

§ 170.32

10 CFR Ch. I (1-1-97 Edition)

[61 FR 16215, Apr. 12, 1996]

**§ 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.

[53 FR 52652, Dec. 29, 1988]

ENFORCEMENT

**§ 170.41 Failure by applicant or licensee to pay prescribed fees.**

In any case where the Commission finds that an applicant or a licensee has failed to pay a prescribed fee required in this part, the Commission will not process any application and may suspend or revoke any license or approval issued to the applicant or licensee or may issue an order with respect to licensed activities as the Commission determines to be appropriate or necessary in order to carry out the provisions of this part, parts 30, 32 through 35, 40, 50, 61, 70, 71, 72, and 73 of this chapter, and of the Act.

[49 FR 21309, May 21, 1984]

**§ 170.51 Right to review and appeal of prescribed fees.**

All debtors' requests for review of the fees assessed and appeal or disagreement with the prescribed fee (staff hours and contractual) must be submitted in accordance with the provisions of 10 CFR 15.31, "Disputed Debts," of this title.

[49 FR 21309, May 21, 1984; 49 FR 24113, June 12, 1984]

**PART 171—ANNUAL FEES FOR REACTOR OPERATING LICENSES, AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY NRC**

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AUTHORITY: Sec. 7601, Pub. L. 99-272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100-203, 101 Stat. 1330, as amended by sec. 3201, Pub. L. 101-239, 103 Stat. 2106 as amended by sec. 6101, Pub. L. 101-508, 104 Stat. 1388 (42 U.S.C. 2213); sec. 301, Pub. L. 92-314, 86 Stat. 222 (42 U.S.C. 2201(w)); sec. 201, 88 Stat. 1242 as amended (42 U.S.C. 5841); sec. 2903, Pub. L. 102-486, 106 Stat. 3125 (42 U.S.C. 2214 note).

SOURCE: 51 FR 33230, Sept. 18, 1986, unless otherwise noted.

**§ 171.1 Purpose.**

The regulations in this part set out the annual fees charged to persons who hold licenses, Certificates of Compliance, sealed source and device registrations, and quality assurance program approvals issued by the United States Nuclear Regulatory Commission, including licenses, registrations, approvals, and certificates issued to a Government agency.

[56 FR 31504, July 10, 1991]

**§ 171.3 Scope.**

The regulations in this part apply to any person holding an operating license for a power reactor, test reactor or research reactor issued under part 50 of this chapter. These regulations also apply to any person holding a materials license as defined in this part, a Certificate of Compliance, a sealed source or device registration, a quality assurance program approval, and to a Government agency as defined in this part.

[56 FR 31505, July 10, 1991]

**§ 171.5 Definitions.**

*Budget* means the funds appropriated by Congress for the NRC for each fiscal year, and if that appropriation is not passed on or before September 1 for that fiscal year, the funds most recently appropriated by Congress for the most recent fiscal year.

*Budget Authority* means the authority, in the form of appropriations, provided by law and becoming available during the year, to enter into obligations that will result in immediate or future outlays involving Federal government funds. The appropriation is an authorization by an Act of Congress that permits the NRC to incur obligations and to make payments out of the Treasury for specified purposes. Fees assessed pursuant to Public Law 101-508 are based on NRC budget authority.

*Byproduct Material* means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

*Certificate Holder* means a person who holds a certificate of compliance, or other package approval issued by the Commission.

*Commission* means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

*Federal fiscal year* means a year that begins on October 1 of each calendar year and ends on September 30 of the following calendar year. Federal fiscal years are identified by the year in which they end (e.g., fiscal year 1987 begins in 1986 and ends in 1987).

*Government Agency* means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the government.

*High Enriched Uranium Fuel* means uranium enriched to 20 percent or greater in the isotope uranium-235.

*Low Enriched Uranium Fuel* means uranium enriched below 20 percent in the isotope uranium-235.

*Materials License* means a license, certificate, approval, registration, or

other form of permission issued by the NRC pursuant to the regulations in 10 CFR parts 30, 32 through 36, 39, 40, 61, 70, 71 and 72.

*Nonprofit educational institution* means a public or nonprofit educational institution whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

*Nuclear reactor* means an apparatus, other than an atomic weapon, used to sustain fission in a self-supporting chain reaction.

*Operating license* means having a license issued pursuant to § 50.57 of this chapter. It does not include licenses that only authorize possession of special nuclear material after the Commission has received a request from the licensee to amend its license to permanently withdraw its authority to operate or the Commission has permanently revoked such authority.

