

April 28, 2006

TSTF-06-08

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SUBJECT: Technical Specification Task Force Request for NRC Reconsideration of January 31, 2003 Letter Regarding Collection of Review Fees for Generic Standard Technical Specifications Improvements

References: 1) Letter from William D. Beckner (NRC) to Tony Pietrangelo (NEI) dated January 10, 2003.
 2) Nuclear Regulatory Commission 10 CFR Part 50 Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors.

Gentlemen:

In the 1980's, the NRC and the industry participated in the Technical Specifications Improvement Project (TSIP). The purpose of TSIP was to improve the existing system of establishing Technical Specification (TS) requirements in order to focus the TS on safety, make them more clear for operators, and to standardize content and format. The TSIP resulted in two principle accomplishments: a set of criteria (eventually published in 10 CFR 50.36) which defined those requirements that should be incorporated in TS, and NSSS-design specific Standard Technical Specifications, known as the Improved Standard Technical Specifications (ISTS). The NRC did not assess 10 CFR Part 170 review fees for these activities as they were used by the NRC to make generic regulatory improvements.

In Reference 1, the NRC informed the Technical Specification Task Force (TSTF) (at that time, a part of the Nuclear Energy Institute) that future review of proposed changes to the ISTS, known as "Travelers," would be assessed 10 CFR Part 170 review fees because the ISTS have been refined to the point where they can support the remaining conversions and serve as general guidance for license amendment review and the Travelers being submitted primarily benefit owners group members. However, Reference 1 stated that Travelers designed to risk-inform the ISTS would continue to not be assessed 10 CFR Part 170 fees.

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Since the Reference 1 letter was received, the TSTF has worked with the NRC to efficiently implement the revised position and some Travelers have been submitted to the NRC for review that have been assessed Part 170 review fees.

The TSTF believes that the NRC should reconsider the position put forward in Reference 1 based on the following factors:

- We believe the position put forward in Revision 1 is inconsistent with the policy of the Nuclear Regulatory Commission. In Reference 2, the Nuclear Regulatory Commission stated, "In accordance with this Policy Statement, improved STS have been developed and will be maintained for each NSSS owners group" (emphasis added). Furthermore, the Policy states, "The NRC will, consistent with its mission, allocate resources as necessary to implement this Policy Statement." The process used by the NRC for maintaining the Improved Standard Technical Specifications (ISTS) is the Traveler process. It is a direct contradiction with the Final Policy Statement for the NRC to place the financial burden on maintaining the ISTS on the licensees.
- The STS have not been "refined to the point where they can support the remaining conversions and serve as general guidance for license amendment review." In addition, the Travelers being submitted do not "primarily benefit owners group members." Since the January 2003 letter was issued, the NRC has approved Travelers that make almost 4,000 changes to the STS. The most significant Travelers pursued by the NRC and the TSTF since the January, 2003 letter were for NRC initiatives, such as risk-informing the Technical Specifications, the rulemaking on combustible gas control, improving steam generator tube inspections, control room habitability testing, and improving instrument setpoint methodology. The Traveler process is the most efficient method for the NRC to develop, approve, and implement regulatory improvements.
- Assessing Part 170 review fees on Travelers reduces the NRC's efficiency. The Consolidated Line Item Improvement Process (CLIIP) (described in Regulatory Information Summary 2000-06) creates a streamlined regulatory improvement process, which saves significant NRC resources. Industry estimates indicate that NRC review of a plant-specific license amendment based on CLIIP requires an average of *one-tenth* of the NRC review hours of a similar non-CLIIP amendment. Since the initiation of the CLIIP process, over 350 license amendment requests based on CLIIP have been submitted. However, the CLIIP process depends on the industry submitting Travelers and the imposition of Part 170 review fees discourages those submittals. Industry submittal of Travelers has dropped from an average of 88/year from 1995 to 2002 to 18/year since the Reference 1 letter was received. It is in the NRC's interest to encourage submittal of Travelers.

The NRC is developing a process under which all future Travelers will be reviewed and approved in a manner to allow plant-specific adoption with the same efficiency as amendments based on CLIIP. This provides further advantages to the NRC for encouraging the submittal of Travelers.

- The overhead and disincentives associated with assessing Part 170 review fees on Travelers are not justified by the small benefit obtained by the NRC because only a small fraction of the Travelers reviewed by the NRC are subject to review fees. Since January of 2003, the NRC has approved 29 Travelers. In this same time period, the NRC has assessed Part 170 fees on only 8 Travelers. This difference is due to the large number of Travelers that are risk-informed (and not subject to Part 170 fees per Reference 1), that support generic regulatory improvements such as steam generator tube inspection, control room habitability, and setpoint methodology (and have been granted waivers from Part 170 fees), or that are considered editorial or administrative (and are incorporated into the ISTS without technical review).
- The imposition of review fees has resulted in creation of a parallel Traveler process that reduces the benefits to the NRC and the industry. In response to Reference 1, the TSTF created a process by which Travelers obtain industry review and approval but are not submitted to the NRC for generic review and approval. These Travelers are generic and beneficial, but the owners groups did not have funds available to pay for the NRC review of the Traveler. These Travelers, known as "T" (for "template") Travelers, are made available to licensees as the basis for plant-specific amendments and the TSTF and the NRC have agreed on a process by which the first submittal of a plant-specific amendment would be considered a lead plant submittal and generic approval of the "T" Traveler would follow the plant-specific approval. However, this process is much less efficient than the normal Traveler process because any changes to the Traveler require both a revision to the Traveler and a revision to the plant-specific submittal. Furthermore, many of these "T" Travelers are corrections to the ISTS NUREGs and the NRC has recognized the benefit of receiving these corrections by incorporating them in revisions to the ISTS NUREGs as administrative changes.

The TSTF encourages the NRC to find that review of Travelers is a fee exempt activity under 10 CFR Part 170. In particular, we believe the NRC should grant a fee exemption under 10 CFR Part 170, paragraph (b)(1), which states, "The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of this part as it determines are authorized by law and are otherwise in the public interest."

Alternatively, the TSTF believes the NRC could grant a fee exemption for the review of Travelers under 10 CFR Part 170, paragraph (a)(1)(iii), which states fees are not assessed for "A special project that is a request/report submitted to the NRC ... As a means of exchanging information between industry organizations and the NRC for the specific purpose of supporting the NRC's generic regulatory improvements or efforts." Reference 2 describes the ISTS as a regulatory improvement effort and makes clear that the NRC will continue to maintain the ISTS. Paragraph (a)(1)(iii)(A)(1) goes on to state that this fee exemption only applies when "It has been demonstrated that the report/request has been submitted to the NRC specifically for the purpose of supporting NRC's development of generic guidance and regulations (e.g., rules, regulations, guides and policy statements)." The ISTS has been the single most effective method ever employed by the NRC to develop generic guidance for licensees. One estimate has determined that 40% of the license amendments submitted by licensees in FY 2005 were based on Travelers.

The TSTF encourages the NRC to move expeditiously to remove this roadblock from a process that encourages safety, efficiency, and standardization. We look forward to working with you on this issue.

Should you have any questions, please do not hesitate to contact us.



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