

Federal Emergency Management Agency

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local governments as soon as feasible after the onset of an actual emergency.

§ 352.28 Reimbursement.

In accordance with Executive Order 12657, Section 6(d), and to the extent permitted by law, FEMA will coordinate full reimbursement, either jointly or severally, to the agencies performing services or furnishing resources, from any affected licensee and from any affected nonparticipating or inadequately participating State or local government.

§ 352.29 Appeal process.

(a) Any interested party may appeal a determination made by the Associate Director, under §§ 352.5 and 352.6 of this part, by submitting to the Director, FEMA, a written notice of appeal, within 30 days after issuance. The appeal is to be addressed to the Director, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472. The appeal letter shall state the specific reasons for the appeal and include documentation to support appellant arguments. The appeal is limited to matters of record under §§ 352.5 and 352.6.

(b) Within 30 days of receipt of this letter, the FEMA Director or designee will review the record and make a final determination on the matter.

(c) Copies of this determination shall be furnished to the Appellant, the State(s), affected local governments, and the NRC.

(d) For purposes of this section, the term *interested party* means only a licensee, a State or a local government, as defined in § 352.1(g).

PART 353—FEE FOR SERVICES IN SUPPORT, REVIEW AND APPROVAL OF STATE AND LOCAL GOVERNMENT OR LICENSEE RADIOLOGICAL EMERGENCY PLANS AND PREPAREDNESS

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APPENDIX A TO PART 353—MEMORANDUM OF UNDERSTANDING BETWEEN FEDERAL EMERGENCY MANAGEMENT AGENCY AND NUCLEAR REGULATORY COMMISSION

AUTHORITY: 31 U.S.C. 9701; E.O. 12657 of Nov. 18, 1988; 3 CFR, 1988 Comp., p. 611; 50 U.S.C. app. 2251 note; E.O. 12148 of July 20, 1979; 3 CFR, 1979 Comp., p. 412, 50 U.S.C. app. 2251 note.

SOURCE: 56 FR 9455, March 6, 1991, unless otherwise noted.

§ 353.1 Purpose.

This part sets out fees charged for site-specific radiological emergency planning and preparedness services rendered by the Federal Emergency Management Agency, as authorized by 31 U.S.C. 9701.

§ 353.2 Scope.

The regulation in this part applies to all licensees who have applied for or have received a license from the Nuclear Regulatory Commission to operate a commercial nuclear power plant.

§ 353.3 Definitions.

As used in this part, the following terms and concepts are defined:

(a) *FEMA* means the Federal Emergency Management Agency.

(b) *NRC* means the Nuclear Regulatory Commission.

(c) *Certification* means the written justification by a licensee of the need for Federal compensatory assistance, as authorized in 44 CFR part 352 and E.O. 12657.

(d) *Technical assistance* means services provided by FEMA to facilitate offsite radiological emergency planning and preparedness such as provision of support for the preparation of offsite radiological emergency response plans and procedures; provision of advice and recommendations for specific aspects of preparedness such as alert and notification and emergency public information.

(e) *Licensee* means the utility which has applied for or has received a license from the NRC to operate a commercial nuclear power plant.

(f) *Governor* means the Governor of a State or his/her designee.

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(g) *RAC* means Regional Assistance Committee chaired by FEMA with representatives from the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Department of Agriculture, Department of Transportation, Department of Commerce and other Federal Departments and agencies as appropriate.

(h) *REP* means FEMA's Radiological Emergency Preparedness Program.

(i) *Fiscal Year* means Federal fiscal year commencing on the first day of October through the thirtieth day of September.

(j) *Federal Radiological Preparedness Coordinating Committee* is the national level committee chaired by FEMA with representatives from the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Interior, Department of Energy, Department of Transportation, United States Department of Agriculture, Department of Commerce and other Federal Departments and agencies as appropriate.

§ 353.4 Payment of fees.

Fees for site-specific offsite radiological emergency plans and preparedness services and related site-specific legal services are payable upon notification by FEMA. FEMA services will be billed at 6-month intervals for all accumulated costs on a site-specific basis. Each bill will identify the costs related to services for each nuclear power plant site.

§ 353.5 Average cost per FEMA professional staff-hour.

Fees for FEMA services rendered will be calculated based upon the costs for such services using a professional staff rate per hour equivalent to the sum of the average cost to the agency of maintaining a professional staff member performing site-specific services related to the Radiological Emergency Preparedness Program, including salary, benefits, administrative support, travel and overhead. This rate will be charged when FEMA performs such services as: Development of exercise objectives and scenarios, pre-exercise

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logistics, exercise conduct and participation, evaluation, meetings and reports; review and approval of Plan revisions that are utility-requested or exercise inadequacy related; remedial exercise, medical drill or any other exercise or drill upon which a license is predicated, with regard to preparation, review, conduct, participation, evaluation, meetings and reports; the issuance of interim findings pursuant to the FEMA/NRC Memorandum of Understanding (MOU) (App. A of this part); review of utility plan submissions through the NRC under the MOU; utility certification submission review under 44 CFR part 352 and follow-on activities; site-specific adjudicatory proceedings and any other site-specific legal costs and technical assistance that is utility requested or exercise inadequacy related. The professional staff rate for FY 91 is \$39.00 per hour. The referenced FEMA/NRC MOU is provided in this rule as appendix A. The professional staff rate for the REP Program and related legal services will be revised on a fiscal year basis using the most current fiscal data available and the revised hourly rate will be published as a notice in the FEDERAL REGISTER for each fiscal year if the rate increases or decreases.

§ 353.6 Schedule of services.

Recipients shall be charged the full cost of site-specific services based upon the appropriate professional hourly staff rate for the FEMA services described in this Section and for related contractual services which will be charged to the licensee by FEMA, at the rate and cost incurred.

(a) When a State seeks formal review and approval by FEMA of the State's radiological emergency response plan pursuant to 44 CFR part 350 (Review and Approval Process of State and Local Radiological Emergency Plans and Preparedness), FEMA shall provide the services as described in 44 CFR part 350 in regard to that request and fees will be charged for such services to the licensee, which is the ultimate beneficiary of FEMA services. This provision does not apply where an operating license has been granted or the application denied or withdrawn, except as necessary to support biennial exercises