*Overhead and General and Administrative costs* means:

(1) The Government benefits for each employee such as leave and holidays, retirement and disability benefits, health and life insurance costs, and social security costs;

(2) Travel costs;

(3) Direct overhead, e.g., supervision and support staff that directly support the NRC safety mission areas (administrative support costs, e.g., rental of space, equipment, telecommunications and supplies); and

(4) Indirect costs that would include, but not be limited to, NRC central policy direction, legal and executive management services for the Commission and special and independent reviews, investigations, and enforcement and appraisal of NRC programs and operations.

Some of the organizations included are the Commissioners, Secretary, Executive Director for Operations, General Counsel, Government and Public Affairs (except for international safety and safeguards programs), Inspector General, Investigations, Enforcement,

Small and Disadvantaged Business Utilization and Civil Rights, the Technical Training Center, Advisory Committees on Nuclear Waste and Reactor Safeguards, and the Atomic Safety and Licensing Board Panel and Appeal Panel. The Commission views these budgeted costs as support for all its regulatory services provided to applicants, licensees, and certificate holders, and these costs must be recovered pursuant to Public Law 101-508.

*Person* means: (1) Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission; any state or any political subdivision of, or any political entity within, a state; any foreign Government or nation or any political subdivision of any such government or nation; or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

*Power reactor* means a nuclear reactor designed to produce electrical or heat energy and licensed by the Commission under the authority of section 103 or subsection 104b of the Atomic Energy Act of 1954, as amended, and pursuant to the provisions of § 50.21(b) or § 50.22 of this chapter.

*Quality Assurance Program Approval* is the document issued by the NRC to approve the quality assurance program submitted to the NRC as meeting the requirements of § 71.101 of this chapter. Activities covered by the quality assurance program may be divided into two major groups: those activities including design, fabrication and use of packaging and those activities for use only of packaging.

*Registration Holder* as used in this part means any manufacturer or initial distributor of a sealed source or device containing a sealed source that holds a certificate of registration issued by the NRC or a holder of a registration for a sealed source or device manufactured in accordance with the unique specifications of, and for use by, a single applicant.

*Research Reactor* means a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of § 50.21(c) of this chapter for operation at a thermal power level of 10

megawatts or less, and which is not a testing facility as defined in this section.

*Source Material* means:

(1) Uranium or thorium, or any combination thereof, in any physical or chemical form; or

(2) Ores which contain by weight one-twentieth of one percent (0.05%) or more of

(i) Uranium,

(ii) Thorium, or

(iii) Any combination thereof.

Source material does not include special nuclear material.

*Special Nuclear Material* means:

(1) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(2) Any material artificially enriched by any of the foregoing, but does not include source material.

*Testing Facility* means a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of § 50.21(c) of this chapter for operation at:

(1) A thermal power level in excess of 10 megawatts; or

(2) A thermal power level in excess of 1 megawatt, if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

[51 FR 33230, Sept. 18, 1986, as amended at 53 FR 52652, Dec. 29, 1988; 56 FR 31505, July 10, 1991; 57 FR 32714, July 23, 1992; 58 FR 38695, July 20, 1993]

#### § 171.7 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the regulations in this part by an officer or employee of the Commission, other than a written interpretation by the General Counsel,

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will be recognized as binding on the Commission.

### § 171.8 Information collection requirements: OMB approval

This part contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3401 *et seq.*).

[58 FR 38695, July 20, 1993]

### § 171.9 Communications.

All communications regarding the regulations in this part should be addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Communications may be delivered in person to the Commission's Offices at 11555 Rockville Pike, Rockville, MD, or at 2120 L Street NW., Washington, DC.

[53 FR 17916, May 19, 1988, as amended at 53 FR 43422, Oct. 27, 1988]

### § 171.11 Exemptions.

(a) An annual fee is not required for:

(1) A construction permit or license applied for by, or issued to, a nonprofit educational institution for a production or utilization facility, other than a power reactor, or for the possession and use of byproduct material, source material, or special nuclear material. This exemption does not apply to those byproduct, source, or special nuclear material licenses which authorize:

- (i) Human use;
- (ii) Remunerated services to other persons;
- (iii) Distribution of byproduct material, source material, or special nuclear material or products containing byproduct material, source material, or special nuclear material; or
- (iv) Activities performed under a Government contract.

(2) Federally-owned and State-owned research reactors used primarily for educational training and academic research purposes. For purposes of this exemption, the term research reactor means a nuclear reactor that—

(i) Is licensed by the Nuclear Regulatory Commission under section 104c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) for operation at a ther-

mal power level of 10 megawatts or less; and

(ii) If so licensed for operation at a thermal power level of more than 1 megawatt, does not contain—

(A) A circulating loop through the core in which the licensee conducts fuel experiments;

(B) A liquid fuel loading; or

(C) An experimental facility in the core in excess of 16 square inches in cross-section.

