OFFICE INSTRUCTION

LIC-118	Establishment and Management of Fixed Fee Caps	
Volume 100	Licensing Processes	
Approved By:	Anna Bradford Andrea Kock Jeremy Bowen	
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Summary: This Office Instruction (OI) provides guidance for applying the fixed fee cap requirements in the NRC's fee regulations, including establishing, communicating, and managing fixed fee caps and communicating a new fixed fee cap following applicant failure. Additionally, this OI offers potential examples of applicant failure, describes use of the Fixed Fee Cap Calculator, and supports consistent implementation of Executive Order 14300.

Training:	All NRC employees involved in licensing and other activities requested by applicants and licensees and/or responsible for fixed fee cap management, tracking, budgeting, or billing.
ADAMS Accession Number:	ML26174A446

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1. PURPOSE

This Office Instruction (OI) provides the U.S. Nuclear Regulatory Commission (NRC or the Commission) staff with guidance to consistently implement the fixed fee cap requirements in the NRC's fee regulations and covers establishing, communicating, and managing fixed fee caps. It provides guidance to the NRC staff regarding how to evaluate whether the criteria in the NRC's fee regulations have been satisfied for applicant failure and how to calculate and communicate the new fixed fee cap to an applicant[1] following applicant failure. The guidance includes potential examples of applicant failure to support consistent application of the definition of applicant failure in the NRC's fee regulations. This OI also offers guidance on the use of the Fixed Fee Cap Calculator and templates for written communications to applicants regarding the applicable fixed fee cap. This guidance promotes consistent and transparent processes and practices among the NRC staff, which strengthens stakeholder confidence and advances the agency's strategic priorities for regulatory effectiveness and accountability.

Consistent with the NRC's regulatory responsibilities and without compromising the independence, quality, or rigor of the application review, the NRC staff should seek appropriate mechanisms to resolve issues, and maintain effective communication as described in OEDO Procedure-0235, "Driving Regulatory Decisions Through More Effective Communications" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML25167A039). These actions should enable applicant success before circumstances progress to the point at which a determination of applicant failure may be warranted. The applicant failure provisions should therefore be understood as an accountability mechanism, only allowing the NRC to increase the fixed fee cap when the applicable criteria are met. The NRC staff continues to be expected to engage in active project management focused on facilitating timely and efficient completion of the review.

Regardless of whether an activity is subject to a fixed fee cap, the NRC staff is committed to disciplined reviews with the highest quality project management and leadership oversight striving to achieve estimated resources and schedules appropriate for the activity with an eye toward continuous improvement for factors within NRC control.

2. BACKGROUND

The NRC has established, in its fee regulations, fixed fee caps for requested activities of the Commission that involve the issuance of a final safety evaluation, consistent with the Nuclear Energy Innovation and Modernization Act (NEIMA) and to implement Executive Order (EO) 14300, "Ordering the Reform of the Nuclear Regulatory Commission." NEIMA requires the NRC to recover through service fees and annual fees, to the maximum extent practicable, approximately 100 percent of its annual budget, less certain amounts excluded from this fee recovery requirement. Section 5(a) of EO 14300 announces a policy for the NRC to establish "fixed deadlines" for final decisions for requested activities of the Commission "as directed under the Nuclear Energy Innovation and Modernization Act," as well as fixed caps on service fees to enforce those deadlines. The fixed fee cap requirements are in Section 170.33 of Title 10 of the *Code of Federal Regulations* (10 CFR), and 10 CFR 170.3 contains applicable definitions.

[1] In this guidance, for consistency, the term "applicant" is also used when referring to a licensee that has submitted a requested activity of the Commission that involves the issuance of a final safety evaluation (e.g., a License Amendment Request (LAR)).

Under 10 CFR 170.33, for requested activities for which a complete application has been accepted for review by the NRC on or after October 1, 2026, the fixed fee cap is the lesser of (1) the categorical cap specified in Table 1 in 10 CFR 170.33, or (2) a tailored cap determined by the NRC based on the specific application for the requested activity. Applications accepted for review before that date will receive a tailored cap representing the lowest practicable amount based on the specific application. The NRC will communicate the fixed fee cap in the NRC written communication on schedule and resources after a complete application for the requested activity has been accepted for review by the NRC.

