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Changes

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 170

RIN No. 3150-AH03

Cost Recovery for Contested Hearings Related to
U. S. Government National Security Related 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 part 170 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 part 170 fees for contested hearings and instead recovering the costs through part 171 annual fees assessed to licensees within the affected class.

national security programs. The Commission recognizes expects that in these instances the affected applicant or licensee may be able to recover, under the proposed approach, the costs of the contested hearing costs billed under part 170 from the particular Federal agency involved in the national security initiative, 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.

In addition to the contested hearing on the MOX fuel fabrication facility application, the contested hearing on the TVA license amendments to produce tritium at the Watts Bar and Sequoyah reactors for the nation's nuclear weapons program would be another example of a contested hearing directly involving a U. S. Government national security initiative for which part 170 fees would be assessed under this proposed rule. 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 (i.e., costs associated with these contested