(b) The Commission may, upon application by an interested person or on its own initiative, grant an exemption from the requirements of this part that it determines is authorized by law or otherwise in the public interest. Requests for exemption must be filed with the NRC within 90 days from the effective date of the final rule establishing the annual fees for which the exemption is sought in order to be considered. Absent extraordinary circumstances, any exemption requests filed beyond that date will not be considered. The filing of an exemption request does not extend the date on which the bill is payable. Only timely payment in full ensures avoidance of interest and penalty charges. If a partial or full exemption is granted, any overpayment will be refunded. Requests for clarification of or questions relating to an annual fee bill must also be filed within 90 days from the date of the initial invoice to be considered.

(c) An exemption for reactors under this provision may be granted by the Commission taking into consideration each of the following factors:

- (1) Age of the reactor;
- (2) Size of the reactor;
- (3) Number of customers in rate base;
- (4) Net increase in KWh cost for each customer directly related to the annual fee assessed under this part; and
- (5) Any other relevant matter which the licensee believes justifies the reduction of the annual fee.

(d) The Commission may grant a materials licensee an exemption from the annual fee if it determines that the annual fee is not based on a fair and equitable allocation of the NRC costs. The following factors must be fulfilled as determined by the Commission for an exemption to be granted:

(1) There are data specifically indicating that the assessment of the annual fee will result in a significantly disproportionate allocation of costs to the licensee, or class of licensees; or

(2) There is clear and convincing evidence that the budgeted generic costs attributable to the class of licensees are neither directly or indirectly related to the specific class of licensee nor explicitly allocated to the licensee by Commission policy decisions; or

(3) Any other relevant matter that the licensee believes shows that the annual fee was not based on a fair and equitable allocation of NRC costs.

[56 FR 31505, July 10, 1991, as amended at 57 FR 32714, July 23, 1992; 58 FR 38695, July 20, 1993; 59 FR 12543, Mar. 17, 1994; 59 FR 36924, July 20, 1994]

**§ 171.13 Notice.**

The annual fees applicable to an operating reactor and to a materials licensee, including a Government agency licensed by the NRC, subject to this part and calculated in accordance with §§ 171.15 and 171.16, will be published as a notice in the FEDERAL REGISTER as soon as is practicable but no later than the third quarter of FY 1996 through 1998. The annual fees will become due and payable to the NRC in accordance with § 171.19 except as provided in § 171.17. Quarterly payments of the annual fees of \$100,000 or more will continue during the fiscal year and be based on the applicable annual fees as shown in §§ 171.15 and 171.16 of the regulations until a notice concerning the revised amount of the fees for the fiscal year is published by Commission.

[60 FR 32244, June 20, 1995]

**§ 171.15 Annual Fees: Reactor operating licenses.**

(a) Each person licensed to operate a power, test, or research reactor shall pay the annual fee for each unit for which the person holds an operating license at any time during the Federal FY in which the fee is due, except for those test and research reactors exempted in § 171.11 (a)(1) and (a)(2).

(b) The FY 1996 uniform annual fee for each operating power reactor which must be collected by September 30, 1996, is \$2,746,000. This fee has been determined by adjusting the FY 1995 an-

nual fee downward by approximately 6 percent. The FY 1995 annual fee was comprised of a base annual fee and an additional charge (surcharge). The activities comprising the base FY 1995 annual fee are as follows:

(1) Power reactor safety and safeguards regulation except licensing and inspection activities recovered under 10 CFR Part 170 of this chapter.

(2) Research activities directly related to the regulation of power reactors.

(3) Generic activities required largely for NRC to regulate power reactors, e.g., updating Part 50 of this chapter, or operating the Incident Response Center.

(c) The activities comprising the FY 1995 surcharge are as follows:

(1) Activities not attributable to an existing NRC licensee or class of licensees; e.g., reviews submitted by other government agencies (e.g., DOE) that do not result in a license or are not associated with a license; international cooperative safety program and international safeguards activities; low-level waste disposal generic activities; uranium enrichment generic activities; and

(2) Activities not currently assessed under 10 CFR Part 170 licensing and inspection fees based on existing Commission policy, e.g., reviews and inspections conducted of nonprofit educational institutions, and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

(3) The FY 1991 surcharge to be added to each operating power reactor is \$266,000. This amount is calculated by dividing the total cost for these activities (\$29.0 million) by the number of operating power reactors (109).

(4) The FY 1992 surcharge to be added to each operating power reactor is \$281,000. This amount is calculated by dividing the total cost for these activities (\$30.6 million) by the number of operating power reactors (109).

