

Financial Protection Requirements and Fees (Gaps 12, 13, and 14)

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Gap 12 Summary

- Price Anderson protection and indemnity fees and amounts for reprocessing facilities are currently not included in 10 CFR Part 140, “Financial Protection Requirements and Indemnity Agreements”
- Several appendices to 10 CFR Part 140 do not include forms for reprocessing facilities

NRC Proposed Position

- Proposing to revise 10 CFR Part 140
 - Extend the applicability to reprocessing facilities
 - Establish the specific amount of primary liability insurance required for production or reprocessing facilities
 - Establish the appropriate fee for executing and issuing indemnity agreements for production or reprocessing facilities
 - Amend current appendices or include a new appendix to include a standard form for indemnity agreements for production or reprocessing facilities

Previous Stakeholder Input

- Have not received any stakeholder feedback
- NRC staff did not consider alternative approaches to proposed approach, because financial protection and liability insurance for reprocessing facilities are required by statute

Gap 13 Summary

- The scope of 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,” does not include a production facility licensed outside 10 CFR Part 50

NRC Proposed Position

- Proposing to revise 10 CFR Part 170
 - Extend the applicability to reprocessing facilities
 - Establish the schedules of fee
- No alternatives to rulemaking considered
 - Section 6101(c)(3) of Omnibus Budget Reconciliation Act of 1990 (OBRA-90) requires NRC to “[...] establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among licensees.”

Previous Stakeholder Input

- NEI white paper addresses fees under 10 CFR Part 170
 - Identifies fees prescribed in 10 CFR 170 to be submitted with license application
- No other stakeholder input on this topic
- NRC's position is consistent with NEI's acknowledgement of fees prescribed by 10 CFR Part 170

Gap 14 Summary

- The regulations in 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,” do not include annual fees for reprocessing facility licenses
- The scope of the regulation, described in 10 CFR 171.3, does not specifically include reprocessing or production facilities

NRC Proposed Position

- Proposing to revise 10 CFR Part 171
 - Extend the applicability to reprocessing facilities
 - Establish the annual fee
- No alternatives to rulemaking considered
 - Section 6101(c)(3) of Omnibus Budget Reconciliation Act of 1990 (OBRA-90) requires NRC to “[...] establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among licensees.”

Previous Stakeholder Input

- Have not received any stakeholder feedback
- NRC staff did not consider alternative approaches to rulemaking, because the annual fee is required by statute to be set by rule

Gap Integration

- Gaps concern issues that are specifically addressed by statute
- Rulemaking is the only alternative considered
- Stakeholder input has been considered

Questions for Stakeholders

- No questions were identified previously
- For discussion: If NRC proceeds with rulemaking, what sources of information should be considered to inform
 - The determination of the annual fee amount, and
 - The specific amount of primary liability insurance required?