

"frozen," as currently defined in FSIS regulations, and "previously frozen," as proposed by FSIS for use on poultry products held below 26° F and subsequently sold in a thawed state, both would provide truthful and useful information to consumers. FSIS is concerned that the existence of two definitions which make use of the word "frozen" could be confusing to industry and consumers. FSIS believes that the existing definition and the Agency's proposed use of the term "previously frozen" need to be reconciled. The Agency invites comments on how this can be accomplished. FSIS has identified three possible options as follows:

a. Use a term or phrase other than "previously frozen" to identify products in the temperature range from above 0° F to below 26° F. In its proposed rule, FSIS requested comments on other descriptive terms to describe the nature of the product. However, as of this time, no satisfactory substitute terms have been suggested. FSIS has identified other possible terms that do not use the unqualified word "frozen." Such terms include: "previously semi-frozen," "held semi-frozen," "previously partially frozen," "previously chilled to semi-solid state," "shipped/stored/handled semi-frozen (insert optional statement, e.g., to preserve quality)," or "previously frosted." FSIS continues to be interested in receiving comments on alternate terms including those that do not contain the unqualified word "frozen."

b. Eliminate the current requirement that poultry products labeled as "frozen" must be brought to an internal temperature of 0° F or below and require use of the term "frozen" to identify all poultry products whose internal temperature has ever been below 26° F. This option would eliminate any confusion that might be caused by having more than one temperature associated with products whose labels make use of the word "frozen," and satisfy the need to label appropriately all products that have been chilled to the point where they are hard-to-the-touch. Such action would in no way prevent manufacturers from continuing current practices regarding freezing to 0° F for long-term storage or from making supportable claims about the storage life or appropriate "use by" date for their products. However, such action might require adjustment in government and industry purchasing standards, codes of practice, or product specifications that evolved from the current freezing regulations. FSIS does not believe that elimination of the 0° F requirement for labeling a product "frozen" would pose

a safety concern. However, purchasers who expect that a product was frozen for long-term preservation based on use of the term "frozen" on the labeling might be misled in the absence of explanatory labeling, if the shelf life and quality differs from products frozen to 0° F or below because the product was not actually brought to such low temperatures.

c. Use the proposed term "previously frozen" on labeling of products with internal temperatures above 0° F and below 26° F but require use of a term other than "frozen" or "previously frozen" on the labeling of products that are frozen to 0° F or below. The latter products could be labeled with a phrase such as "frozen for long-term preservation" in order to distinguish them clearly from chill pack products whose temperatures were at one time in the lower 20-degree Fahrenheit range. This labeling option differentiates the two types of frozen products so that the product labeled "previously frozen" would not be confused with the deep-frozen product. The descriptive term for the 0° F product reflects the purpose of the processing procedure and can be linked to the special qualities associated with these products.

FSIS is interested in receiving comments on these options and any others that would appropriately reconcile the existing definition of "frozen" and the proposed use of the term "previously frozen."

For all these reasons, FSIS is extending the comment period on its "fresh" labeling proposal for 60 days. The comment period will close May 19, 1995.

Done at Washington, DC, on: March 15, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95-6817 Filed 3-17-95; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AE97

Shutdown Operation of Nuclear Power Plants; Notice of Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: Members of the staff of the Office of Nuclear Reactor Regulation will meet with commenters (or their representatives) who responded to

Federal Register, 59 FR 52707; October 19, 1994, regarding the proposed rule "Shutdown and Low-Power Operations for Nuclear Power Reactors." The staff will discuss comments and receive feedback on the impact of potential staff responses regarding the proposed rule. The meeting will be open for interested members of the public, petitioners, intervenors, or other parties to attend as observers pursuant to "Open Meeting Statement of NCR Staff Policy," 43 FR 28058, June 28, 1978.

DATES: The meeting will be Friday, April 7, 1995 from 9 a.m.-3 p.m.

ADDRESSES: The meeting will be held at the United States Nuclear Regulatory Commission Auditorium, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Warren C. Lyon, Senior Reactor Systems Engineer, Reactor Systems Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone: 301-415-3892.

SUPPLEMENTARY INFORMATION: The preliminary agenda for the proposed meeting is:

- 9:00—Introduction (Purpose of shutdown rule, Applicability/limitations)
- 9:15—Summary of Comments to Proposed Rule 59 FR 52707; October 19, 1994
- 9:30—Staff Decisions (Shutdown rule, Maintenance Rule, Codification of industry initiatives, Fire, Technical specifications, Outage plans and controls, Fuel storage pool, Safety related vs. non-safety related, Single failure, Regulatory analysis, Regulatory guide, Re notice in **Federal Register**)
- 10:15—Items Covered By Rule (General content of rule and philosophy; Structures, systems, and components; Reliability and redundancy; Planning; Procedures; Training; Controls; Reactivity; Reactor coolant system; Subcooled decay heat removal; Containment; Adequate core cooling; Contingency plan; Implementation)
- 13:15—Discussion—Issues (Maintenance rule—guidance for shutdown operation; The meaning of redundancy [Credit for passive heat removal, gravity feed, & operator response; Electrical power systems]; Containment; Analysis and test needs; Others)

Dated at Rockville, Maryland this 15 day of March 1995.

For the Nuclear Regulatory Commission.