(d) [Reserved]

(e) The FY 1996 annual fees for licensees authorized to operate a nonpower (test and research) reactor licensed under Part 50 of this chapter, except for those reactors exempted from fees under § 171.11(a), are as follows:

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Research reactor .....	\$52,800
Test reactor .....	\$52,800

(f) For FY 1992 through 1995 annual fees for operating reactors will be calculated and assessed in accordance with § 171.13 of this section.

[56 FR 31506, July 10, 1991; 56 FR 37828, Aug. 9, 1991; 57 FR 32714, July 23, 1992; 58 FR 38695, July 20, 1993; 59 FR 26098, May 19, 1994; 59 FR 36924, July 20, 1994; 60 FR 32244, June 20, 1995; 61 FR 16220, Apr. 12, 1996]

**§ 171.16 Annual Fees: Material Licenses, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals and Government Agencies Licensed by the NRC.**

(a) Person(s) who conduct activities authorized under

- (1) 10 CFR part 30 for byproduct material;
- (2) 10 CFR part 40 for source material, and
- (3) 10 CFR part 70 for special nuclear material,
- (4) 10 CFR part 71 for packaging and transportation of radioactive material, and
- (5) 10 CFR part 72 for independent storage of spent nuclear fuel and high level waste:

shall pay an annual fee for each license, certificate, approval or registration the person(s) holds on the date the annual fee is due. If a person holds more than one license, certificate, registration or approval, the annual fee will be the cumulative total of the annual fees applicable to the licenses, certificates, registrations or approvals held by that person. For those licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

(b) The basis for the annual fee is the sum of NRC budgeted costs for each FY for those

- (1) Generic and other research activities directly related to the regulation of materials licenses as defined in this part; and
- (2) Other safety, environmental, and safeguards activities for materials licenses (except costs for licensing and inspection activities directly associ-

ated with plant-specific licensing and inspections that are recovered under part 170 of this chapter).

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification, the licensee may pay reduced annual fees for FY 1996 as follows:

	Maximum annual fee per licensed category
Small businesses not engaged in manufacturing and small not-for-profit organizations (gross annual receipts):	
\$350,000 to \$5 million .....	\$1,800
Less than \$350,000 .....	400
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees .....	1,800
Less than 35 employees .....	400
Small Governmental jurisdictions (including publicly supported educational institutions) (population):	
20,000 to 50,000 .....	1,800
Less than 20,000 .....	400
Educational institutions that are not State or publicly supported, and have 500 employees or less:	
35 to 500 employees .....	1,800
Less than 35 employees .....	400

(1) A licensee qualifies as a small entity if it meets the size standards established by the NRC (See 10 CFR 2.810).

(2) A licensee who seeks to establish status as a small entity for purposes of paying the annual fees required under this section shall file a certification statement with the Commission. The licensee shall file the required certification on NRC Form 526 for each license under which it is billed. The NRC shall include a copy of Form NRC 526 with each annual fee invoice sent to a licensee for purposes of billing under this section. A licensee who seeks to qualify as a small entity shall submit the completed NRC Form 526 with the reduced annual fee payment.

(3) For purposes of this section, the licensee shall submit a new certification with its annual fee payment each year.

(4) For FY 1996, the maximum annual fee a small entity is required to pay is \$1,800 for each category applicable to the license(s).

(d) The FY 1996 annual fees for materials licensees and holders of certificates, registrations or approvals subject to fees under this section are shown below. The FY 1996 annual fees, which must be collected by September 30, 1996, have been determined by adjusting downward the FY 1995 annual fees by approximately 6 percent. The FY 1995 annual fee was comprised of a base annual fee and an additional charge (surcharge). The activities comprising the FY 1995 surcharge are shown in paragraph (e) of this section.

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC  
[See footnotes at end of table]

Category of materials licenses	Annual fees <sup>1, 2, 3</sup>
1. Special nuclear material:	
A.(1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material:	
Babcock & Wilcox (SNM-42) .....	\$2,403,000
Nuclear Fuel Services (SNM-124) .....	2,403,000
(b) Low Enriched Uranium in Dispersable Form Used for Fabrication of Power Reactor Fuel:	
Combustion Engineering (Hematite) (SNM-33) .....	1,179,000
General Electric Company (SNM-1097) .....	1,179,000
Siemens Nuclear Power (SNM-1227) .....	1,179,000
Westinghouse Electric Company (SNM-1107) .....	1,179,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations:	
B&W Fuel Company (SNM-1168) .....	469,200
(b) All Others:	
General Electric (SNM-960) .....	318,600
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI) ..	260,900
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers .....	1,200
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 1.A.(2) .....	2,800
E. Licenses for the operation of a uranium enrichment facility .....	<sup>11</sup> N/A
2. Source material:	
A.(1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride .....	597,800
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, 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, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
Class I facilities <sup>4</sup> .....	57,000
Class II facilities <sup>4</sup> .....	32,200
Other facilities <sup>4</sup> .....	20,600
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) .....	41,800
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) .....	7,400
B. Licenses which authorize only the possession, use and/or installation of source material for shielding ....	450
C. All other source material licenses .....	8,100
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution .....	15,400
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 .....	5,200
C. Licenses issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized pursuant to Part 40 of this chapter when included on the same license .....	10,400
D. Licenses and approvals issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category also includes the possession and use of source material for shielding authorized pursuant to Part 40 of this chapter when included on the same license .....	4,100