In accordance with 10 CFR 170.33, a fixed fee cap will not be increased except in instances of applicant failure. If applicant failure occurs, the NRC will set the new fixed fee cap to the lowest practicable amount necessary to account for the applicant failure. Applicant failure is defined in 10 CFR 170.3 as actions or inaction that:

1. are within the reasonable control of a diligent applicant;
2. are not due to actions or inaction of the Commission; and
3. will cause substantial delays or require a significant increase in resources, including explicit requests by the applicant to the Commission to pause or delay review.

The NRC will apply these requirements consistently to ensure that fixed fee caps are established, communicated, and managed in accordance with 10 CFR Part 170.

3. INSTRUCTIONS

3.1. Applicability and Scope

Consistent with 10 CFR 170.33(a), this OI applies to only requested activities of the Commission that involve the issuance of a final safety evaluation. It applies to requested activities of the Commission that involve the issuance of a final safety evaluation across business lines, including Operating Reactors, New Reactors, Fuel Facilities, Spent Fuel Storage and Transportation, and Decommissioning and Low-Level Waste. These are the same activities that are subject to the NEIMA milestone requirements.

3.2. Definitions

Applicant Failure: Defined in 10 CFR 170.3: Actions or inaction that (1) are within the reasonable control of a diligent applicant; (2) are not due to actions or inaction of the NRC; and (3) will cause substantial delays or require a significant increase in NRC resources, including explicit requests by the applicant to pause or delay review.

Fixed Fee Cap: Defined in 10 CFR 170.33: The fixed fee cap is the maximum amount the NRC may charge for service fees for a requested activity of the Commission that involves the issuance of a final safety evaluation. For requested activities for which a complete application has been accepted for review by the NRC on or after October 1, 2026, it is set as the lesser of (1) the categorical cap in Table 1 in 10 CFR 170.33 in effect when the complete application has been accepted for review by the NRC; or (2) a tailored cap based on the specific application. The fixed fee cap cannot be increased except in cases of applicant failure.

Categorical Cap: Defined in 10 CFR 170.33(b)(1) and Table 1 in 10 CFR 170.33: A categorical cap has been established for the categories of requested activities of the Commission that involve the issuance of a final safety evaluation, consistent with NEIMA and EO 14300. Categorical caps bound the range of activities included in each category. Table 1 in 10 CFR 170.33 includes two sets of categorical caps: (1) Fixed Caps on Service Fees; and (2) Fixed Caps on Service Fees for Advanced Nuclear Reactor Applicants.

Tailored Cap: Defined in 10 CFR 170.33(b)(2) and (c): For requested activities for which a complete application has been accepted for review by the NRC on or after October 1, 2026, a tailored cap is an amount that is lower, to the maximum extent practicable, than the categorical cap and is determined by the NRC based on the specific application for the requested activity. If the potential tailored cap (resource estimate) exceeds that categorical cap, the categorical cap will serve as the fixed fee cap for the requested activity. For requested activities for which a complete application has been accepted for review by the NRC before October 1, 2026, a tailored cap is the lowest practicable amount determined by the NRC based on the specific application for the requested activity (particularly the quality of the application).

Diligent Applicant: This term is not defined in regulations and is fact-specific. As a general matter, diligent applicants consistently support an efficient NRC review by providing timely, complete, high-quality submissions; responding promptly to NRC requests; maintaining steady engagement; and avoiding actions that unnecessarily delay the licensing process.

Substantial Delay: This term is not defined in regulations and is fact-specific. As a general matter, it refers to a delay that, based on the specifics of the case, results in the NRC being unable to maintain its estimated review schedule for the requested activity by a substantial amount.

Significant Increase: This term is not defined in regulations and is fact-specific. As a general matter, it refers to an unforeseen, case-specific need for additional NRC resources by a significant amount that materially affects the ability to complete the review within the established fixed fee cap for the requested activity.

Fixed Fee Cap (FFC) ID: System-generated unique ID based on the “Licensing Activity” (i.e., Activity column in Table 1 in 10 CFR 170.33), “Licensing Activity Type” (i.e., Type column in Table 1 in 10 CFR 170.33), and Reduced Hourly Rate eligibility. This ID is used for tracking purposes only. Example of an FFC ID: LSDA-002-2026-0001.

Fixed Fee Cap (FFC) ID Manager: The Licensing Project Manager (PM) for the requested activity.