Warren C. Lyon,

Senior Reactor Systems Engineer, Reactor Systems Branch, Office of Nuclear Reactor Regulation.

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10 CFR Parts 170 and 171

RIN 3150-AF07

Revision of Fee Schedules; 100% Fee Recovery, FY 1995

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, which mandates that the NRC recover approximately 100 percent of its budget authority in Fiscal Year (FY) 1995 less amounts appropriated from the Nuclear Waste Fund (NWF). The amount to be recovered for FY 1995 is approximately \$503.6 million.

DATES: The comment period expires April 19, 1995. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered. Because Public Law 101-508 requires that NRC collect the FY 1995 fees by September 30, 1995, requests for extensions of the comment period will not be granted.

ADDRESSES: Submit written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone 301-415-1678).

The agency workpapers that support these proposed changes to 10 CFR Parts 170 and 171 may be examined at the NRC Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: C. James Holloway, Jr., Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301-415-6213.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Proposed Action.

III. Section-by-Section Analysis.

IV. Environmental Impact: Categorical Exclusion.

V. Paperwork Reduction Act Statement.

VI. Regulatory Analysis.

VII. Regulatory Flexibility Analysis.

VIII. Backfit Analysis.

I. Background

Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), enacted November 5, 1990, requires that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the Department of Energy (DOE) administered NWF, for FYs 1991 through 1995 by assessing fees. OBRA-90 was amended in 1993 to extend the NRC's 100 percent fee recovery requirement through 1998.

The NRC assesses two types of fees to recover its budget authority. First, license and inspection fees, established in 10 CFR part 170 under the authority of the Independent Offices Appropriation Act (IOAA), 31 U.S.C. 9701, recover the NRC's costs of providing individually identifiable services to specific applicants and licensees. Examples of the services provided by the NRC for which these fees are assessed are the review of applications for the issuance of new licenses or approvals, and amendments to or renewal of licenses or approvals. Second, annual fees, established in 10 CFR part 171 under the authority of OBRA-90, recover generic and other regulatory costs not recovered through 10 CFR part 170 fees.

Subsequent to enactment of OBRA-90, the NRC published seven final fee rules after evaluation of public comments. On July 10, 1991 (56 FR 31472), the NRC published a final rule in the **Federal Register** that established the Part 170 professional hourly rate and the materials licensing and inspection fees, as well as the Part 171 annual fees, to be assessed to recover approximately 100 percent of the FY 1991 budget. In addition to establishing the FY 1991 fees, the final rule established the underlying basis and methodology for determining both the 10 CFR part 170 hourly rate and fees and the 10 CFR part 171 annual fees. The FY 1991 rule was challenged in Federal court by several parties. The U.S. Court of Appeals for the District of Columbia Circuit rendered its decision on those challenges on March 16, 1993, in *Allied-Signal v. NRC*, remanding two issues to the NRC for further consideration (988 F.2d 146 (D.C. Cir. 1993)). The court decision was also extended to cover the FY 1992 fee rule by court order dated April 30, 1993.

On April 17, 1992 (57 FR 13625), the NRC published in the **Federal Register** two limited changes to 10 CFR parts 170 and 171. The limited changes became effective May 18, 1992. The limited change to 10 CFR part 170 allowed the NRC to bill quarterly for those license fees that were previously billed every six months. The limited change to 10 CFR part 171 lowered in some cases the maximum annual fee of \$1,800 assessed a materials licensee who qualifies as a small entity under the NRC's size standards. A lower tier small entity fee of \$400 per licensed category was established for small business and non-profit organizations with gross annual receipts of less than \$250,000 and small governmental jurisdictions with a population of less than 20,000.

On July 23, 1992 (57 FR 32691), July 20, 1993 (58 FR 38666), and July 20, 1994 (59 FR 36895), the NRC published final rules in the **Federal Register** that established the licensing, inspection, and annual fees necessary for the NRC to recover approximately 100 percent of its budget authority for FY 1992, FY 1993, and FY 1994 respectively. The basic methodology used in the FY 1992 and FY 1993 final rules was unchanged from that used to calculate the 10 CFR part 170 professional hourly rate, the specific materials licensing and inspection fees in 10 CFR Part 170, and the 10 CFR Part 171 annual fees in the final rule published July 10, 1991 (56 FR 31472). In FY 1994, the NRC directly assigned additional effort to the reactor and materials programs for the Office of Investigations, the Office of Enforcement, the Advisory Committee on Reactor Safeguards, and the Advisory Committee on Nuclear Waste. Resources for these activities had previously been included in overhead, but were assigned directly to the class of licensees that they support. Because this direct assignment resulted in a reduction of overhead costs allocated to each FTE, the cost per full time equivalent (FTE) was about 3 percent less than it would have been without the additional direct assignment.

The methodology for assessing low-level waste (LLW) costs was changed in FY 1993 in response to the *AlliedSignal v. NRC* judicial decision mentioned earlier. This change was explained in detail in the FY 1993 final rule published July 20, 1993 (58 FR 38669-72). In brief, the NRC created two groups—large waste generators and small waste generators. Licensees within each group are charged a uniform fee. On May 19, 1994 (59 FR 26097), the NRC amended its fee regulations in 10 CFR Part 171 to establish revised FY 1991 and FY 1992