

applications for import and export licenses.

Evaluation of the historical data shows that fees based on the average number of professional staff hours required to complete licensing actions in the materials program should be increased in some categories and decreased in others to more accurately reflect current costs incurred in completing these licensing actions.

The data for the average number of professional staff hours needed to complete new licensing actions was last updated in FY 2001 (66 FR 32452; June 14, 2001). Thus, the revised average professional staff hours in this fee rule reflect the changes in the NRC licensing review program that have occurred since FY 2001.

As a result of the biennial review, the licensing fees that are based on the average professional staff hours reflect an increase in average time for new license applications for six of the 33 materials program fee categories, a decrease in average time for eight fee categories, and the same average time for the remaining 19 fee categories. Similarly, the average time for applications for new export and import licenses and for amendments to export and import licenses remained the same for eight fee categories in §§ 170.21 and 170.31, and decreased for two other fee categories.

The licensing fees for fee categories K.1 through K.5 of § 170.21, and fee categories 1C, 1D, 2B, 2C, 3A through 3P, 4B through 9D, 10B, 15A through 15E, and 16 of § 170.31 are based on the revised average professional staff hours needed to process the licensing actions multiplied by the revised materials program professional hourly rate for FY 2003.

The biennial review also included the "flat" fee for the general license registrations covered by fee Category 3.Q. As a result of this review, the fee per registration is \$620, compared to \$450 in FY 2002. The revised fee is based on the current estimated number of registrants, current annual resource estimates for the program, and the FY 2003 materials program FTE rate. This increase to the current fee of \$450 is based on experience with the registrations to date, which indicates that the average cost per registrant is higher than originally estimated. The next biennial review of the registration fee will be included in the FY 2005 fee rule; however, the registration fee may change in the FY 2004 fee rule if there is a change to the materials program FTE rate for FY 2004.

The amounts of the materials licensing "flat" fees are rounded as

follows: fees under \$1,000 are rounded to the nearest \$10, fees that are greater than \$1,000 but less than \$100,000 are rounded to the nearest \$100, and fees that are greater than \$100,000 are rounded to the nearest \$1,000. Applications filed on or after the effective date of the final rule will be subject to the revised fees in this final rule.

The NRC is expanding fee Category 15.A. of § 170.31 to include all categories of radioactive waste import license applications, and modifying Category 15.B. of § 170.31 to exclude these types of import license applications. This change is being made because all applications for the import of radioactive waste must be reviewed by the Executive Branch and require the involvement of all states and compacts, as well as extensive coordination within the NRC. Therefore, the NRC efforts for the waste import license applications are more closely aligned with the efforts for the other types of export and import licenses currently covered by Category 15.A.

In addition, the Office of Nuclear Reactor Regulation revised its policy of charging the sites for administrative/overhead fees for early assignment of resident inspectors. Under this new policy, the administrative/overhead fees for the individuals selected for early assignments will not be charged to the site.

In summary, the NRC is amending 10 CFR Part 170 to —

1. Revise the materials and reactor programs FTE hourly rates;
2. Revise the licensing fees to be assessed to reflect the reactor and materials program hourly rates and to comply with the CFO Act requirement that fees be reviewed biennially and revised as necessary to reflect the cost to the agency;
3. Revise Category 15.A. of § 170.31 to include radioactive waste import licenses, and exclude these types of applications from Category 15.B.

B. Amendments to 10 CFR Part 171: Annual Fees for Reactor 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 the NRC

The NRC is revising the annual fees for FY 2003 as follows.

1. Annual Fees

The NRC is establishing rebaselined annual fees for FY 2003. The Commission's policy commitment, made in the statement of considerations

accompanying the FY 1995 fee rule (60 FR 32225; June 20, 1995), and further explained in the statement of considerations accompanying the FY 1999 fee rule (64 FR 31448; June 10, 1999), determined that base annual fees will be re-established (rebaselined) at least every third year, and more frequently if there is a substantial change in the total NRC budget or in the magnitude of the budget allocated to a specific class of licenses. The fees were last rebaselined in FY 2002. Based on the change in the magnitude of the budget to be recovered through fees, the Commission has determined that it is appropriate to rebaseline the annual fees again this year. Rebaselining fees will result in increased annual fees compared to FY 2002 for four classes of licenses (power reactors, spent fuel storage/reactor decommissioning, fuel facilities, and rare earth facilities), and decreased annual fees for two classes (non-power reactors and uranium recovery). For the small materials users and transportation classes, some categories of licenses will have increased annual fees and others will have decreased annual fees.

The annual fees in §§ 171.15 and 171.16 will be revised for FY 2003 to recover approximately 94 percent of the NRC's FY 2003 budget authority, less the estimated amount to be recovered through part 170 fees and the amounts appropriated from the NWF. The total amount to be recovered through annual fees for FY 2003 is \$396.8 million, compared to \$345.6 million for FY 2002.

Within the fee classes, the FY 2003 annual fees will increase for many categories of licenses, decrease for other categories, and for two categories remain the same from the previous year. The two largest categories of materials licensees (which together include nearly 3,500 of NRC's approximately 4,900 materials user licenses) show annual fee decreases compared to FY 2002 of 7.4 percent and 9.8 percent. The increases in annual fees range from approximately 1.2 percent for DOE's transportation activities to approximately 62 percent for licenses issued to distribute items containing byproduct material that require device review to persons exempt from licensing requirements of part 30. The decreases in annual fees range from approximately 2.7 percent for two materials categories and for the quality assurance approvals for users to approximately 53 percent for materials licenses authorizing 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). The fees remain the same for materials licenses