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SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY  
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[See footnotes at end of table]

Category of materials licenses	Annual fees <sup>1, 2, 3</sup>
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) .....	2,900
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. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes .....	3,500
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. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes .....	18,100
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, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter .....	4,600
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, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter .....	8,200
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 .....	3,500
K. Licenses issued pursuant to Subpart B of Part 31 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, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter .....	3,000
L. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution .....	11,400
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 .....	5,100
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C .....	5,600
O. Licenses for possession and use of byproduct material issued pursuant to Part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized pursuant to Part 40 of this chapter when authorized on the same license .....	13,000
P. All other specific byproduct material licenses, except those in Categories 4A through 9D .....	1,600
4. Waste disposal and processing: A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material .....	<sup>5</sup> 94,300
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 .....	13,300
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 .....	7,100
5. Well logging: A. Licenses for possession and 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 .....	7,500
B. Licenses for possession and use of byproduct material for field flooding tracer studies .....	12,200
6. Nuclear laundries: A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material .....	13,600
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. This category also includes the possession and use of source material for shielding when authorized on the same license .....	9,500

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees <sup>1, 2, 3</sup>
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. This category also includes the possession and use of source material for shielding when authorized on the same license <sup>9</sup> .....	21,700
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. This category also includes the possession and use of source material for shielding when authorized on the same license <sup>9</sup> .....	4,300
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities .....	1,600
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution .....	6,700
B. Registrations issued for the 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 .....	3,400
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution .....	1,400
D. Registrations issued for the 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 .....	720
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
Spent Fuel, High-Level Waste, and plutonium air packages .....	<sup>6</sup> N/A
Other Casks .....	<sup>6</sup> N/A
B. Approvals issued of 10 CFR Part 71 quality assurance programs.	
Users and Fabricators .....	72,700
Users .....	950
11. Standardized spent fuel facilities .....	<sup>6</sup> N/A
12. Special Projects .....	<sup>6</sup> N/A
13. A. Spent fuel storage cask Certificate of Compliance .....	<sup>6</sup> N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210 .....	260,900
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities pursuant to 10 CFR Parts 30, 40, 70, and 72 .....	<sup>7</sup> N/A
15. Import and Export licenses .....	<sup>8</sup> N/A
16. Reciprocity .....	<sup>8</sup> N/A
17. Master materials licenses of broad scope issued to Government agencies .....	388,400
18. Department of Energy:	
A. Certificates of Compliance .....	<sup>10</sup> 1,077,000
B. Uranium Mill Tailing Radiation Control Act (UMTRCA) activities .....	1,812,000

<sup>1</sup> Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the fiscal year. However, the annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/ storage licenses prior to October 1, 1995, and permanently ceased licensed activities entirely by September 30, 1995. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a POL during the fiscal year and for new licenses issued during the fiscal year will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1.A.(1) are not subject to the annual fees of Category 1.C and 1.D for sealed sources authorized in the license.

<sup>2</sup> Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of Parts 30, 40, 70, 71, or 72 of this chapter.

<sup>3</sup> For FYs 1997 and 1998, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

<sup>4</sup> A Class I license includes mill licenses issued for the extraction of uranium from uranium ore. A Class II license includes solution mining licenses (in-situ and heap leach) issued for the extraction of uranium from uranium ores including research and development licenses. An "other" license includes licenses for extraction of metals, heavy metals, and rare earths.

<sup>5</sup> Two licenses have been issued by NRC for land disposal of special nuclear material. Once NRC issues a LLW disposal license for byproduct and source material, the Commission will consider establishing an annual fee for this type of license.

<sup>6</sup> Standardized spent fuel facilities, Parts 71 and 72 Certificates of Compliance, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to the users of the designs, certificates, and topical reports.

<sup>7</sup> Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

<sup>8</sup> No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

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<sup>9</sup> Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under Categories 7B or 7C.

<sup>10</sup> This includes Certificates of Compliance issued to DOE that are not under the Nuclear Waste Fund.