Fixed Fee Cap (FFC) ID Verifier: The Branch Chief (BC) for the Licensing PM for the requested activity. Although the division Technical Assistant (TA) may act as the backup FFC ID Verifier to review FFC ID reports for accuracy, the TA cannot approve or deny requests to establish the fixed fee cap for the requested activity or a new fixed fee cap after applicant failure. If the BC is unavailable, another licensing BC can approve or deny these requests.

Fixed Fee Cap (FFC) ID Administrator: This is an individual in the Office of the Chief Financial Officer (OCFO)/Labor Administration and Fee Billing Branch (LAFBB).

Fixed Fee Cap (FFC) Source System: Information Technology (IT) tool that provides data to support OCFO tracking and billing (i.e., Cost Activity Code System (CACS)).

Project Tracking Systems: IT tools used for planning, scheduling, tracking, reporting, and analyzing activities performed by the NRC staff. Project tracking systems include the Reactor Program System (RPS) and Web-Based Licensing (WBL).[2]

3.3. Establishing the Fixed Fee Cap

This section describes the process for developing a potential tailored cap and establishing the fixed fee cap for a requested activity.

Schedule and resource estimates are established in accordance with current NRC staff guidance, including LIC-109, Acceptance Review Procedures for Licensing Basis Changes (ML20036C829); LIC-117, Acceptance Review Process for New Nuclear Facility Licensing Applications (ML20283A182); LIC-500, Topical Report Process (ML20247G279); LIC-FM-1: Overview and Expectations of the Certification and Licensing Process (ML22130A659); and LIC-FM-2: Acceptance Review Process (ML22161B042). The NRC has substantial experience applying a consistent methodology to estimate schedule and resources for licensing reviews and other applicant-requested activities because it has been communicating schedule and resource estimates for these activities for years. The fixed fee caps build off this established practice.

To determine resource estimates for the requested activity, the NRC staff uses risk-informed approaches and references historical data. When historical information is limited, the staff uses recent comparable data. The staff considers efficiencies gained from the implementation of the Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy Act of 2024 (ADVANCE Act) and EO 14300, as well as additional factors such as the quality and complexity of the application, technology type, prior demonstration under Department of Energy or Department of War authorization, and the robustness of pre-application engagement. These factors contribute to more accurate and efficient resource estimates. Once established, the resource estimate is used to develop a potential tailored cap for the requested activity.

To convert the resource estimate into a potential tailored cap expressed in dollars, the PM will enter project-specific information into the Fixed Fee Cap Calculator in RPS or WBL. The PM will input details such as the “Licensing Activity Type” (i.e., Type column in Table 1 in 10 CFR 170.33), estimated start and completion dates, contract support estimates, estimated NRC staff hours, and other applicable data elements (e.g., eligibility for the Reduced Hourly Rate). The estimated NRC staff hours entered will reflect all activities required to complete the NRC’s review from acceptance of the complete application through issuance of the final decision, which appropriately considers any staff work already completed for review of an application with a phased submittal approach and includes mandatory hearing activities, as applicable. The calculator uses programmed assumptions to determine the potential tailored cap in dollars, including distributing project hours linearly over the duration of the project and accounting for projected changes in future fiscal year hourly rates. The calculator will

[2] The linkage with the FFC source system currently varies by project tracking system, and as a result, whether the staff needs to enter data into both the project tracking system and the FFC source system depends on the project tracking system used. Because RPS interfaces with CACS, the staff can enter FFC source system updates in RPS that automatically transfer to CACS, and they do not need to enter these updates directly in CACS. Because WBL does not currently interface with CACS, WBL users will need to enter FFC source system updates directly into CACS.

generate a single potential tailored cap by summing contract dollars with the product of NRC staff hours and the applicable fiscal year hourly rate. The calculator will then compare the potential tailored cap to the categorical cap in Table 1 in 10 CFR 170.33 and provide the resulting fixed fee cap. If the potential tailored cap is below the categorical cap in effect when the complete application has been accepted for review by the NRC, the tailored cap will serve as the fixed fee cap for the requested activity. If the potential tailored cap exceeds that categorical cap, the categorical cap will serve as the fixed fee cap for the requested activity.

