

Rules and Regulations

Federal Register

Vol. 67, No. 201

Thursday, October 17, 2002

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AG61

Industry Codes and Standards; Amended Requirements: Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: On September 26, 2002 (67 FR 60520), the U.S. Nuclear Regulatory Commission (NRC) published a final rule amending its regulations to incorporate by reference a later edition and addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (BPV Code) and the ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code) to provide updated rules for construction, inservice inspection (ISI), and inservice testing (IST) of components in light-water cooled nuclear power plants. This action corrects two erroneous references to the NRC's regulations made in the supplementary information accompanying the final rule.

EFFECTIVE DATE: October 28, 2002.

FOR FURTHER INFORMATION CONTACT: Stephen Tingen, Division of Engineering, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Alternatively, you may contact Mr. Tingen at (301) 415-1280, or via e-mail at: sgt@nrc.gov.

SUPPLEMENTARY INFORMATION: In the final rule, published on September 26, 2002 (67 FR 60520), on page 60521, in the third column, in the third full paragraph, the first and second sentences are corrected to read as follows:

In responding to this clarification, several commenters indicated that the

10-year IWE and 5-year IWL examination intervals must coincide with the 120-month interval update in § 50.55a(g)(4)(ii). The NRC does not agree that the 10-year IWE and 5-year IWL examination intervals must coincide with the 120-month interval update in § 50.55a(g)(4)(ii).

Dated at Rockville, Maryland, this 9th day of October, 2002.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Federal Register Liaison Officer.

[FR Doc. 02-26342 Filed 10-16-02; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 170

RIN 3150-AH03

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

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to allow the agency to recover its costs associated with contested hearings on licensing actions involving U.S. Government national security initiatives through licensing fees assessed to the affected applicant or licensee. This final rule is a special exception to the Commission's longstanding policy of not charging this type of fee for contested hearings. In this case, the Commission will charge its contested hearing costs directly to the involved licensee or applicant rather than recovering its costs through the annual fees assessed to all licensees within the affected class.

EFFECTIVE DATE: November 18, 2002.

ADDRESSES: The comments received are available electronically at the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff

at 1-800-397-4209, or 301-415-4737, or by email to pdr@nrc.gov. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, please contact the PDR.

Comments received may also be viewed via the NRC's interactive rulemaking website (<http://ruleforum.llnl.gov>). This site provides the ability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, 301-415-5905; e-mail CAG@nrc.gov.

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

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Response to Comments
- III. Final Action
- IV. Voluntary Consensus Standards
- V. Environmental Impact: Categorical Exclusion
- VI. Paperwork Reduction Act Statement
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- VIII. Regulatory Flexibility Certification
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- X. Small Business Regulatory Enforcement Fairness Act

I. Background

The NRC has a longstanding policy of charging the affected applicant part 170 licensing fees to recover the agency's costs for any uncontested hearings that the NRC holds on applications to construct a power reactor or enrichment facility. These hearings are mandated by statute. However, the NRC's costs for all contested hearings¹ have been recovered through part 171 annual fees assessed to the members of the particular class of licensee to which the applicant belongs.

The NRC published the final rule establishing the part 170 and part 171 fees for FY 2002 on June 24, 2002, (67 FR 42612) after considering a comment

¹ A contested proceeding is defined in 10 CFR 2.4 as (1) a proceeding in which there is a controversy between the staff of the Commission and the applicant for a license concerning the issuance of the license or any of the terms or conditions thereof or (2) a proceeding in which a petition for leave to intervene in opposition to an application for a license has been granted or is pending before the Commission.