

TSTF

**TECHNICAL SPECIFICATIONS TASK FORCE**  
*A JOINT OWNERS GROUP ACTIVITY*

PRM-170-6

July 2, 2008

TSTF-08-11  
PROJ0753

Annette L. Vietti-Cook  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Attention: Rulemaking and Adjudications Staff

DOCKETED  
USNRC

September 3, 2008 (2:42pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

SUBJECT: Petition to Amend 10 CFR 170.11

Dear Ms. Vietti-Cook:

Pursuant to 10 CFR 2.802, the Technical Specification Task Force (TSTF) submits the enclosed rulemaking petition (Petition) to the U.S. Nuclear Regulatory Commission (NRC) to amend 10 CFR 170.11, "Exemptions," to provide an explicit exemption from NRC review fees for activities associated with generic improvements to the Improved Standard Technical Specifications (ISTS).

The Nuclear Regulatory Commission (NRC) Policy Statement, "10 CFR Part 50 Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published July 16, 1993, states that ISTS have been developed and will be maintained. It also states that the NRC will, consistent with its mission, allocate resources as necessary to implement the Policy Statement. Contrary to that Policy, in 2003 the NRC began assessing fees for the review of industry actions to maintain the ISTS, known as "Travelers." This placed the entire burden of maintaining the STS on the industry, which has subsequently paid over \$750,000 in fees.

The TSTF has repeatedly requested fee exemptions from the NRC for the review of Travelers and has almost always been rejected on the basis that 10 CFR 170.11 does not contain a provision for exempting the activity. Therefore, the TSTF is petitioning the NRC to amend 10 CFR 170.11 to provide an exemption for activities associated with generic improvements to the ISTS in order to make the regulations consistent with the Commission's Policy Statement.

The TSTF requests this change be implemented as soon as possible to minimize any further impact on the Owners Groups. There is adequate justification and precedent for the NRC to implement this requested Petition by issuing a proposed rule and direct final rule concurrently.


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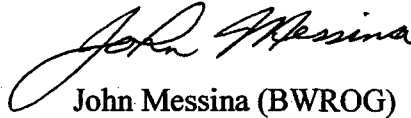
Template = SECY-051

SECY-02

Thank you for your consideration of the enclosed Petition. If there are any questions, please contact Brian Mann at (301) 984-4400 or at [brian.mann@excelservices.com](mailto:brian.mann@excelservices.com).



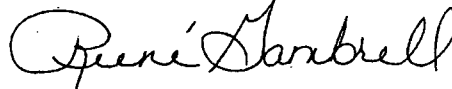
Bert Yates (PWROG/W)



John Messina (BWROG)



David Bice (PWROG/CE)



Reene' Gambrell (PWROG/B&W)

Enclosure: Rulemaking Petition to Amend 10 CFR 170.11

cc: Bill Borchardt, Executive Director for Operations  
Michael Case, Director, Division of Policy and Rulemaking  
Robert Elliott, Technical Specifications Branch, NRC  
Matthew Hamm, Technical Specifications Branch, NRC  
Mike Schoppman, Nuclear Energy Institute

## **Rulemaking Petition to Amend 10 CFR 170.11**

The Technical Specification Task Force (TSTF) submits the following rulemaking petition to the U.S. Nuclear Regulatory Commission (NRC) to amend 10 CFR 170.11, "Exemptions," to provide an explicit exemption from NRC review fees for activities associated with generic improvements to the Improved Standard Technical Specifications.

### **Petition Details**

Paragraph (c) of 10 CFR 2.802, "Petition for Rulemaking," identifies items a petition should include. These items are re-stated below (in bold and italic text) followed by the required information.

***10 CFR 2.802 (c) (1) - Set forth a general solution to the problem or the substance or text of any proposed regulation or amendment, or specify the regulation which is to be revoked or amended;***

### **Description of the Problem**

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 Policy Statement, "10 CFR Part 50 Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors" (Reference 1), which defined those requirements that should be incorporated in TS, and NRCSS-design specific Standard Technical Specifications, known as the Improved Standard Technical Specifications (ISTS), published as NUREG-1430 through NUREG-1434. The NRC did not assess 10 CFR Part 170 review fees for these activities.