After calculating the fixed fee cap, the PM will obtain approval of the fixed fee cap from the licensing BC and, where appropriate, division management.[3] Once approved, the PM will communicate the fixed fee cap and estimated schedule to the applicant in the NRC written communication on schedule and resources for the requested activity (which may be the acceptance letter or a subsequent communication). This written communication will use the template language provided in Enclosure 1 (ML26236A326), with appropriate updates including a description of any previous phased submittal work considered in establishing the fixed fee cap, if relevant. The PM will also communicate the fixed fee cap and estimated schedule to the project team.

In addition, after issuing the written communication to the applicant establishing the fixed fee cap, the PM will update the project tracking system or FFC source system (RPS, WBL, or CACS) with the required fixed fee cap information in accordance with the OCFO guidance in the Fixed Fee Cap Management Handbook (ML26231A204) and ensure that the generated FFC ID reflects the correct fixed fee cap information and amount.

For requested activities that require a final decision in such a limited time that performance of an acceptance review is not feasible (e.g., certain emergency and exigent amendment requests or emergent code relief requests), the PM will communicate the fixed fee cap and start date of the review to the applicant in an email communication. The PM will then add the email communication to ADAMS and update the project tracking system or FFC source system (RPS, WBL, or CACS) with the ADAMS accession number. The start date of the review will be the date the complete application is submitted, if an acceptance review is not performed.

Tracking resources against the fixed fee cap begins when a complete application for the requested activity has been accepted for review by the NRC and continues until the NRC issues the final decision on the application. Simply stated, the starting point for the fixed fee cap is the acceptance of a complete application.

For a requested activity involving multiple submittals (a phased submittal approach such as an Environmental Report and a LAR), tracking begins when the last submittal is accepted for review by the NRC, making the application complete. The fixed fee cap is for the remaining portions of the NRC’s review. If any phased submitted portions of the application were reviewed by the NRC staff prior to acceptance of a complete application, those resources are considered when establishing the fixed fee cap, and the written communication on schedule and resources that establishes the fixed fee cap will note that

[3] If the potential tailored cap exceeds the categorical cap, the PM will coordinate with division management to plan for appropriate action to avoid or mitigate any potential for a fixed fee cap exceedance not attributable to applicant failure. Additionally, for first-of-a-kind or certain other significant requested activities (e.g., reactor using new technology), the PM will coordinate to determine if division management approval is needed.

phased submittal review resources were expended before the fixed fee cap began applying. When developing the tailored cap under these circumstances, the staff should be mindful of the review resources already expended, so the total resources expended will be on par with a comparable application that was submitted at one time. Although the fixed fee cap and categorical caps in Table 1 in 10 CFR 170.33 do not apply to activities prior to acceptance of the complete application, the total resources expended for review of an application with a phased submittal approach should generally not exceed the categorical cap for the activity. The total resources expended should reflect any efficiencies gained through the phased submittal approach.

3.4. Potential Examples of Applicant Failure

This section identifies potential examples of actions or inaction that may lead to applicant failure. These examples are included to support consistent application of the definition of applicant failure in 10 CFR 170.3. This list does not include every scenario in which applicant failure may apply, and it may be updated as the NRC staff gains experience implementing this process. **Examples in this list are representative of applicant failure only if all three criteria in 10 CFR 170.3 have been satisfied (see Section 3.2, "Definitions").** To determine if the criteria in 10 CFR 170.3 have been satisfied, the process in Section 3.5, "Tracking, Determination, and Approval of Applicant Failure," will be used.

1. Example specifically included in 10 CFR 170.3: Explicit requests by the applicant to the NRC to pause or delay the review. This includes a request from the applicant to deprioritize the review.

2. Incomplete, poor quality, or untimely responses to NRC staff requests for additional information (RAIs), to audit questions, in clarification calls, or in meetings on the requested activity between the applicant and the NRC staff. This includes not providing responses to support the key milestones consistent with the applicant commitments and expectations identified in the NRC written communication on schedule and resources for the requested activity. This also includes responses that lack sufficient technical detail or do not address all aspects of the NRC staff's questions, causing a need for substantial further review or follow-up requests.

3. Failure to submit confirmatory information that the application relies upon and that the applicant committed to provide (e.g., during the NRC staff's acceptance review of the application), preventing the NRC staff from completing its review.