<sup>11</sup> No annual fee has been established because there are currently no licensees in this particular fee category.

(e) The activities comprising the FY 1995 surcharge are as follows:

- (1) LLW disposal generic activities;
- (2) Activities not attributable to an existing NRC licensee or classes of licensees; e.g., international cooperative safety program and international safeguards activities; support for the Agreement State program; site decommissioning management plan (SDMP) activities; and
- (3) Activities not currently assessed under 10 CFR part 170 licensing and inspection fees based on existing law or Commission policy, e.g., reviews and inspections conducted of nonprofit educational institutions and Federal agencies; activities related to decommissioning and reclamation and costs that would not be collected from small enti-

ties based on Commission policy in accordance with the Regulatory Flexibility Act.

(f) To recover FY 1991 costs relating to LLW disposal generic activities, an additional charge of \$62,300 has been added to fee Categories 1.A.(1), 1.A.(2) and 2.A.(1); an additional charge of \$1,400 has been added to fee Categories 1.B., 1.D., 2.C., 3.A., 3.B., 3.C., 3.L., 3.M., 3.N., 4.A., 4.B., 4.C., 5.B., 6.A., and 7.B., and an additional charge of \$21,000 has been added to fee Category 17. For comparative purposes the table following shows, for each materials fee category, the total surcharge assessed in FY 1991, the FY 1991 amended surcharges and the amount of overpayment resulting in a refund due or a credit given certain categories of materials licensees.

SCHEDULE OF MATERIALS ANNUAL FEE SURCHARGES

Fee category <sup>1</sup>	FY 1991 surcharge assessed <sup>2</sup>	FY 1991 amended surcharge <sup>2</sup>	Amount of overpayment
Special nuclear material:			
1.A.(1) .....	\$143,500	\$62,400	\$81,100
1.A.(2) .....	35,900	62,400	
1.B .....	1,500	1,500	
1.C .....	100	100	
1.D .....	1,500	1,500	
Source material:			
2.A.(1) .....	143,500	62,400	81,100
2.A.(2) .....	100	100	
2.B .....	100	100	
2.C .....	1,500	1,500	
Byproduct material:			
3.A .....	1,500	1,500	
3.B .....	1,500	1,500	
3.C .....	1,500	1,500	
3.D .....	100	100	
3.E .....	100	100	
3.F .....	100	100	
3.G .....	100	100	
3.H .....	100	100	
3.I .....	100	100	
3.J .....	100	100	
3.K .....	100	100	
3.L .....	1,500	1,500	
3.M .....	1,500	1,500	
3.N .....	1,500	1,500	
3.O .....	100	100	
3.P .....	100	100	
Waste disposal and processing:			
4.A .....	35,900	1,500	34,400
4.B .....	1,500	1,500	
4.C .....	1,500	1,500	
Well logging:			
5.A .....	100	100	
5.B .....	1,500	1,500	
Nuclear laundries:			
6.A .....	1,500	1,500	

SCHEDULE OF MATERIALS ANNUAL FEE SURCHARGES—Continued

Fee category <sup>1</sup>	FY 1991 surcharge assessed <sup>2</sup>	FY 1991 amended surcharge <sup>2</sup>	Amount of overpayment
Medical—human use:			
7.A .....	100	100	
7.B .....	1,500	1,500	
7.C .....	100	100	
Civil defense:			
8.A .....	100	100	
Device/sealed source evaluation:			
9.A .....	100	100	
9.B .....	100	100	
9.C .....	100	100	
9.D .....	100	100	
Transportation:			
10.B .....	100	100	
Spent fuel storage:			
13.B .....	100	100	
Master licenses:			
17 .....	22,500	21,000	1,500

<sup>1</sup> A full description of the various fee categories is found in § 171.16(d).  
<sup>2</sup> Includes \$100 surcharge to recover costs not paid by small entities.

(g) To recover FY 1992 costs relating to LLW disposal generic activities, an additional charge of \$61,700 has been added to fee categories 1.A.(1), 1.A.(2), and 2.A.(1); an additional charge of \$1,500 has been added to fee Categories 1.B., 1.D., 2.C., 3.A., 3.B., 3.C., 3.L., 3.M., 3.N., 4.N., 4.A., 4.B., 4.C., 5.B., 6.A., and 7.B., and an additional charge of \$23,100

has been added to fee Category 17. For comparative purposes the following table shows, for each materials fee category, the total surcharge assessed in FY 1992, the FY 1992 amendment surcharges and the amount of overpayment resulting in a refund due or a credit given for certain categories of materials licensees.