The Nuclear Regulatory Commission (NRC) Policy Statement states that improved Standard Technical Specifications (ISTS) have been developed and will be maintained. It also states that the NRC will, consistent with its mission, allocate resources as necessary to implement the Policy Statement.

Contrary to that Policy, on January 10, 2003 (Reference 2) the NRC informed the TSTF that future review of actions to maintain the ISTS, known as "Travelers," would be assessed review fees in accordance with 10 CFR Part 170. Since that change, the Pressurized Water Reactor Owners Group and the Boiling Water Reactor Owners' Group have paid over \$750,000 in NRC review fees. This effectively places the entire burden of maintaining the ISTS on the industry.

The TSTF has repeatedly requested fee exemptions from the NRC, both generically and for specific Travelers. In almost every case, the NRC has rejected the TSTF's request on the basis that 10 CFR 170.11 does not contain a provision for exempting the activity from NRC review fees.

## **Rulemaking Petition to Amend 10 CFR 170.11**

### **General Solution to the Problem and Regulation to be Amended**

The TSTF is petitioning the NRC to amend 10 CFR 170.11 by adding new Part 170.11(a)(1)(iii)(A)(4) to provide an exemption for activities associated with generic improvements to the ISTS in order to make the regulations consistent with the Commission's Policy Statement.

***10 CFR 2.802 (c) (2) - State clearly and concisely the petitioner's grounds for and interest in the action requested;***

### **Grounds for Petition**

The grounds for the petition is that the current regulation regarding exemptions from NRC review fees does not provide for an exemption for the maintenance of the ISTS and is, therefore, contrary to the Commission's Policy Statement (Reference 1).

### **Petitioner's Interest in the Action Requested**

The Technical Specification Task Force is a jointly sponsored activity of the Pressurized Water Reactor Owners Group and the Boiling Water Reactor Owner's Group. A direct result of the inconsistency between the Commission's Policy Statement and the provisions of 10 CFR 170.11 is that the Owners Groups have paid over \$750,000 in NRC review fees since 2003 for maintenance of the ISTS when the NRC's stated Policy was that the NRC would allocate the resources for that activity.

### **Justification for the Petition**

***10 CFR 2.802 (c) (3) - Include a statement in support of the petition which shall set forth the specific issues involved, the petitioner's views or arguments with respect to those issues, relevant technical, scientific or other data involved which is reasonably available to the petitioner, and such other pertinent information as the petitioner deems necessary to support the action sought. In support of its petition, petitioner should note any specific cases of which petitioner is aware where the current rule is unduly burdensome, deficient, or needs to be strengthened.***

The TSTF's position is that the imposition of review fees for the review of generic improvements to the ISTS is unduly burdensome. A direct result of the inconsistency between the Commission's Policy Statement and the provisions of 10 CFR 170.11 is that the Owners Groups have paid over \$750,000 in NRC review fees since 2003 for maintenance of the ISTS when the NRC's Policy was that the NRC would allocate the resources for that activity.

The TSTF's position is that the current provisions of 10 CFR 170.11 are deficient in that the imposition of review fees for the review of generic improvements to the ISTS is inconsistent with the policy of the Nuclear Regulatory Commission. In Reference 1, 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

### Rulemaking Petition to Amend 10 CFR 170.11

necessary to implement this Policy Statement." As documented in NRR Office Instruction LIC-600, "Review of Technical Specifications Task Force (TSTF) Travelers and Creation of 'CLIP' Model Applications," the process used by the NRC for maintaining the ISTS is the Traveler process. It is a direct contradiction of the Policy Statement for the NRC to place the financial burden of maintaining the ISTS on the licensees.

The TSTF's position is that the current provisions of 10 CFR 170.11 are deficient in that assessing Part 170 review fees on Travelers reduces the NRC's efficiency. The Consolidated Line Item Improvement Process (CLIP) (described in Regulatory Information Summary 2000-06) creates a streamlined regulatory improvement process in which licensees request license amendments based on NRC-approved Travelers. The CLIP saves significant NRC resources. Industry estimates indicate that NRC review of a plant-specific license amendment based on CLIP requires an average of *one-tenth* of the NRC review hours of a similar non-CLIP amendment. As acknowledged in NRC Office Instruction LIC-600, "Completion of reviews of changes proposed by the industry's Technical Specification Task Force (TSTF) to enhance the Standard Technical Specifications (STS) supports the NRC's Effectiveness & Efficiency Goals." Since the initiation of the CLIP process, over 500 license amendment requests based on CLIP have been approved, saving the NRC in excess of 40 work-years of effort since FY 2001. However, the CLIP process depends on the industry submitting Travelers. The imposition of Part 170 review fees is a strong disincentive to those submittals. Industry submittal of new Travelers has dropped from an average of 56/year from 1995 to 2002 to 9/year since the imposition of fees for Traveler reviews. It is in the NRC's interest to support the CLIP by encouraging the submittal of Travelers through the elimination of review fees.

