

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 11 and 25

RIN 3150-AF90

#### Access Authorization Fee Schedule for Licensee Personnel

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to revise the fee schedule for background investigations of licensee personnel who require access to National Security Information and/or Restricted Data and access to or control over Special Nuclear Material. These amendments comply with current regulations that provide that the NRC will publish fee adjustments upon notifications of any changes in the rate charged the NRC by the Office of Personnel Management (OPM) for conducting investigations.

**EFFECTIVE DATE:** May 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Beth Bradshaw, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6540, or by Internet electronic mail at MBB1@NRC.GOV.

**SUPPLEMENTARY INFORMATION:** The OPM conducts access authorization background investigations for the NRC and sets the rates charged for these investigations. Effective October 1, 1997, OPM changed the rates it charges NRC for conducting access authorization background investigations. Because the fees that NRC charges its licensees for special nuclear material access authorizations and personnel security clearances are determined by the rates charged by OPM for conducting the background investigations, the fee schedules in NRC regulations must be amended to reflect the OPM rate changes. The NRC is passing these rate changes to NRC licensees. These revisions comply with current regulations that provide that NRC will publish fee adjustments upon notification of any changes in the rates charged the NRC by OPM for conducting the investigations. See 10 CFR 11.15(e)(2)(1997) and 10 CFR 25.17(e)(1997).

Because these are amendments dealing with agency practice and procedure, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A)(1997). The

amendments are effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with rate changes to the NRC fee schedules.

#### Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1)(1997). 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 1995 (44 U.S.C. 3501 *et seq.* (1997)). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150-0046 and 3150-0062.

#### Public Protection Notification

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

#### Regulatory Analysis

The NRC has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. Single copies of the analysis may be obtained from Beth Bradshaw, Division of Facilities and Security, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: (301) 415-6540.

#### Backfit Analysis

The NRC has determined that the backfit rule does not apply to this final rule and a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109 (1997).

#### Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.* (1997) and 15 U.S.C. 657 (1997), the NRC has determined that this action is not a major rule and has verified this

determination with the Office of Information and Regulatory Affairs of OMB.

#### List of Subjects

##### 10 CFR Part 11

Hazardous materials—transportation, Investigations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Special nuclear material.

##### 10 CFR Part 25

Classified information, Criminal penalties, Investigations, Reporting and recordkeeping requirements, Security measures.

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 Parts 11 and 25.

#### PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 11 continues to read as follows:

**Authority:** Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 11.15(e) also issued under sec. 501, 85 Stat. 290 (31 U.S.C. 483a).

2. In § 11.15 paragraph (e)(1) is revised to read as follows:

##### § 11.15 Application for special nuclear material access authorization.

\* \* \* \* \*

(e)(1) Each application for special nuclear material access authorization, renewal, or change in level must be accompanied by the licensee's remittance, payable to the U.S. Nuclear Regulatory Commission, according to the following schedule:

i. NRC-U requiring full field investigation .....	\$3,275
ii. NRC-U requiring full field investigation (expedited processing) .....	3,800
iii. NRC-U based on certification of comparable full field background investigation .....	<sup>1</sup> 0
iv. NRC-U or R renewal .....	<sup>1</sup> 80
v. NRC-R .....	<sup>1</sup> 80
vi. NRC-R based on certification of comparable investigation .....	<sup>2</sup> 0

<sup>1</sup> If the NRC determines, based on its review of available data, that a full field investigation is necessary, a fee of \$3,275 will be assessed prior to the conduct of the investigation.

<sup>2</sup>If the NRC determines, based on its review of available data, that a National Agency Check and Credit investigation is necessary, a fee of \$80.00 will be assessed prior to the conduct of the investigation; however, if a full field investigation is deemed necessary by the NRC, based on its review of available data, a fee of \$3,275 will be assessed prior to the conduct of the investigation.

\* \* \* \* \*

## PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

3. The authority citation for Part 25 continues to read as follows:

**Authority:** Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 Comp., p. 398 (50 U.S.C. 401, note); E.O. 12829, 3 CFR, 1993 Comp., p. 570; E.O. 12958, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR, 1995 Comp., p. 396.

Appendix A also issued under 96 Stat. 1051 (31 U.S.C. 9701).

