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[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 171

[NRC-2015-0223]

RIN 3150-AJ66

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2016; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correcting amendment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) published a final rule amending regulations that became effective August 23, 2016. The fiscal year (FY) 2016 final fee rule, published June 24, 2016, amended the licensing, inspection, special project, and annual fees charged to NRC applicants and licensees. This document corrects the annual fee for materials licensees in the category “Nuclear laundries” from the FY 2016 rate of \$0 to the FY 2015 rate of \$40,100. This correction allows Agreement States to continue to collect fees in this fee category.

DATES: *Effective Date:* [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Please refer to Docket ID **NRC-2015-0223** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2015-0223**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "[Begin Web-based ADAMS Search.](#)" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michele Kaplan, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-5256, e-mail: Michele.Kaplan@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC published a final rule amending regulations that became effective August 23, 2016. The FY 2016 final fee rule, published June 24, 2016 (81 FR 41171), amended the licensing, inspection, special project, and annual fees charged to NRC applicants and licensees.

Fee category 6.A. under § 171.16(d) includes fees for licenses for the commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218]. Because the NRC has no licensees in this

category, the final rule inadvertently set the fee amount at \$0. However, there are several Agreement States with licensees in this category. Agreement States that regulate nuclear laundries incorporate by reference the NRC fee schedule into their own regulations to establish their fees. To establish a fee for nuclear laundries in the absence of an NRC fee amount, the Agreement States would need to initiate a rulemaking, a timely and costly solution to fix the NRC's administrative oversight. Therefore, the NRC is correcting this oversight and changing the annual fee for fee category 6.A. for materials licensees from the FY 2016 rate of \$0 to the FY 2015 rate of \$40,100. This correction will have no material impact on the fees paid by NRC licensees for services; it will, however, allow Agreement States to continue to set and collect fees for regulated services in the equivalent fee category.

Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on this amendment. This amendment is needed to correct an inadvertent error by the NRC, which removed the fee amount for nuclear laundries. The NRC incorrectly believed that there would be no consequences to removing the fee amount because there are no NRC-regulated nuclear laundries for which the NRC must collect fees. However, the NRC did not realize that many Agreement States regulating nuclear laundries base their fees upon the NRC-prescribed amount. Removal of the NRC fee would have the unforeseen and unintended adverse consequence of preventing those Agreement States from collecting fees from nuclear laundries regulated by those Agreement States. This rulemaking merely restores the previously prescribed fee for NRC-regulated nuclear laundries. The sole purpose of this rulemaking is to

allow those Agreement States that base their fees on the NRC-prescribed amount to collect fees from nuclear laundries regulated by those Agreement States. As set forth earlier, this action has no effect on NRC-regulated entities because there are no NRC-regulated nuclear laundries. For these reasons, the NRC finds, pursuant to 5 U.S.C. 553(d)(3), that good cause exists to make this rule effective upon publication of this notice.

List of Subjects in 10 CFR Part 171

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out 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 amendments to 10 CFR part 171:

PART 171 -- ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

1. The authority citation for part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 44 U.S.C. 3504 note.

2. In § 171.16, paragraph (d), revise fee category 6.A. of the table to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(d) * * *

**SCHEDULE OF MATERIALS ANNUAL FEES
AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC
[See footnotes at end of table]**

Category of materials licenses	Annual fees ^{1, 2, 3}
<p>* * * * *</p> <p>6. Nuclear laundries:</p> <p> A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218]</p> <p>* * * * *</p>	<p>\$40,100</p>

¹ Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 2015, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

² Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

³ Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the *Federal Register* for notice and comment.

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Dated at Rockville, Maryland, this 30th day of August, 2016.

For the Nuclear Regulatory Commission.

Cindy Bladey, Chief,
Rules, Announcements and Directives Branch,
Division of Administrative Services,
Office of Administration.

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