Therefore, in order to implement the Commissions policy, remove an undue burden on licensees, and to improve the NRC's efficiency, the TSTF requests that the NRC amend 10 CFR 170.11 to provide an exemption from review fees for generic improvements to the improved Standard Technical Specifications.

#### Specific Cases

The above discussion justifies providing a fee exemption for all Travelers. The following examples are cases in which the imposition of fees for the review of a generic improvement to the ISTS is especially onerous:

- (1) When the action of a federal regulatory agency, such as the NRC, the Department of Energy, or the Environmental Protection Agency, mandates a change that results in a revision to the ISTS;
- (2) When a generic improvement to the ISTS has been previously approved by the NRC, but for causes that reside with the NRC the approval is subsequently withdrawn and the Traveler must be revised to gain regulatory approval;
- (3) When a generic improvement to the ISTS facilitates the adoption of documents approved by the NRC, such as Regulatory Guides and Topical Reports, and the benefit of the generic improvement supports the common interests of both the NRC and the licensees.

**Rulemaking Petition to Amend 10 CFR 170.11**

**References**

- 1) Nuclear Regulatory Commission, "10 CFR Part 50 Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," July 16, 1993 (58 FR 39132).
- 2) Letter from William D. Beckner (NRC) to Tony Pietrangelo (NEI) dated January 10, 2003.

## Hearing Docket

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**From:** Brian Mann [brian.mann@excelservices.com]  
**Sent:** Monday, August 25, 2008 5:22 PM  
**To:** Hearing Docket  
**Subject:** FW: Submittal Confirmation!  
**Attachments:** Brian D Mann.vcf; TSTF-08-11 Petition on NRC Review Fees.pdf

I'm trying to determine the status of our petition. Hopefully you can help.

Thanks!

Brian Mann

**Brian D. Mann**

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Senior Director

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-----Original Message-----

**From:** EIEAdmin@nrc.gov [mailto:EIEAdmin@nrc.gov]

**Sent:** Wednesday, July 02, 2008 10:48 AM

**To:** brianm@excelservices.com

**Subject:** EIE: Submittal Confirmation!

Your EIE submission to the US Nuclear Regulatory Commission for docket PROJ0753 entitled 'TSTF-08-11 Petition to Amend 10 CFR 170.11' was received at 07/2008/02 10:48:03. Thank you.

Received: from mail2.nrc.gov (148.184.176.43) by TWMS01.nrc.gov  
(148.184.200.145) with Microsoft SMTP Server id 8.0.751.0; Mon, 25 Aug 2008  
17:34:42 -0400

X-Ironport-ID: mail2

X-SBRS: None

X-MID: 20178588

X-IronPort-AV: E=Sophos;i="4.32,266,1217822400";  
d="pdf?jpg'145?vcf'145?scan'145,208,217,145";a="20178588"

Received: from www.certrec.com (HELO mail.certrec.com) ([69.13.60.130]) by  
mail2.nrc.gov with ESMTP; 25 Aug 2008 17:34:38 -0400

Received: from M1730 by mail.certrec.com (Certrec Mail Server) with  
ASMTMP (SSL) id FDV37524 for <hearingdocket@nrc.gov>; Mon, 25 Aug 2008  
16:22:24 -0500

Reply-To: <brian.mann@excelservices.com>

From: Brian Mann <brian.mann@excelservices.com>

To: <hearingdocket@nrc.gov>

Subject: FW: Submittal Confirmation!

Date: Mon, 25 Aug 2008 17:22:21 -0400

Organization: EXCEL Services Corporation

Message-ID: <008201c906f8\$ab58cf30\$020a6d90\$@mann@excelservices.com>

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Content-Language: en-us

Return-Path: brian.mann@excelservices.com