two or more physicians pursuant to 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: |                     |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                          | \$1,200.            |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                          | \$700.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                        | \$120.              |
| Inspections:                                                                                                                                                                                                                                                                                                                                                          |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                                                          | \$740.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                       | \$800.              |
| C. Other licenses issued pursuant to 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—New license.....                                                                                                                                                                                                                                                                                                                                          | \$580.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                          | \$580.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                        | \$120.              |
| Inspections:                                                                                                                                                                                                                                                                                                                                                          |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                                                          | \$480.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                       | \$690.              |
| 8. Civil defense:                                                                                                                                                                                                                                                                                                                                                     |                     |
| A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities:                                                                                                                                                                                                                                  |                     |
| Application—New license.....                                                                                                                                                                                                                                                                                                                                          | \$290.              |
| Renewal.....                                                                                                                                                                                                                                                                                                                                                          | \$230.              |
| Amendment.....                                                                                                                                                                                                                                                                                                                                                        | \$60.               |
| Inspections:                                                                                                                                                                                                                                                                                                                                                          |                     |
| Routine.....                                                                                                                                                                                                                                                                                                                                                          | \$320.              |
| Nonroutine.....                                                                                                                                                                                                                                                                                                                                                       | \$320.              |
| 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.....                                                                                                                                                                                                                                                                                                                                          | \$1,600.            |
| Amendment—each device.....                                                                                                                                                                                                                                                                                                                                            | \$580.              |
| Inspections.....                                                                                                                                                                                                                                                                                                                                                      | None.               |

# 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> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| 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.....                                                                                                                                                                                                                          | \$800.              |
| Amendment—each device.....                                                                                                                                                                                                                            | \$290.              |
| Inspections.....                                                                                                                                                                                                                                      | None.               |
| C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution:                                                                                 |                     |
| Application—each source.....                                                                                                                                                                                                                          | \$350.              |
| Amendment—each source.....                                                                                                                                                                                                                            | \$120.              |
| Inspections.....                                                                                                                                                                                                                                      | None.               |
| 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.....                                                                                                                                                                                                                          | \$175.              |
| Amendment—each source.....                                                                                                                                                                                                                            | \$60.               |
| Inspections.....                                                                                                                                                                                                                                      | None.               |
| 10. Transportation of radioactive material:                                                                                                                                                                                                           |                     |
| A. Evaluation of casks, packages, and shipping containers:                                                                                                                                                                                            |                     |
| Application.....                                                                                                                                                                                                                                      | \$150.              |
| Approval, Renewal, Amendment.....                                                                                                                                                                                                                     | Full cost.          |
| Inspections.....                                                                                                                                                                                                                                      | None.               |
| B. Evaluation of Part 71 quality assurance programs:                                                                                                                                                                                                  |                     |
| Application.....                                                                                                                                                                                                                                      | \$150.              |
| Approval, Renewal, Amendment.....                                                                                                                                                                                                                     | Full cost.          |
| Inspections.....                                                                                                                                                                                                                                      | None.               |
| 11. Review of standardized spent fuel facilities:                                                                                                                                                                                                     |                     |
| Application.....                                                                                                                                                                                                                                      | \$150.              |
| Approval, Amendment, Renewal.....                                                                                                                                                                                                                     | Full cost.          |
| Inspections.....                                                                                                                                                                                                                                      | None.               |
| 12. Special projects:                                                                                                                                                                                                                                 |                     |
| Application.....                                                                                                                                                                                                                                      | \$150.              |
| Approval.....                                                                                                                                                                                                                                         | Full cost.          |
| Inspections.....                                                                                                                                                                                                                                      | None.               |

<sup>1</sup> Types of fees—Separate charges as shown in the schedule will be assessed for applications for new licenses and approvals, issuance of new licenses and approvals, and amendments and renewals to existing licenses and approvals and inspections. The following guidelines apply to these charges:

(a) *Application fees*—Applications for new material licenses and approvals of those applications filed in support of expired licenses and approvals must be accompanied by the prescribed application fee for each category, except that 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.

(b) *License/approval fees*—For new licenses and approvals issued in fee Categories 1A and 1B, 2A, 4A, 5B, 10A, 10B, 11 and 12, the recipient shall pay the license or approval fee as determined by the Commission in accordance with § 170.12 (b), (e), and (f).

(c) *Renewal fees*—Applications for renewal of materials licenses and approvals must be accompanied by the prescribed renewal fee for each category, except that applications for renewal of licenses and approvals in fee Categories 1A and 1B, 2A, 4A, 5B, 10A, 10B, and 11 must be accompanied by an application fee of \$150, with the balance due upon notification by the Commission in accordance with the procedures specified in § 170.12(d).

