

to all licensees as a cost-saving measure. Accordingly, the NRC does not plan to routinely mail the FY 2003 final fee rule or future final fee rules to licensees. However, the NRC will send the final rule to any licensee or other person upon specific request. To request a copy, contact the License Fee and Accounts Receivable Branch, Division of Accounting and Finance, Office of the Chief Financial Officer, at 301-415-7554, or e-mail us at fees@nrc.gov. The NRC plans to publish the final fee rule in June 2003. In addition to publication in the **Federal Register**, the final rule will be available on the Internet at <http://ruleforum.llnl.gov> for at least 90 days after the effective date of the final rule.

The NRC is amending 10 CFR Parts 170 and 171 as discussed in Sections A and B below.

A. Amendments to 10 CFR Part 170: Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended

The NRC is revising the hourly rates used to calculate fees and is adjusting the part 170 fees based on the revised hourly rates and the results of the agency's biennial review of fees required by the Chief Financial Officer (CFO) Act of 1990 (Pub. L. 101-578, November 15, 1990, 104 Stat. 2838).

Additionally, the NRC is revising fee category 15.A. of § 170.31 to cover all categories of radioactive waste import license applications and to revise category 15.B. to remove the radioactive waste import license applications.

The amendments are as follows:

1. Hourly Rates

The NRC is revising the professional hourly rates for NRC staff time established in § 170.20. These rates are based on the number of FY 2003 direct program FTEs and the FY 2003 NRC budget, excluding direct program support costs and NRC's appropriations from the NWF. These rates are used to determine the part 170 fees. The rate for the reactor program is \$156 per hour (\$276,661 per direct FTE). This rate is applicable to all activities for which fees are assessed under § 170.21 of the fee regulations. The rate for the materials program (nuclear materials and nuclear waste programs) is \$158 per hour (\$280,876 per direct FTE). This rate is applicable to all activities for which fees are assessed under § 170.31 of the fee regulations. In the FY 2002 final fee rule, the reactor and materials program rates were \$156 and \$152, respectively.

A major reason for the 4 percent increase to the materials program rate is the salary and benefits increase that results primarily from the Government-wide pay raise. While salary and

benefits also increase for the reactor program, the increase is offset by a reduction in the average overhead cost per direct FTE.

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

a. Direct program FTE levels are identified for the reactor program and the materials program (nuclear materials and nuclear waste programs).

b. Direct contract support, which is the use of contract or other services in support of the line organization's direct program, is excluded from the calculation of the hourly rates because the costs for direct contract support are charged directly through the various categories of fees.

c. All other program costs (e.g., Salaries and Benefits, Travel) represent "in-house" costs and are to be collected by dividing them uniformly by the total number of direct FTEs for the program. In addition, salaries and benefits plus contracts for non-program direct management and support, and for the Office of the Inspector General, are allocated to each program based on that program's direct costs. This method results in the following costs which are included in the hourly rates. Due to rounding, adding the individual numbers in the table may result in a total that is slightly different than the one shown.

TABLE II.—FY 2003 BUDGET AUTHORITY TO BE INCLUDED IN HOURLY RATES

	Reactor program	Materials program
Direct Program Salaries & Benefits (millions)	\$134.1	\$34.4
Overhead Salaries & Benefits, Program Travel and Other Support (millions)	62.3	17.1
Allocated Agency Management and Support (millions)	118.5	31.1
Subtotal (millions)	\$314.9	\$82.6
Less offsetting receipts (million)	– 0.1	– 0.00
Total Budget Included in Hourly Rate (millions)	\$314.8	\$82.6
Program Direct FTEs	1138.0	294.1
Rate per Direct FTE	\$276,661	\$280,876
Professional Hourly Rate (Rate per direct FTE divided by 1,776 hours)	\$156	\$158

As shown in Table II, dividing the \$314.8 million budgeted amount (rounded) included in the hourly rate for the reactor program by the reactor program direct FTEs (1138.0) results in a rate for the reactor program of \$276,661 per FTE for FY 2003. The Direct FTE Hourly Rate for the reactor program is \$156 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE (\$276,661) by the number of productive hours in one year (1,776 hours) as set forth in the revised OMB Circular A-76, "Performance of

Commercial Activities." Similarly, dividing the \$82.6 million budgeted amount (rounded) included in the hourly rate for the materials program by the program direct FTEs (294.1) results in a rate of \$280,876 per FTE for FY 2003. The Direct FTE Hourly Rate for the materials program is \$158 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE (\$280,876) by the number of productive hours in one year (1,776 hours).

2. Fee Adjustments

The NRC is adjusting the current part 170 fees in §§ 170.21 and 170.31 to reflect both the revised hourly rates and the results of the biennial review of part 170 fees required by the CFO Act. To comply with the requirements of the CFO Act, the NRC has evaluated historical professional staff hours used to process a new license application for those materials licensees whose fees are based on the average cost method, or "flat" fees. This review also included new license and amendment