4. Appendix A to Part 25 is revised to read as follows:

### APPENDIX A TO PART 25—FEES FOR NRC ACCESS AUTHORIZATION

Category	Fee
Initial "L" Access Authorization .....	1 \$80
Reinstatement of "L" Access Authorization .....	1 80
Extension or Transfer of "L" Access Authorization .....	1 80
Initial "Q" Access Authorization .....	3,275
Initial "Q" Access Authorization (expedited processing) .....	3,800
Reinstatement of "Q" Access Authorization .....	<sup>2</sup> 3,275
Reinstatement of "Q" Access Authorization (expedited processing) .....	<sup>2</sup> 3,800
Extension or Transfer of "Q" .....	<sup>2</sup> 3,275
Extension or Transfer of "Q" (expedited processing) .....	<sup>2</sup> 3,800

<sup>1</sup> If the NRC determines, based on its review of available data, that a full field investigation is necessary, a fee of \$3,275 will be assessed prior to the conduct of the investigation.

<sup>2</sup> Full fee will only be charged if investigation is required.

Dated at Rockville, Maryland, this 13th day February, 1998.

For the Nuclear Regulatory Commission.

**L. Joseph Callan,**

*Executive Director for Operations.*

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Ch. III

#### Statement of Policy on the Development and Review of Regulations

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Revision of statement of policy.

**SUMMARY:** The FDIC is revising its Statement of Policy entitled "Development and Review of Regulations" (Policy). The revisions streamline the Policy and focus it more sharply on the basic principles that underlie the Board's approach to regulation. The provisions of the Policy that established internal procedures or merely restated the law have been deleted. The revisions also expand the scope of the Policy to include written statements of policy adopted by the FDIC Board of Directors and revise its title accordingly.

**EFFECTIVE DATE:** May 7, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Steven F. Hanft, Assistant Executive Secretary (202/898–3907); or Nancy Schucker Recchia, Counsel (202/898–8885).

**SUPPLEMENTARY INFORMATION:** The FDIC is revising its Statement of Policy entitled "Development and Review of Regulations." The existing Policy has stated the Board's commitment to basic principles of sound regulation and established internal administrative procedures for FDIC staff to follow when developing and reviewing regulations. Pursuant to section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), the Policy was reviewed to streamline it and to remove inconsistencies and outmoded and duplicative provisions. As a part of this review, the FDIC has given careful consideration to the continuing need for this Policy and how its content might be presented to best inform the public with respect to the FDIC's development and review of regulations and written statements of policy. The revised Policy's reflects the Board's continuing commitment to improving the quality of its regulations and policies, to minimizing regulatory burdens on the public and the banking industry, and generally to ensuring that its regulations and policies achieve legislative goals effectively and effectively.

The revised Policy recognizes that the Board carries out its regulatory function through two separate processes of public notice: the promulgation of

regulations pursuant to the requirements of the Administrative Procedure Act, and the issuance of less formal written statements of policy. Like regulations, written statements of policy may affect the banking industry and the public. Because the Board believes it is important to inform all interested parties of its approach to the development of written statements of policy, the scope of the revised Policy has been augmented to include an explanation of the principles by which the FDIC develops and reviews written statements of policy, and the title of the Policy has been revised to reflect the expanded scope.

The revisions streamline the Policy and focus it more sharply on the following basic principles that underlie the Board's approach to regulation:

- Burdens imposed on the banking industry should be minimized.
- Regulations should be clearly and understandably written.
- The public should have a meaningful opportunity to participate in the rulemaking process.
- Common statutory and supervisory mandates should be implemented by Federal financial institutions regulator in a uniform way.
- Regulations and statements of policy should be reviewed periodically.

The revised Policy has been streamlined to remove those provisions that established internal procedures or merely restated the applicable provisions of law. As part of the CDRI review, the FDIC gave careful consideration to the most useful and efficient format for presenting all of the information relevant to regulation and written policy statement development and review. It was determined to separate these fundamental guiding principles from the more technical or procedural requirements. The guiding principles which the Board believes are relevant to public understanding of its process are contained in the revised Policy. The technical and procedural requirements are contained in a newly developed handbook on Development and Review of FDIC Regulations and Policy Statements. The handbook provides comprehensive guidance to FDIC managers and staff involved in developing and reviewing FDIC regulations and statements of policy and can be revised easily to reflect changes in statutory requirements and in the FDIC's organizational arrangements.

#### Text

The text of the revised statement of policy follows: