



Document # 6

POLICY ISSUE (Notation Vote)

September 12, 1997

SECY-97-207

FOR: The Commissioners

FROM: Jesse L. Funches
Chief Financial Officer

SUBJECT: STRATEGIC ASSESSMENT DIRECTION SETTING ISSUE:
FEES (DSI-21)/COMSECY-96-065 REIMBURSABLE
BUSINESS-LIKE FTE

PURPOSE:

To obtain Commission approval to submit a request to the Office of Management and Budget (OMB) for additional FTEs for activities associated with reimbursable work. The March 27, 1997, staff requirements memorandum on Strategic Assessment Direction Setting Issue: Fees (DSI-21), directed the staff to identify those FTEs associated with reimbursable work as business-like activities consistent with OMB's January 3, 1996, letter to the Chief Financial Officers (CFO) Council and to include such FTEs in the NRC's FY 1999 budget request to OMB. The FTEs for reimbursable business-like activities are to be separate from and in addition to the FTEs the agency will request to carry out its activities.

BACKGROUND:

Strategic Assessment Direction Setting Issue Paper: Fees (DSI-21), noted that OMB and the CFO Council are addressing the issue of FTE for "business-like" operations. The CFO Council has defined "business-like" activities as services provided by Federal agencies which operate under principles utilized in the private sector, such as full competition, customer choice of service provider, and full cost recovery. The CFO Council definition focused upon common government administrative support services such as data processing and financial operations. The OMB's January 3, 1996, letter to the CFO Council noted that "business-like" organizations which can demonstrate an FTE requirement, and have identified the funds to finance them, generally should be given the FTE levels needed for carrying out these "business-like" operations. DSI-21 noted that NRC's reimbursable work can and should be viewed as "business-like." DSI-21 also noted that the framework established by OMB could be used to address the issue associated with NRC's FTEs for reimbursable work.

CONTACT: Joel Dorfman, OCFO/DBA/FCB
(301) 415-6022

NOTE: TO BE MADE PUBLICLY AVAILABLE
WHEN THE FINAL SRM IS MADE AVAILABLE

DISCUSSION:

The Office of the CFO has worked with the agency's offices to identify the current and forecasted FTE requirements for reimbursable business-like activities. Attached is a description of the NRC's current and potential reimbursable agreements and the FTE associated with these agreements. The FTEs for these agreements are estimated at 13 in FY 1998 and 5 in FY 1999.

The NRC also performs three categories of work which are included in the NRC's FY 1998 and FY 1999 budgets, but could potentially be performed on a full cost reimbursement basis if the requesting agency (e.g., DOE) were to fund the work and the resources were not included in appropriations to NRC. In the past, Congress and the Administration have supported this funding approach for NRC to provide regulatory assistance to the DOE and international assistance to the Agency for International Development (AID) and Defense Special Weapons Agency (DSWA). Additionally, both Congress and the Administration have supported providing separate appropriations to NRC for its regulatory assistance to DOE and exempting such appropriations from the requirement for NRC to collect 100 percent of its budget from fees. Discussions of these categories and the basis for their exclusion from this assessment follow:

1. **EXTERNAL REGULATION OF DOE:** During FY 1997, NRC established a high level task force to plan and analyze the regulatory programs needed for NRC regulation of DOE's nuclear safety programs and activities. NRC and DOE are currently negotiating a reimbursable agreement to fund NRC's FY 1997 activities related to the task force. The NRC and DOE expect to conduct a pilot program for regulating selected DOE facilities beginning in FY 1998. The current estimate for NRC's FY 1998 effort is 5 FTE. NRC's FY 1999 efforts are expected to require approximately 15 FTE. At this time, it is uncertain whether NRC's FY 1998 activities will be funded through direct appropriations from Congress or from a reimbursable agreement with DOE. Currently, the House of Representatives has included \$1 million in its proposed FY 1998 appropriations to NRC (H.R. 2203), exempt from license fee revenues, for NRC to participate in the pilot program, and the Senate has included \$1 million in its proposed FY 1998 appropriations to DOE (S. 1004) to fund the NRC's activities in the pilot through a reimbursable agreement. In August 18, 1997, letters to the Senate and House Subcommittees on Energy and Water Development, the Chairman requested that the \$1 million be included in the NRC appropriation as was done in H.R. 2203. In either case, the agency's FY 1998 FTE ceiling does not include the 5 FTEs for this work. Thus, it has been included in the attachment.
2. **REGULATORY ASSISTANCE TO DOE:** The NRC performs certain activities for DOE which are not part of our statutory mission. These activities could be funded through reimbursable agreements. Beginning in FY 1997, the NRC requested and received appropriated funds, exempt from license fee revenues, for these activities. The following FTE are included in the NRC's FY 1998 and FY 1999 budgets for such assistance:

	<u>FY 1998</u>	<u>FY 1999</u>
Hanford Site Activities	15	15
Tritium Production in Commercial Reactors	1	2
TOTAL	16	17

3. **INTERNATIONAL ASSISTANCE:** The NRC provides nuclear safety assistance to the countries of the Former Soviet Union (FSU) and Central and Eastern Europe (CEE). AID has funded NRC's contractual support and travel costs associated with this assistance through reimbursable agreements and agreements to transfer funds for the past several years. In addition, DSWA has funded NRC's contractual support and travel costs associated with assistance to the FSU under the Cooperative Threat Reduction (CTR) program. NRC's FY 1998 and FY 1999 budgets include 18 FTE in each year to support AID and DSWA funded international assistance projects.