Fee category <sup>1</sup>	FY 1992 surcharge assessed <sup>2</sup>	FY 1992 amended surcharge <sup>2</sup>	Amount of overpayment
Special nuclear material:			
1.A.(1) .....	\$155,250	\$61,850	\$93,400
1.A.(2) .....	38,950	61,850	
1.B .....	1,750	1,650	100
1.C .....	150	150	
1.D .....	1,750	1,650	100
Source material:			
2.A.(1) .....	155,250	61,850	93,400
2.A.(2) .....	150	150	
2.B .....	150	150	
2.C .....	1,750	1,650	100
Byproduct material:			
3.A .....	1,750	1,650	100
3.B .....	1,750	1,650	100
3.C .....	1,750	1,650	100
3.D .....	150	150	
3.E .....	150	150	
3.F .....	150	150	
3.G .....	150	150	
3.H .....	150	150	
3.I .....	150	150	
3.J .....	150	150	
3.K .....	150	150	
3.L .....	1,750	1,650	100
3.M .....	1,750	1,650	100
3.N .....	1,750	1,650	100
3.O .....	150	150	
3.P .....	150	150	
Waste disposal and processing:			
4.A .....	38,950	1,650	37,300
4.B .....	1,750	1,650	100
4.C .....	1,750	1,650	100

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Fee category <sup>1</sup>	FY 1992 sur-charge as-essed <sup>2</sup>	FY 1992 amended sur-charge <sup>2</sup>	Amount of overpayment
Well logging:			
5.A .....	150	150	
5.B .....	1,750	1,650	100
Nuclear laundries:			
6.A .....	1,750	1,650	100
Medical—human use:			
7.A .....	150	150	
7.B .....	1,750	1,650	100
7.C .....	150	150	
Civil defense:			
8.A .....	150	150	
Device/sealed source evaluation:			
9.A .....	150	150	
9.B .....	150	150	
9.C .....	150	150	
9.D .....	150	150	
Transportation:			
10.B .....	150	150	
Spent fuel storage:			
13.B .....	150	150	
Master licenses:			
17 .....	36,150	23,250	12,900

<sup>1</sup> A full description of the various fee categories is found in § 171.16(d).  
<sup>2</sup> Includes \$150 surcharge to recover costs not paid by small entities.

[56 FR 31507, July 10, 1991, as amended at 56 FR 57588, Nov. 13, 1991; 57 FR 32714, July 23, 1992; 57 FR 39421, Aug. 31, 1992; 58 FR 38696, July 20, 1993; 58 FR 45553, Aug. 30, 1993; 59 FR 26099, May 19, 1994; 59 FR 36924, July 20, 1994; 60 FR 32245, June 20, 1995; 60 FR 33462, June 29, 1995; 61 FR 16220, Apr. 12, 1996]

**§ 171.17 Proration.**

Annual fees will be prorated for NRC licensees as follows:

(a) Reactors. The annual fee for reactors (power or nonpower) that are subject to fees under this part and are granted a license to operate on or after October 1 of a FY is prorated on the basis of the number of days remaining in the FY. Thereafter, the full fee is due and payable each subsequent FY. Licensees who have requested amendment to withdraw operating authority permanently during the FY will be prorated based on the number of days during the FY the license was in effect before the possession only license was issued or the license was terminated.

(b) Materials licenses (including fuel cycle licenses). (1) *New licenses and terminations.* The annual fee for a materials license that is subject to fees under this part and issued on or after October 1 of the FY is prorated on the basis of when the NRC issues the new license. New licenses issued during the period October 1 through March 31 of the FY will be assessed one-half the an-

nual fee for that FY. New licenses issued on or after April 1 of the FY will not be assessed an annual fee for that FY. Thereafter, the full fee is due and payable each subsequent FY. The annual fee will be prorated for licenses for which a termination request or a request for a POL has been received on or after October 1 of a FY on the basis of when the application for termination or POL is received by the NRC provided the licensee permanently ceased licensed activities during the specified period. Licenses for which applications for termination or POL are filed during the period October 1 through March 31 of the FY are assessed one-half the annual fee for the applicable category(ies) for that FY. Licenses for which applications for termination or POL are filed on or after April 1 of the FY are assessed the full annual fee for that FY.

(2) *Downgraded licenses.* (i) The annual fee for a materials license that is subject to fees under this part and downgraded on or after October 1 of a FY is prorated upon request by the licensee on the basis of when the application for downgrade is received by the NRC provided the licensee permanently ceased the stated activities during the specified period. Requests for proration must be filed with the NRC within 90 days from the effective date of the

final rule establishing the annual fees for which a proration is sought. Absent extraordinary circumstances, any request for proration of the annual fee for a downgraded license filed beyond that date will not be considered.