4. Significant design changes after a complete application has been accepted for review by the NRC, such as:

    a. Changes to safety, security, or environmental aspects of a proposed design;

    b. Addition or removal of structures, systems, and components (SSCs), principal design criteria (PDC), or items relied on for safety (IROFS);

    c. Changes to the classification of SSCs or IROFS; or

    d. Changes to the materials used for SSCs.

5. Applicant revisions to its application or supplemental information that significantly change the scope of the NRC staff's review after a complete application has been accepted for review by the NRC, such as:

    a. Modification of a nuclear process;

    b. Addition of a nuclear-related building;

    c. Reactor site criteria changes;

    d. Changes to the type of application (e.g., changing from an amendment request to an exemption request or vice versa);

    e. Changes in license class requested (i.e., Class 103 or Class 104);

    f. Changes to the methodology used by the applicant;

    g. Changes to the underlying technical basis of an application or submission of new analytical results;

    h. Changes in facility location; or

    i. Changes in facility ownership or operator.

6. Failure to provide access to proprietary, export-control, or security-related information necessary for the NRC staff to complete its review.

7. Erroneous or inconsistent application of document markings denoting trade secrets or commercial or financial information privileged or confidential under 10 CFR 2.390 that requires significant additional NRC staff resources to ensure proper handling of the information.

8. Failure to adequately plan, coordinate, or take other appropriate action if issuance of the final decision on a requested activity is dependent on the action of a third party (i.e., a party other than the NRC or the applicant). This includes failure to provide sufficient information to a third party to support consultations required by federal statutes, such as the National Historic Preservation Act, Endangered Species Act, and Energy Policy Act of 2005. This also includes failure to take appropriate actions to support timely obtainment from a state agency of a consistency determination under the Coastal Zone Management Act, or a certification or waiver under the Clean Water Act.

3.5. <u>Tracking, Determination, and Approval of Applicant Failure</u>

The PM, in coordination with the licensing BC and division management, is responsible for tracking, identifying, documenting, and initiating the process for determining applicant failure. The PM is responsible for monitoring and recording the completion of key project milestones, resource utilization, expenditures, and delays using NRC systems such as RPS and WBL or other project management tools, such as internal tracking dashboards. The PM will consult with their management and the Office of the General Counsel (OGC), as described below, before discussing the potential for applicant failure for a specific requested activity with the applicant or external stakeholders.

If the PM identifies that the criteria in 10 CFR 170.3 might be satisfied for applicant failure and that the fixed fee cap is at risk of being exceeded, the PM will notify the licensing BC, division management, office senior leadership, and OGC. This notification will identify the specific actions or inaction that might satisfy the criteria for applicant failure and will propose a new fixed fee cap, which will represent the lowest practicable amount to account for the applicant failure and complete the review. The PM will develop the new fixed fee cap by using the Fixed Fee Cap Calculator to convert the updated resource estimate into a new fixed fee cap amount. Division management will review the information, determine whether the criteria have been satisfied for applicant failure, and approve the new fixed fee cap. If division management determines that the applicant failure criteria have been satisfied, division management will brief the program office and the Office of the Executive Director for Operations (OEDO) senior leadership and coordinate with the PM to issue an NRC daily note in accordance with OEDO Procedure-0350, "NRC Daily Notes and One-Week Look Aheads" (ML21015A596), no less than three business days before sending the written communication with the new fixed fee cap to the applicant.

Upon approval of the new fixed fee cap, the PM will email Fees_FixedFeeCap.Resource@nrc.gov to notify OCFO. If the timing of the new fixed fee cap has billing implications due to invoicing quarter timing, OCFO will work with the PM to ensure the necessary system updates are made to facilitate accurate billing.

3.6. Documentation and Communication of Applicant Failure and New Fixed Fee Cap to the Applicant

The PM is responsible for issuing a written communication, signed out by division management, to the applicant using the template language provided in Enclosure 2 (ML26236A332), which details the applicant failure determination, specifies the actions or inactions that led to the determination, provides the new fixed fee cap (calculated as the lowest practicable amount to account for the applicant failure), and describes any impacts to the project schedule, including milestone changes. Once the written communication is approved by division management and OGC, the PM will enter the ADAMS accession number for the written communication and any needed updates in the project tracking system or FFC source system (RPS, WBL, or CACS), within five business days to reflect the new fixed fee cap and milestones in accordance with the OCFO guidance in the Fixed Fee Cap Management Handbook.

