



NUCLEAR ENERGY INSTITUTE

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USNRC

Anthony R. Pietrangelo
VICE PRESIDENT
REGULATORY AFFAIRS

March 13, 2008 (4:45pm)

March 13, 2008

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Ms. Annette L. Vietti-Cook
Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: 10 CFR Parts 170 and 171, Revision of Fee Schedules; Fee Recovery for FY 2008;
Proposed Rule (*72 Fed. Reg. 5108*; February 13, 2008; RIN 3150-AI28)

Project Number: 689

Dear Ms. Vietti-Cook:

On behalf of the commercial nuclear energy industry, the Nuclear Energy Institute (NEI)¹ submits comments on the above-referenced proposed rule to revise the licensing, inspection, and annual fees charged to NRC applicants and licensees. Our comments are focused on the following areas of concern:

- The proposed rule does not adequately explain the bases for an increase in operating reactor annual fees.
- The non-fee items were reduced, thereby increasing the budget recoverable fees by \$20 million without adequate explanation.
- There continues to be a need to focus NRC management attention on efficiency of FTEs.
- There is no discussion in the proposed rule on the fee impact to NRC licensees once additional states beyond the Commonwealth of Pennsylvania become an Agreement State.
- The balance in the general fund increased significantly in 2007 and the revision to fees does not explain the cause.
- There continues to be a need to provide the industry with information regarding potential fee increases at an earlier date to enable applicants and licensees to adequately prepare their budgets.

¹ NEI is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry. NEI's members include all entities licenses to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry.

Template = SECY-067

SECY-02

These concerns are explained in further detail below:

Increase in Annual Fee Base

The proposed NRC total fee recovery for FY 2008 is \$760.7 million. The NRC estimates that approximately \$477.2 million of the total will be recovered from Part 171 annual fees. This is a 2.6% increase over the FY 2007 Part 171 collections of \$465.3 million. The proposed rule explains this increase with the following statement: "The significant factors affecting the changes to the annual fee amounts as compared with FY 2007 are the increase in budgeted resources for new reactor activities, higher Part 170 revenue estimates, and adjustment for higher prior year fee collections. Two of the three factors noted as responsible for the increase should have resulted in a net decrease in annual fees for power reactors. Therefore, it appears that the increase is due largely to work for new reactors.

While the industry recognizes that additional fees are necessary to support the staffing levels required to license new reactors, as new reactor applications are filed, this budget includes a 33% increase attributed to the new reactor work through Part 171 fee collection. Additionally, the FY 2007 budget increased annual fees to operating reactors by 9% with the explanation, "The most significant factors affecting the changes to the annual fee amounts are the increase in budgeted resources for new reactor activities." The industry would have expected the annual fee to remain stable or slightly decrease as did the majority of the license classes. The industry requests further explanation on the necessity of increasing the annual fee for operating reactors due to new plant construction and a discussion on future impacts on annual fees for operating reactors due to new plant construction.

Non-Fee Items

The non-fee items of the Nuclear Waste Fund, waste incidental to reprocessing, and generic homeland security appropriations were reduced in FY 2008 to \$60.4 million from \$81.3 million in FY 2007. The basis for this reduction is insufficiently discussed in the budget proposal. The proposal appears to place the majority of homeland security support back onto operating reactors.

Efficiency of the NRC

The industry is concerned with the continuous increase in the NRC budget. In FY 2005, the NRC budget to be recovered through Part 170 and 171 fees was \$538 million and in FY 2008 that budget has increased greater than 40% to \$760 million. During the same period of time, the efficiency of the NRC for budgeting purposes has decreased from a value of 1446 direct hours/FTE in FY 2005 to 1371 direct hours/FTE in the FY 2008 proposal.

The industry understands and supports the agency's increased staffing needs in supporting a larger workload presented by new reactors; however, there must be increased attention to improving the NRC's efficiency in regulation. The industry requests an explanation of this decrease in efficiency when the budget has significantly increased, including the presentation of a plan and a timeline to restore and improve the efficiency.

Agreement State Activities

Regarding Agreement State activities, there is no discussion in the proposed rule on the fee impact to NRC licensees once additional states beyond the Commonwealth of Pennsylvania become Agreement States. Specifically, the Commonwealth of Virginia and the State of New Jersey are actively in process to become Agreement States in FY 2009. The States of Michigan and Connecticut have also stated their intent to become Agreement States in the relative near-term. The final FY 2008 fee rule should discuss how the potentially significant decrease in the number of NRC materials licensees would impact fees for all remaining NRC licensees.

Need for Timely Budget Estimate

As the industry has requested in the past, it is very important to licensees that they properly budget for regulatory costs. This requires some knowledge of the likely costs on a schedule that comports with licensee budgeting cycles. Because the proposed fee rule is issued early in the calendar year and not on the schedules used by most licensees, it would be very helpful for the agency also to issue an estimate for the following year at the same time it issues a proposed fee rule or shortly thereafter. This may require the NRC to forecast on a two-year horizon, but such forecasting and estimating of budgets is in fact consistent with sound business planning. The industry requested that the NRC hold a public meeting to further discuss this point in comments to the FY 2007 budget. The industry reiterates its request to have public discussions for improvements in the NRC budgeting practices.

Increases in the General Fund

The industry notes that in the recently released Performance and Accountability Report, Volume 13 (NUREG 1542), the balance in the general fund has increased 26.5% to \$356 million from a balance of \$281 million in FY 2006. The FY 2008 fee rule does not address the significant increase in the general fund. The industry would like to understand the strategy behind the significant increase and a forward looking plan on maintaining a stable general fund balance.

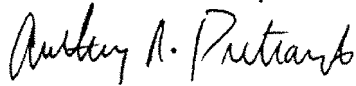
Ms. Annette L. Vietti-Cook
March 13, 2008
Page 4

NRC Scholarship and Fellowship Funding

The industry is encouraged by the availability of \$15 million for NRC administration of scholarship and fellowship funding. Such funds will contribute to the availability of persons with critical skills needed by NRC and the nuclear sector. To that end, the industry would like to continue to provide input to NRC in determining how best to administer these funds to reach our mutual safety and security goals.

If you have any questions regarding these comments, please contact me or Jack Roe at (202) 739-8138; jwr@nei.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony R. Pietrangelo". The signature is fluid and cursive, with the first name "Anthony" and last name "Pietrangelo" clearly distinguishable.

Anthony R. Pietrangelo

c: Mr. Luis A. Reyes, Executive Director of Operations, NRC
Mr. James E. Dyer, Chief Financial Officer, NRC
NRC Document Control Desk

Rulemaking Comments

From: HUSSAIN, Saqib [sxh@nei.org] on behalf of PIETRANGELO, Tony [arp@nei.org]
Sent: Thursday, March 13, 2008 4:27 PM
To: Rulemaking Comments
Subject: 10 CFR Parts 170 and 171, Revision of Fee Schedules; Fee Recovery for FY 2008; Proposed Rule (72 Fed. Reg. 5108; February 13, 2008; RIN 3150-AI28)
Attachments: 03-13-08_NRC_10 CFR Parts 170 and 171, Revision of Fee Schedules.pdf

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2008; Proposed Rule (72 Fed. Reg. 5108; February 13, 2008; RIN 3150-AI28)

Thread-Index: AciFPjGDdRJyNX8JT4m8aukznRc4ywAB2uGg

From: "PIETRANGELO, Tony" <arp@nei.org>

Sender: "HUSSAIN, Saqib" <sxh@nei.org>

To: <Rulemaking.Comments@nrc.gov>

Return-Path: sxh@nei.org