(ii) Annual fees for licenses for which applications to downgrade are filed during the period October 1 through March 31 of the FY will be prorated as follows:

(A) Licenses for which applications have been filed to reduce the scope of the license from a higher fee category(ies) to a lower fee category(ies) will be assessed one-half the annual fee for the higher fee category(ies) and one-half the annual fee for the lower fee category(ies), and, if applicable, the full annual fee for fee categories not affected by the downgrade; and

(B) Licenses with multiple fee categories for which applications have been filed to downgrade by deleting a fee category will be assessed one-half the annual fee for the fee category being deleted and the full annual fee for the remaining categories.

(iii) Licenses for which applications for downgrade are filed on or after April 1 of the FY are assessed the full fee for that FY.

[59 FR 36928, July 20, 1994, as amended at 60 FR 32248, June 20, 1995]

**§ 171.19 Payment.**

(a) Method of payment. Fee payments shall be made by check, draft, money order or electronic fund transfer made payable to the U.S. Nuclear Regulatory Commission. Federal agencies may also make payment by either Standard Form SF-1081 (Voucher and Schedule of Withdrawals and Credits) or by the On-line Payment and Collection System (OPAC's). Where specific payment instructions are provided on the bills to applicants or licensees, payment should be made accordingly, e.g., bills of \$5,000 or more will normally indicate payment by electronic fund transfer.

(b) For FY 1996 through FY 1998, the Commission will adjust the fourth quarterly bill for operating power reactors and certain materials licensees to recover the full amount of the revised annual fee. If the amounts collected in the first three quarters exceed the

amount of the revised annual fee, the overpayment will be refunded. The NRC will refund any "flat" materials renewal fees payments received for renewal applications filed in FY 1996, as appropriate. All other licensees, or holders of a certificate, registration, or approval of a QA program will be sent a bill for the full amount of the annual fee upon publication of the final rule or on the anniversary date of the license. Payment is due on the invoice date and interest accrues from the date of the invoice. However, interest will be waived if payment is received within 30 days from the invoice date.

(c) For FYs 1996 through 1998, annual fees in the amount of \$100,000 or more and described in the FEDERAL REGISTER notice pursuant to § 171.13 must be paid in quarterly installments of 25 percent as billed by the NRC. The quarters begin on October 1, January 1, April 1, and July 1 of each fiscal year.

(d) For FYs 1996 through 1998, annual fees of less than \$100,000 must be paid as billed by the NRC. Beginning in FY 1996, materials license annual fees that are less than \$100,000 will be billed on the anniversary of the license. The materials licensees that will be billed on the anniversary date of the license are those covered by fee categories 1.C. and 1.D.; 2.A.(2) through 2.C.; 3.A. through 3.P.; 4.B. through 9.D.; and 10.B. For annual fee purposes, the anniversary date of the license is considered to be the first day of the month in which the original license was issued by the NRC. During the transition year of FY 1996, licensees with license anniversary dates falling between October 1, 1995, and the effective date of the FY 1996 final rule will receive an annual fee bill payable on the effective date of the final rule, and licensees with license anniversary dates that fall on or after the effective date of the final rule will be billed on the anniversary of their license. Starting with the effective date of the FY 1996 final rule, licensees that are billed on the license anniversary date will be assessed the annual fee in effect on the anniversary date of the license.

[56 FR 31510, July 10, 1991, as amended at 57 FR 32717, July 23, 1992; 58 FR 38701, July 20, 1993; 59 FR 36928, July 20, 1994; 60 FR 32248, June 20, 1995; 61 FR 16223, Apr. 12, 1996]

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**§ 171.21 [Reserved]**

**§ 171.23 Enforcement.**

If any person required to pay the annual fee fails to pay when the fee is due, or files a false certification with respect to qualifying as a small entity under the Regulatory Flexibility Criteria, the Commission may refuse to process any application submitted by or on behalf of the person with respect to any license issued to the person and may suspend or revoke any licenses held by the person. The filing of a false certification to qualify as a small entity under § 171.16(c) of this part may also result in punitive action pursuant to 18 U.S.C. 1001.

[56 FR 31510, July 10, 1991]

**§ 171.25 Collection, interest, penalties, and administrative costs.**

All annual fees in §§ 171.15 and 171.16 will be collected pursuant to the procedures of 10 CFR part 15. Interest, penalties and administrative costs for late payments will be assessed in accordance with 10 CFR part 15, of this chapter, 4 CFR part 102, and other relevant regulations of the United States Government, as appropriate. In the event a quarterly installment is not made by the appropriate due date specified in § 171.19, the full fee becomes due and payable, with interest, penalties, and administrative costs of collection calculated from the date that quarterly installment was due.

[56 FR 31511, July 10, 1991]

**PARTS 172–199 [RESERVED]**