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NRC REINSTATES ANNUAL FEE EXEMPTION
FOR NONPROFIT EDUCATIONAL INSTITUTIONS

The Nuclear Regulatory Commission is reinstating a provision to its regulations which exempts nonprofit educational institutions from annual fees.

The provision was deleted in July 1993 in response to a March 1993 opinion by the U.S. Court of Appeals for the District of Columbia Circuit. That opinion remanded for further consideration the NRC's rationale for exempting nonprofit educational institutions from licensing fees. The court opinion cast doubt on the NRC's then-existing rationale that nonprofit institutions were unable to pass through the costs of the fees to their customers.

In reaction to the court decision, the Commission initially proposed to retain the exemption and asked specifically for public comments on the court's suggestion that perhaps the exemption could be justified if "education yields exceptionally large externalized benefits that cannot be captured in tuition or other market prices."

After receiving only a few comments supporting a continued generic exemption and some comments requesting abandonment, the Commission reluctantly decided that, in view of the court opinion and the administrative record, it could not justify a generic exemption for nonprofit educational institutions.

Soon after publishing a final rule establishing the NRC's fiscal year 1993 fee schedules, which included for the first time annual fees for previously exempt nonprofit educational institutions, the Commission received a petition for reconsideration of the rule.

The petition, filed by a number of affected colleges and universities, asserted that the externalized benefits and public good resulting from use of university research reactors in various fields of education would be lost if annual fees were imposed on colleges and universities.

While the Commission was considering granting the petition or, as an alternative, granting some nonprofit educational institutions individual public interest exemptions from the new annual fees, members of the staff visited a number of colleges and universities to learn more about the use of nuclear materials in educational programs and the benefits resulting from the uses of those materials.

As a result of those visits and the arguments made in the petition, the Commission proposed retracting the new annual fees--\$62,100 per research reactor licensee and lesser amounts for each materials license. After reviewing the over 200 comments received (the vast majority favored granting the petition) and the views of a professional economist engaged to assist in analyzing the comments, the Commission decided that the exemption from annual fees for nonprofit educational institutions should be restored.

The amendment to Part 171 of the Commission's regulations will become effective on April 17.

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