(d) *Amendment fees*—Applications for amendments must be accompanied by the prescribed amendment fees. An application for an amendment to a license or approval classified in more than one 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, except that applications for amendment of licenses in fee Categories 1A and 1B, 2A, 4A, 5B, 10A, 10B, 11, and 12 must be accompanied by an application fee of \$150 with the balance due upon notification by the Commission in accordance with § 170.12(c).

An application for amendment to a materials license or approval that would place the license or approval in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for the new category.

An application for amendment to a license or approval that would reduce the scope of a licensee's program to a lower fee category must be accompanied by the prescribed amendment fee for the lower fee category.

Applications to terminate licenses authorizing small materials programs, when no dismantling or decontamination procedure is required, shall not be subject to fees.

(e) *Inspection fees*—Separate charges will be assessed for each routine and nonroutine inspection performed, except that inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations will not be subject to fees. If a licensee holds more than one materials license at a single location, a fee equal to the highest fee category covered by the licenses will be assessed if the inspections are conducted at the same time, except in cases when the inspection fees are based on the full cost to conduct the inspection. The fees assessed at full cost will be determined based on the professional staff time required to conduct the inspection multiplied by the rate established under § 170.20 of this part, to which any applicable contractual support service costs incurred will be added. See Footnote 5 for other inspection notes. Inspection fees are due upon notification by the Commission in accordance with § 170.12(g).

<sup>2</sup> Fees will not be charged for orders issued by the Commission pursuant to § 2.204 of Part 2 nor for amendments resulting specifically from such Commission orders. However, fees will be charged for approvals issued pursuant to a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., §§ 30.11, 40.14, 70.14, 73.5, and any other such sections now or hereafter in effect) 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 Categories 9A through 9D.

<sup>3</sup> Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended for review of the application or to conduct the inspection. For those 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 this rule will be determined at the professional rate established for the June 20, 1984 rule. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984 rule, but are still pending completion of the review, the cost incurred after the ceiling was reached up to the effective date of this rule will not be billed to the applicant. Any professional hours expended on or after the effective date of this rule will be assessed at the rate established by § 170.20 of this part. In no event will the total review costs be less than the application fee.

<sup>4</sup> Licensees paying fees under Categories 1A and 1B are not subject to fees under Categories 1C and 1D for sealed sources authorized in the same license except in those instances in which an applica-

tion deals only with the sealed sources authorized by the license. Applicants for new licenses or renewal of existing licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the applicable application or renewal fee for fee Category 1C only.

<sup>5</sup> For a license authorizing shielded radiographic installations or manufacturing installations at more than one address, a separate fee will be assessed for inspection of each location, except that if the multiple installations are inspected during a single visit, a single inspection fee will be assessed.

6. Section 170.32 is revised to read as follows:

## § 170.32 Schedule of fees for health and safety, and safeguards inspections for materials licenses.

Materials licensees shall pay inspection fees as set forth in § 170.31.

## PART 171—ANNUAL FEE FOR POWER REACTOR OPERATING LICENSES

7. The authority citation for Part 171 is revised to read as follows:

Authority: Section 7601, Pub. L. 99-272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100-203, 101 Stat. 1330-275 (42 U.S.C. 2213); sec. 301, Pub. L. 92-314, 86 Stat. 222, (42 U.S.C. 2201(w)); sec. 201, 82 Stat. 1242, as amended (42 U.S.C. 5841).

8. In § 171.5, the following definitions "Budgeted obligations" and "Overhead costs" are added:

### § 171.5 Definitions.

"Budgeted obligations" means the projected obligations of the NRC that likely will result in payments by the NRC during the same or a future fiscal year in providing regulatory services to licensees. For this purpose budgeted obligations include, but are not limited to, amounts of orders to be placed, contracts to be awarded, and services to be provided to licensees. Fees billed to licensees are based on budgeted obligations because the NRC's annual budget is prepared on an obligation basis.

"Overhead costs" means (1) the Government benefits for each employee such as leave and holidays, retirement and disability costs, health and life insurance costs, and social security costs; (2) Travel Costs; (3) direct overhead, e.g., supervision, program support staff, etc.; and (4) indirect costs, e.g., funding and staff for administrative support activities. Factors have been developed for these overhead costs which are applied to hourly rates developed for employees providing the regulatory services within the categories and activities applicable to specified types or classes of reactors. The Commission views these costs as being reasonably related to the regulatory

services provided to the licensees and, therefore, within the meaning of section 7601, COBRA.

9. In § 171.15 paragraphs (d) and (e) are removed and paragraph (c) is revised to read as follows:

**§ 171.15 Annual fee; Power reactor operating licenses.**

(c) If the basis for the annual fee is greater than 45 percent of the NRC budget, less the sum of moneys estimated to be collected from the High Level Waste (HLW) fund administered by the Department of Energy and the total estimated fees chargeable under Part 170 of this chapter, then the maximum annual fee for each nuclear power reactor that is licensed to operate shall be calculated as follows:

(NRC FY Budget × .45) minus Sum of HLW moneys and estimated Part 170 fees equals fees to be collected under Part 171.