Previous Commission policy decisions, including approval of agency budget requests, have resulted in the funding of FTE costs necessary to support NRC's assistance from NRC's appropriated funds. In an August, 1992, response to the SRM on SECY-92-210, the Commission was advised that funding for the U.S. Lisbon Initiative "will be provided by the Agency for International Development (AID) with the exception of NRC staff salaries and benefits." In SECY-95-054, the Commission was advised that while NRC receives reimbursement from the Defense Nuclear Agency (now DSWA) for travel and contract costs associated with the CTR program, and from AID for equivalent costs associated with the Newly Independent States Nuclear Safety program, neither organization reimburses NRC's FTE or overhead costs. In the SRM to SECY-95-054, the Commission affirmed NRC's existing use of FTE to support safeguards assistance programs in the republics of the FSU.

While there are no general legal prohibitions against the NRC accepting reimbursement from other Federal agencies for salaries and benefits costs associated with work performed in the international area, the following policy implications would need to be considered should the Commission decide to require such reimbursements from other Federal agencies. Current agreements with AID and DSWA explicitly state that NRC's salaries and benefits costs will not be reimbursed. Further, current funding levels provided in these agreements do not include these costs. Therefore, NRC's current agreements with AID and DSWA would need to be renegotiated to permit the NRC to charge for these costs and to provide significant amounts of additional funding to NRC.

A further consideration is the potential elimination of NRC staff assistance to the FSU and CEE countries should other Federal agencies be unable or unwilling to fund NRC's salaries and benefits and overhead costs. In discussions with AID's Office of General Counsel, members of my staff have been advised that as a policy matter, AID prefers not to reimburse Federal agency salaries and benefits costs. It should be noted that

NRC's nuclear safety assistance to the FSU and CEE countries contributes substantially to U.S. foreign policy and national security interests. NRC's justifications provided with budget requests to Congress to fund NRC's efforts have been that NRC's efforts support U.S. national interests in international nuclear safety and security.

The agency's September 8, 1997, budget request to OMB did not include the FTEs identified in the attachment. Thus, a decision to request these additional FTEs will not reduce the FTE in the agency FY 1998 or FY 1999 budgets. If the Commission decides to request the additional FTE shown in the attachment (13 FTE in FY 1998 and 5 FTE in FY 1999), I plan to submit an addendum to the agency's September 8 budget request. I recommend that the addendum be submitted to OMB within 30 days. In preliminary discussions on this subject, OMB has indicated their support of this plan.

RECOMMENDATION:

I recommend that the Commission approve requesting the additional FTE shown in the attachment through an addendum to the NRC's September 8, 1997, budget request to OMB.

COORDINATION:

The Office of the General Counsel has no legal objection to this paper.


Jesse L. Funches
Chief Financial Officer

Commissioners' comments or consent should be provided directly to the Office of the Secretary by COB Monday, September 29, 1997.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Monday, September 22, 1997, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION:

Commissioners
OGC
OIG
OPA
OCA
CIO
CFO
EDO
SECY

**REIMBURSABLE BUSINESS-LIKE FTE ESTIMATES
FY 1998 AND FY 1999**

	CUSTOMER AGENCY	FY 1998 ESTIMATE	FY 1999 ESTIMATE
CURRENT REIMBURSABLE WORK AGREEMENTS (as of 9/10/97)			
Cassini & Mars Pathfinder Missions: Assist Interagency Nuclear Safety Review Panel in review of the safety of launches of space vehicles carrying nuclear material.	NASA	0.5	0
Technical Support for the Preparation and Review of Licensing and Regulatory Compliance Documents (Fissile Materials): Assist in the review of licensing and compliance plans for technologies and associated facilities under consideration for the disposition of fissile materials.	DOE	2.0	2.0
Porting Reviews: Provide technical advice on health and safety matters concerning the Navy's nuclear propulsion reactors.	NAVY	0.1	0.1
Closure of HLW Storage Tanks at Savannah River Site: Provide technical assistance in regard to DOE's high-level waste storage tank closure program.	DOE	0.5	0
Evaluation of Liner in Spent Fuel Canal of the High Flux Beam Reactor: Provide technical review of the conceptual design of the proposed Brookhaven National Laboratory High Flux Beam Reactor (HFBR) spent fuel pool liner project.	DOE	0.4	0.1
Aluminum-Based Research Reactor Spent Nuclear Fuel: Provide technical assistance in connection with DOE's identification of potential issues relating to the ultimate disposition of aluminum-based research reactor spent nuclear fuel.	DOE	0.5	1.0
Subtotal		4.0	3.2

**REIMBURSABLE BUSINESS-LIKE FTE ESTIMATES
FY 1998 AND FY 1999**

	CUSTOMER AGENCY	FY 1998 ESTIMATE	FY 1999 ESTIMATE
PROJECTED REIMBURSABLE WORK AGREEMENTS			
Safety Evaluation at Brookhaven Nat'l Lab: Identify and assess safety issues at Brookhaven National Laboratory.	DOE	1.0	0
DOE External Regulation: Prepare an MOU and conduct a pilot program plan for external regulation of DOE facilities.	DOE	5.0	0
Core Conversion Project: Provide technical assistance to the Russian regulatory authority in support of its review and approval of core conversion activities at Russia's weapons-grade plutonium product reactors.	DOD	2.4	0
Spent Nuclear Fuel and Nuclear Storage Project: Develop acceptance criteria for storage of aluminum-clad, highly-enriched spent nuclear fuel and prepare an environmental impact statement.	DOE	0.3	1.0
Subtotal		8.7	1.0
TOTAL		12.7	4.2