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ATTN: Rulemaking and Adjudications Staff
Secretary, U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Comments on Proposed Rule to Revise Fee Schedules (67 FR 14818)

Attached are STP Nuclear Operating Company (STPNOC) comments on the Nuclear Regulatory Commission's (NRC) proposed rule to revise fee schedules as published in the Federal Register on March 27, 2002 (67FR14818). The STPNOC review and comments focus on one aspect of the proposed rule, the revisions that relate to fee waivers. The NRC has an opportunity through fee waivers to encourage regulatory improvements that could increase safety, provide more efficient processes, and reduce unnecessary regulatory burden. The proposed rule does not take advantage of this opportunity and may actually serve as a roadblock to such regulatory improvement.

STPNOC has significant recent examples in which the ability to waive NRC review fees was critical to establishing the business case for moving forward. Specifically, Graded Quality Assurance and the STP Special Treatment Exemption would not have been pursued without the ability to waive the fees. The NRC should reconsider any rule changes that would negatively impact the industry's ability to pursue these types of beneficial projects in the future.

Relocation of Fee Waiver Requirements

Relocating the fee waiver requirements adds a degree of formality to the process. It is not clear why this formality is necessary. Such formality costs the industry and the NRC resources and time and creates a roadblock for the industry. The only justification provided in the federal register notice is that the exemption section is a more "suitable" location. That does not seem to be sufficient justification for the increase in regulatory burden. STPNOC recommends that the requirements not be relocated.

Template = SECY-067

SECY-02

New Fee Waiver Criteria

Frequently, licensees embark on "ground breaking" licensing actions. These actions may be in the form of an exemption request, a relief request, or a license amendment request, etc. The NRC action, however, is an assessment which may contribute to generic regulatory activity and which may serve as a significant precedent for other licensees. Many safety improvements, burden reductions, improved processes, etc. result from such efforts. Such "pioneering" by licensees should be encouraged and supported by the NRC. The proposed rule does just the opposite.

The review costs may be significant for the first plant to request the action. Without some relief in the review fees, there is no incentive for a licensee to pilot an initiative. It would be less expensive for a licensee to let someone else lead and submit later, when the review costs would be significantly less. The end result would be a slowing down of the evolution/development of the overall regulatory process and some safety-beneficial changes may never occur. In particular, an area that would benefit from cost waivers is the "risk-informed" actions. Several examples from the past include risk-informed Inservice Inspection (ISI), risk-informed Inservice Testing (IST), and risk-informed Quality Assurance.

Proposed Alternative Paragraph

A possible solution is to add a new paragraph to modify the criteria:

(iv) To request action for a specific licensee(s), but which also has the potential to result in final products which could provide a useful precedent to additional licensees or which could contribute to the development of generic regulatory improvements.

The Statement for Consideration for this addition should make the following points:

(A) The waiver of fees is intended primarily for lead licensee(s) for the type of activity being addressed,

- An example of an activity that would meet this fee waiver criteria is an exemption request that pursues generically applicable risk-informed alternative to a currently deterministic regulatory requirement.

- An example of an activity that would not meet this requirement is a topical report submitted by or on behalf of an owners group and which would be limited in its applicability to the members of that group.

(B) It is preferable, but not required, that the request be made prior to or concurrent with the submittal for the special project to the NRC.

(C) The exemption request to waive fees shall include the amount to be waived, either in a dollar amount or as a percentage (up to and including 100%) of the normal fee.

In summary, the NRC should not miss this opportunity to establish rules which encourage the development of regulatory processes and requirements. The new restrictions as proposed in items [A] through [D] of sub-paragraph (iii) would impose new restrictions that would impede (and in some cases even stop) the continued development of improved regulations and regulatory processes.

STPNOC appreciates the opportunity to comment on the NRC's proposed rule to revise fee schedules. If there are any questions regarding these comments, please contact me at 361-972-8787.

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AWH

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