Part 171 fees to be collected on a schedule based on the total from categories shown in the following table:

**PART 171 FEES BY REACTOR CATEGORY—SUMMARY: WITH MINOR ADJUSTMENTS FOR PLANTS WEST OF ROCKIES OR WESTINGHOUSE PLANTS WITH ICE CONDENSERS THE FOLLOWING APPLY TO PLANT/CONTAINMENT:**

[Fees in Millions]

| Type               | Number | Budget base × .84 | Fee     | Total collected |
|--------------------|--------|-------------------|---------|-----------------|
| GE Mark I .....    | (24)   | \$1.349           | \$1.133 | \$27.19         |
| GE Mark II .....   | (7)    | 1.443             | 1.212   | 8.48            |
| GE Mark III .....  | (4)    | 1.373             | 1.153   | 4.61            |
| B&W .....          | (8)    | 1.896             | 1.592   | 12.74           |
| CE .....           | (15)   | 1.391             | 1.168   | 17.52           |
| Westinghouse ..... | (48)   | 1.352             | 1.135   | 54.48           |
|                    | 106    |                   |         | \$125.02        |

**§ 171.21 [Removed]**

10. Part 171 is amended by removing § 171.21.

Dated at Rockville, Maryland this 22nd day of December, 1988.

For the Nuclear Regulatory Commission.

John G. Hoyle,

Assistant Secretary of the Commission.

[FR Doc. 88-29767 Filed 12-28-88; 8:45 am]

BILLING CODE 7590-01-M

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 205**

[Reg. E; Docket No. R-0224]

**Electronic Fund Transfers; Technical Amendment to Regulation E**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board is making a technical amendment to Regulation E (Electronic Fund Transfers), to reflect properly an amendment that was incorrectly incorporated into the Code of Federal Regulations.

**EFFECTIVE DATE:** December 30, 1988.

**FOR FURTHER INFORMATION CONTACT:** Dolores S. Smith, Assistant Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at 202-452-2412 or 202-452-3667; for the hearing impaired only, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at 202-452-3544.

**SUPPLEMENTARY INFORMATION:** On August 8, 1979, the Board published an amendment to the provisions of Regulation E that govern notice to financial institutions of unauthorized transfers (44 FR 46432). It involved the deletion of one sentence and its replacement with another sentence. Inadvertently, the amendment was not incorporated correctly into the Code of Federal Regulations for the year 1980 and years thereafter. Accordingly, the Board is republishing 12 CFR 205.6(c) to correct the text of this provision in the CFR. Because this action merely corrects an improperly codified provision, the Board finds that advance notice, public comment and a delay in the effective date are unnecessary.

**List of Subjects in 12 CFR Part 205**

Banks, Banking, Consumer protection, Electronic fund transfers, Federal Reserve System, Penalties.

For the reasons set forth in this notice, 12 CFR Part 205 is amended as follows:

**PART 205—[AMENDED]**

1. The authority citation for 12 CFR Part 205 continues to read as follows:

Authority: Pub. L. 95-630, 92 Stat. 3730 (15 U.S.C. 1693b).

2. Section 205.6(c) is revised in its entirety to read as follows:

**§ 205.6 Liability of consumer for unauthorized transfers.**

(c) *Notice to financial institution.* For purposes of this section, notice to a financial institution is given when a consumer takes such steps as are reasonably necessary to provide the financial institution with the pertinent information, whether or not any particular officer, employee, or agent of the financial institution does in fact receive the information. Notice may be given to the financial institution, at the consumer's option, in person, by telephone, or in writing. Notice in writing is considered given at the time the consumer deposits the notice in the mail or delivers the notice for transmission by any other usual means to the financial institution. Notice is also considered given when the financial institution becomes aware of circumstances that lead to the reasonable belief that an unauthorized electronic fund transfer involving the consumer's account has been or may be made.

Board of Governors of the Federal Reserve System, December 23, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-29929 Filed 12-28-88; 8:45 am]

BILLING CODE 6210-01-M

**FEDERAL HOME LOAN BANK BOARD**

**12 CFR Part 522**

[No. 88-1357]

**Indemnification of Directors, Officers and Employees of the Federal Home Loan Bank System**

Date: December 19, 1988.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Home Loan Bank Board ("Board") is amending 12 CFR 522.72, its regulation governing the indemnification of directors, officers, and employees of the Federal Home Loan Bank Banks ("FHLBanks" or "Banks"). The amendments clarify the scope of the indemnification rule and modify certain procedures under which personnel serving the Federal Home Loan Bank System ("Bank System") can recover legal expenses, costs, and judgment liabilities incurred as a consequence of service to the Bank System.

**EFFECTIVE DATE:** December 29, 1988.

**FOR FURTHER INFORMATION CONTACT:** Andrew Gilbert, Attorney, (202) 377-6441, Office of General Counsel; or