4. RESPONSIBILITIES AND AUTHORITIES

This section defines the roles and responsibilities of the NRC staff in implementing this OI.

Fixed Fee Cap (FFC) ID Manager (Licensing PM)

- Calculates the fixed fee cap for the requested activity and obtains licensing BC approval. For first-of-a-kind or certain other significant requested activities (e.g., reactor using new technology), the PM will coordinate to determine if division management approval is needed. If division management approval is needed, obtains division management approval. In addition, if the potential tailored cap exceeds the categorical cap, the PM will coordinate with division management to plan for appropriate action to avoid or mitigate any potential for a fixed fee cap exceedance not attributable to applicant failure.

- Enters and maintains accurate fixed fee cap information in the project tracking system and FFC source system (e.g., RPS, CACS, WBL).
- Resolves issues identified by the FFC ID Verifier and FFC ID Administrator.
- Ensures that the NRC communicates the fixed fee cap in the NRC written communication on schedule and resources for the requested activity.
- Monitors project resource utilization.
- Identifies potential need to increase the fixed fee cap in instances of applicant failure.
- Coordinates with the licensing BC, division management, office senior leadership, and OGC regarding whether the criteria have been satisfied for applicant failure and establishment of a new fixed fee cap.
- Ensures that the NRC communicates its applicant failure determination and the new fixed fee cap in a written communication to the applicant.

Fixed Fee Cap (FFC) ID Verifier (Licensing BC)

- Reviews requests to establish the fixed fee cap for a requested activity, or a new fixed fee cap after applicant failure, for accuracy and completeness and follows up on inaccurate or missing information in FFC ID reports. Although the division TA may act as the backup FFC ID Verifier to review reports for accuracy and completeness, the TA cannot approve or deny these requests.
- Approves or denies these requests in the project tracking system or FFC source system (RPS, WBL, or CACS) (after division management completes review, if needed). If the BC is unavailable, another licensing BC can approve or deny these requests in the system.
- Confirms whether the professional hourly rate or reduced hourly rate applies to the requested activity.
- Resolves issues identified by the FFC ID Administrator.
- Oversees staff implementation of this OI and any other related guidance.

Fixed Fee Cap (FFC) ID Administrator (OCFO Staff)

- Conducts routine and comprehensive reviews of FFC ID data to identify discrepancies and anomalies.
- Assists FFC ID Managers and FFC ID Verifiers in resolving data inaccuracies.
- Ensures all changes to FFC ID data elements are assessed for billing impacts.

Division Director for the Requested Activity

- Coordinates with the PM and/or licensing BC to determine if division management approval is needed for requests to establish the fixed fee cap for first-of-a-kind or certain other significant requested activities. If division management approval is needed, approves or denies requests to establish the fixed fee cap for the requested activity. In addition, if the initial calculated tailored cap exceeds the categorical cap, the PM will coordinate with division management to plan for appropriate action to avoid or mitigate any potential for a fixed fee cap exceedance not attributable to applicant failure.
- Approves or denies the applicant failure determinations and requests to establish a new fixed fee cap after applicant failure.

- If division management determines that the applicant failure criteria have been satisfied, briefs the program office and OEDO senior leadership and coordinates with the PM to issue an NRC daily note no less than three business days before sending the written communication with the new fixed fee cap to the applicant.
- Approves and signs the written communication with the new fixed fee cap to the applicant after applicant failure.
- Provides strategic oversight to ensure alignment with NEIMA performance metrics and EO 14300 policies.

Office of the Chief Financial Officer (OCFO)

- Implements fixed fee cap requirements, consistent with the NRC's fee regulations.
- Processes disputes related to fixed fee caps under 10 CFR 15.31 and 170.33(f) and NRC Form 529 procedures.
- Maintains financial records and ensures compliance with statutory fee recovery requirements under NEIMA.

Office of the General Counsel (OGC)

- Provides legal support on implementation of fixed fee cap requirements.
- Supports evaluation and determination of whether the criteria have been satisfied for applicant failure.
- Reviews written communications transmitting a new fixed fee cap to the applicant after applicant failure.
- Supports resolution of fixed fee cap disputes.

5. EFFECTIVE DATE

August 25, 2026

6. CERTIFICATION DATE

August 25, 2031

7. REFERENCES

1. NRR Office Instruction LIC-109, Revision 3, "Acceptance Review Procedures for Licensing Basis Changes" (ML20036C829)

2. NRR Office Instruction LIC-117, "Acceptance Review Process for New Nuclear Facility Licensing Applications" (ML20283A182)

3. NRR Office Instruction LIC-500, Revision 9, "Topical Report Process" (ML20247G279)

4. NMSS/DFM Division Instruction, LIC-FM-1, Revision 1, "Overview and Expectations of the Certification and Licensing Process" (ML22130A659)

5. NMSS/DFM Division Instruction, LIC-FM-2, Revision 1, "Acceptance Review Process" (ML22161B042)

ENCLOSURES:

1. Template Language for Written Communication on Schedule and Resources Establishing Fixed Fee Cap (ML26236A326)
2. Template Language for Written Communication of New Fixed Fee Cap Due to Applicant Failure (ML26236A332)

Enclosure 1: Template Language for Written Communication on Schedule and Resources Establishing Fixed Fee Cap

{This enclosure contains the template language regarding fixed fee caps for use in the NRC written communication on schedule and resources for the requested activity (which may be the NRC acceptance letter or a subsequent communication). The written communication will also provide the NRC's schedule estimate using established business line practices.}

In accordance with 10 CFR 170.33, this communication establishes the fixed cap on service fees (fixed fee cap) for the NRC's review of the **[PROJECT NAME]** application. The fixed fee cap for the NRC's review of this requested activity is $**[X]**. The NRC considered various factors when establishing this fixed fee cap, such as the quality and complexity of the application, technology type, and any pre-application engagement. The **[Professional Hourly Rate/Reduced Hourly Rate as established in 10 CFR 170.20(b)]** applies to this requested activity.

The fixed fee cap represents the maximum amount that the NRC may charge for service fees for this requested activity following acceptance of the complete application. The fixed fee cap will not be increased except in instances of applicant failure, as defined in 10 CFR 170.3. If applicant failure occurs, the NRC will notify **[APPLICANT]** in writing of the new fixed fee cap, which will be set at the lowest practicable amount determined by the NRC to account for the applicant failure and complete the review.

The NRC will track service fees against the fixed fee cap beginning on **[ACCEPTANCE DATE: XX/XX/XXXX]**, which is the date a complete application was accepted for review by the NRC for this requested activity.

[INSERT THIS PARAGRAPH IF PORTIONS OF THE APPLICATION HAVE BEEN REVIEWED PRIOR TO ACCEPTANCE OF A COMPLETE APPLICATION: Because portions of the application were submitted in advance of the acceptance of a complete application, the NRC staff expended resources reviewing portions of the application. These portions include **[Briefly describe the portions of the application reviewed].** The resources expended on the review of these portions prior to acceptance of the complete application are not counted toward but are considered when establishing the fixed fee cap. The established fixed fee cap is for the remaining portions of the NRC's review beginning on **[ACCEPTANCE DATE: XX/XX/XXXX]**.**]**

Disputes associated with a fixed fee cap must be submitted in accordance with 10 CFR 15.31 and 170.33(f) and NRC Form 529 procedures.

Enclosure 2: Template Language for Written Communication of a New Fixed Fee Cap Due to Applicant Failure

In accordance with 10 CFR 170.33(e), this communication establishes a new fixed fee cap for the NRC's review of the **[PROJECT NAME]** application because the NRC has determined that the criteria in 10 CFR 170.3 have been satisfied.

The NRC has determined that the following actions or inaction meet the criteria in 10 CFR 170.3: **[Briefly describe the specific actions/inactions and their impact, e.g., "Failure to provide timely responses to Requests for Additional Information (RAIs) issued on [DATE], resulting in a delay of [X] days and requiring additional NRC review resources."]**

As a result, the new fixed fee cap for the NRC's review of this requested activity is $**[X]**, which represents the lowest practicable amount determined by the NRC in accordance with 10 CFR 170.33(e).

Following this communication, the NRC will track service fees against the new fixed fee cap. The starting point for the fixed fee cap for this requested activity will continue to be **[ACCEPTANCE DATE: XX/XX/XXX]**, which is the date a complete application was accepted for review by the NRC for this requested activity.

Disputes associated with a fixed fee cap must be submitted in accordance with 10 CFR 15.31 and 170.33(f) and NRC Form 529 procedures.