

7/14/02 Ann -
a few comments/questions -
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help understanding it.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 170

RIN No. 3150-AH03

Cost Recovery for Contested Hearings Involving
U. S. National Security Initiatives

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed Rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to allow the agency to recover its costs associated with contested hearings involving U. S. Government national security-related proceedings through licensing or other regulatory service fees assessed to the affected applicant or licensee. This proposed amendment would be a special exception to the Commission's longstanding policy of not charging this type of fee for contested hearings and instead recovering the costs through the annual fees assessed to licensees within the affected class.

FOR FURTHER INFORMATION CONTACT: Robert Carlson, telephone 301-415-8165, or
Glenda Jackson, telephone 301-415-6057, Office of the Chief Financial Officer, U.S. Nuclear
Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Proposed Action.
- III. Plain Language.
- IV. Voluntary Consensus Standards.
- V. Environmental Impact: Categorical Exclusion.
- VI. Paperwork Reduction Act Statement.
- VII. Regulatory Analysis.
- VIII. Regulatory Flexibility Analysis.
- IX. Backfit Analysis.

I. Background

The NRC has a longstanding policy of charging the affected applicant or licensee part
170 fees to recoover the agency's costs for uncontested hearings, such as those hearings

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licensee. The proposed change would only apply to contested hearings directly associated with U. S. Government national security initiatives, such as Presidentially-directed national security programs. The Commission expects that under the proposed approach, the costs of the contested hearing ultimately will be borne by the Federal government, rather than the applicant. The Commission believes this is a just result that enhances the fairness and equity of the NRC's fee schedule.

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though we were going to bill 170 fees?

In addition to the contested hearing on the MOX fuel fabrication facility application, another contested hearing for which part 170 fees would be assessed under this proposed rule would be the TVA license amendments to produce tritium at the Watts Bar and Sequoyah reactors for the nation's nuclear weapons program. Examples of contested hearings that do not involve a U.S. Government national security initiative include the contested hearing on the application for a uranium recovery license filed by Hydro Resources Inc., and the contested hearing on the independent spent fuel storage installation application filed by Private Fuel Storage L.L.C.

It should be noted that the Independent Offices Appropriation Act (IOAA) prohibits the NRC from assessing part 170 fees to Federal agencies, except in limited circumstances, such as licensing and inspection of TVA power reactors. Therefore, the proposed change would not apply to most contested hearings involving U. S. Government national security initiatives where a Federal agency is the applicant or licensee. For these and all other contested hearings, the Commission's existing policy would remain in effect. The Commission plans to consider a similar approach for recovering NRC costs for other U. S. Government national security-related programs, such as allegations, and 10 CFR 2.206 petitions in the future.

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Why we are introducing this-