

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR PART 73

RIN 3150-AE93

Fingerprint Cards: Change in User Fee

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to reflect an administrative change in the procedure for notifying licensees of changes in the user fee charged by the Federal Bureau of Investigation (FBI) for processing fingerprint cards as part of the criminal history checks that nuclear power reactor licensees are required to perform for those individuals granted unescorted access to an operating nuclear power facility or access to Safeguards Information. This notice also informs licensees of the new user fee adopted by the FBI effective January 3, 1994.

EFFECTIVE DATE:

FEB 07 1994

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FOR FURTHER INFORMATION CONTACT: C. H. Hendren, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone (301) 504-3209.

SUPPLEMENTARY INFORMATION:

Background

The provisions of 10 CFR 73.57 requires licensees to process fingerprint cards through the NRC to the FBI Criminal Justice Information Services Division which then does a criminal history check. A user fee for processing fingerprint cards was required by Congress (Pub.L. 99-399), is established by the FBI, and is periodically increased as the FBI's processing costs change.

Discussion

On December 3, 1993, the FBI's Division of Criminal Justice Information Services (CJIS) notified the Nuclear Regulatory Commission that the "user fee" charged by the FBI for processing fingerprint cards had been increased from \$23.00 to \$24.00 effective January 3, 1994. The FBI user fee includes a \$2.00 handling cost for the agency doing the initial screening of the fingerprint cards, and provides that the agency doing the initial screening retains that handling cost. In the case of nuclear reactor licensees, the NRC performs this initial screening. The user fee is periodically changed by the FBI, as their processing costs change.

Because this amendment pertains only to a user-fee change imposed by the FBI, the Commission for good cause finds that the notice and public procedure provisions of the Administrative Procedure Act are impractical and unnecessary. Comment will not serve to alter the FBI fee, which is outside the control of the NRC. Further, rather than engaging in an unnecessary rulemaking procedure to amend the rule every time the FBI changes the fee, this amendment removes the fee amount from the rule. The Commission will advise licensees directly when the FBI fee changes. A notice of the FBI fee change pertaining to NRC licensees will also be published in the Federal Register.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget under approval number 3150-0002.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to the action taken in this final rulemaking and, therefore, that a backfit analysis is not required for this final rule because this amendment does not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons stated in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR Part 73.

PART 73 - PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for Part 73 continues to read as follows:

AUTHORITY: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241, (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

2. In § 73.57, paragraph (d)(3) is revised to read as follows:

§ 73.57 Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to Safeguards Information by power reactor licensees.

* * * * *

(d) * * *

(3) Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's

check, or money order made payable to "U.S. NRC." The amount of the fee is the user fee for processing fingerprint cards submitted by the Nuclear Regulatory Commission on behalf of nuclear power plants charged by the FBI for each card. Combined payment for multiple applications is acceptable. The Commission will publish the user fee charged by the FBI in the Federal Register whenever the fee changes. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

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Dated at Rockville, Maryland this 22nd day of December, 1993.

For the Nuclear Regulatory Commission.


James M. Taylor

Executive Director for Operations