

year's changes
3/9/01

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 150, 170 and 171

RIN: 3150-AG73

Revision of Fee Schedules; Fee Recovery for FY 2001

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, which requires that the NRC recover approximately 98 percent of its budget authority in fiscal year (FY) 2001, less the amounts appropriated from the Nuclear Waste Fund (NWF) and the General Fund. The amount to be recovered for FY 2001 is approximately \$453.3 million.

DATES: The comment period expires (Insert date 30 days after publication). Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered. Because OBRA-90

regulations. In the FY 2000 final fee rule, the reactor and materials program rates were \$144 and \$143, respectively. The proposed increases are primarily due to the Government-wide pay increase in FY 2001. ~~In addition, there was an increase in overhead costs for the reactor program for FY 2001 compared to FY 2000, while there was a decrease in overhead costs for the materials program. These factors contributed to the difference in the percentage increases in the hourly rates between the two programs.~~

The method used to determine the two professional hourly rates is as follows:

- a. Direct program FTE levels are identified for the reactor program and the nuclear material and waste program.
- b. Direct contract support, which is the use of contract or other services in support of the line organization's direct program, is excluded from the calculation of the hourly rates because the costs for direct contract support are charged directly through the various categories of fees.
- c. All other program costs (i.e., Salaries and Benefits, Travel) represent "in-house" costs and are to be collected by dividing them uniformly by the total number of direct FTEs for the program. In addition, salaries and benefits plus contracts for non-program direct management and support, and for the Office of the Inspector General, are allocated to each program based on that program's direct costs. This method results in the following costs which are included in the hourly rates.

activities in the Part 171 annual fees. Materials user licensees affected by these changes have responded favorably to the elimination of multiple types of individual fees.

The NRC is proposing a similar streamlining action for certain submittals from Agreement State licensees operating in areas under NRC jurisdiction under the Part 150 reciprocity provisions. Currently, a Part 170 fee of \$1,200 is charged for each initial filing of NRC Form 241, "Report of Proposed Activities in Non-Agreement States," and an additional fee of \$200 is charged for each revision to the information submitted on the initial NRC Form 241. Revisions are filed to request approval for work locations, radioactive materials, or work activities different from those submitted on the initial NRC Form 241. In FY 2000, only \$23,000 was collected for 115 revisions.

The NRC is proposing to eliminate the revision fees and include the costs for processing them in the fee assessed for each initial reciprocity application. Under this proposal, the reciprocity applicants would no longer be required to submit payments with their revision requests, and the NRC's administrative burden of processing the revisions for fee collection purposes would be eliminated. This proposed change ^{plus the increase in hour rate} would result in an increase in the application fee, from \$1,200 to \$1,400. The costs of the reciprocity program would still be recovered from those receiving the benefit of the NRC's reciprocity activities. It is the NRC's belief that the nominal increase to the application fee and any potential inequities that might result because not all reciprocity licensees file revisions during the year are outweighed by the efficiencies to be gained by both the reciprocity applicants and the NRC in streamlining the process. ✓

or environmental issue; or to assist the NRC in developing a rule, regulatory guide, policy statement, generic letter or bulletin; or as a means of exchanging information between industry organizations and the NRC for the purpose of supporting generic regulatory improvements or efforts. Many of the fee exemption requests have been denied because the submittals have not met the intent of the waiver provision. For example, several fee waiver requests were based on the industry's future use of the reports, rather than ~~NRC's use of these reports for~~ generic regulatory improvements.

being submitted, reviewed and approved for the benefit of NRC's

In the statement of considerations for the FY 1994 fee rule (59 FR 36895; July 20, 1994) which incorporated this fee waiver provision, the NRC stated that it believed the costs for some requests or reports filed with the NRC are more appropriately captured in the Part 171 annual fees rather than assessing specific fees under Part 170. The statement of considerations continued that these reports, although submitted by a specific organization, support NRC's development of generic guidance and regulations and resolution of safety issues applicable to a class of licensee. To clarify the intent of the fee waiver provision, the NRC is modifying the current criterion 3. of Footnote 4 to §170.21 and criterion (c) of Footnote 5 to §170.31 to specifically state that the ^{review and approval} reports must support NRC's generic regulatory improvements or efforts. In addition, criteria 1., 2., and 3. of Footnote 4 to §170.21 would be redesignated as criteria (a), (b), and (c).

In summary, the NRC is proposing to amend 10 CFR Part 170 to--

1. Revise the material and reactor program FTE hourly rates;

inspections and reviews of new license applications result in higher annual fees for the affected fee categories, assuming all else remains the same (e.g., no loss of licensees).

(from \$2,300 to \$6,100)



The increase in annual fees for transportation quality assurance approvals authorizing use only, which would have the largest percentage increase, is due in part to the allocation of budgeted costs for the enhanced participatory Part 71 rulemaking, headquarters and regional allegation and enforcement follow-up activities, and the Office of Nuclear Material Safety and Safeguards' risk study activities. In addition, there has been a decrease in the amount of budgeted costs allocated for Part 71 vendor inspections while the allocation of budgeted costs for quality assurance reviews remained about the same. The ratio of the budgeted costs for these activities is currently used to allocate the total annual fee amount for the transportation class, less the amount allocated to DOE for its certificates of compliance, between the quality assurance approvals authorizing use only and those that authorize use and fabrication/design. As a result of the decrease in budgeted costs for Part 71 vendor inspections, a larger percentage of the total annual fee amount for the transportation class would be allocated to quality assurance approvals authorizing use only than in the past.

Table III below shows the proposed rebaselined annual fees for FY 2001 for representative categories of licensees.

TABLE III - Rebaselined Annual Fees for FY 2001

	PROPOSED FY 2001
<u>CLASS OF LICENSEES</u>	<u>ANNUAL FEE</u>

that are billed on the anniversary date of the license are those covered by fee categories 1C, 1D, 2A(2) Other Facilities, 2A(3), 2A(4), 2B, 2C, 3A through 3P, 4B through 9D, 10A, and 10B.

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Dated at Rockville, Maryland, this 19th day of March, 2001.

For the Nuclear Regulatory Commission.



Jesse L. Funches,
Chief Financial Officer.