U.S. Nuclear Regulatory Commission's Fiscal Year 2010 Regulatory Plan

A. Statement of Regulatory Priorities

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the U.S. Nuclear Regulatory Commission (NRC) regulates the possession and use of source, byproduct, and special nuclear material. The NRC's regulatory mission is to ensure that civilian uses of nuclear materials and facilities are carried out in a manner that will protect public health and safety and the environment and that will not be inimical to the common defense and security of the United States. NRC regulates the operation of nuclear power plants and fuel cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transportation of nuclear materials; the decommissioning and return to safe use of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material.

NRC's regulatory priority for the next fiscal year is to continue to ensure that nuclear power plants and other licensed facilities are operated safely and that nuclear materials are possessed and used in a manner that will adequately protect public health and safety. NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations as part of its regulatory process. NRC has developed internal procedures and programs to ensure that only necessary requirements are imposed on its licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

NRC will update its requirement to recover approximately 90 percent of its budget authority in Fiscal Year 2010, less the amounts appropriated from the Nuclear Waste Fund, amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities (non-fee items).

The NRC will codify alternative requirements for emergency core cooling systems (ECCS) at nuclear power reactors by using risk information to refine emergency core cooling systems requirements based on the likelihood of pipe breaks of various sizes. The NRC will specify risk acceptance criteria to ensure that modified designs would continue to provide adequate protection of public health and safety.

B. Description of the Significant Regulatory Action

TITLE. Revision of Fee Schedules; Fee Recovery, Fiscal Year 2010.

Legal Authority. 31 U.S.C. 9701; 42 U.S.C. 2201(w), 2214.

Legal Deadline. The Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, requires that the NRC recover approximately 90 percent of its budget authority in Fiscal Year (FY) 2010, less the amounts appropriated from the Nuclear Waste Fund (NWF), amounts appropriated for Waste Incidental to Reprocessing (WIR), and amounts appropriated for generic homeland

security activities (non-fee items). The OBRA-90 requires that the fees for FY 2010 must be collected by September 30, 2010. Therefore, the final rule is expected to become effective no later than August 17, 2010.

Need. This rulemaking would amend the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 90 percent of the NRC budget authority for FY 2010, less the amounts appropriated for non-fee items. The OBRA-90, as amended, requires that the NRC accomplish the 90 percent recovery through the assessment of fees. The NRC assesses two types of fees to recover its budget authority. License and inspection fees are assessed under the authority of the Independent Offices Appropriation Act of 1952 (IOAA) to recover the costs of providing individually identifiable services to specific applicants and licensees (10 CFR Part 170). IOAA requires that the NRC recover the full cost to the NRC of all identifiable regulatory services that each applicant or licensee receives. The NRC recovers generic and other regulatory costs not recovered from fees imposed under 10 CFR Part 170 through the assessment of annual fees under the authority of OBRA-90 (10 CFR Part 171). Annual fee charges are consistent with the guidance in the Conference Committee Report on OBRA-90 that the NRC assess the annual charge under the principle that licensees who require the greatest expenditure of the agency's resources should pay the greatest annual fee.

Alternatives. Because this action is mandated by statute and the fees must be assessed through rulemaking, the NRC did not consider alternatives to this action.

Anticipated Costs and Benefits. The cost to NRC licensees is approximately 90 percent of the NRC FY 2010 budget authority less the amounts appropriated for non-fee items. The dollar amount to be billed as fees to NRC applicants and licensees for FY 2010 is approximately $911.1 million.

Risks. Not applicable.

Timetable. Proposed rule published March 10, 2010 (75 FR 11375)
Final rule expected to be published June 2010

Additional Information. Rebecca Erickson, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, 301-415-7126.

RIN: 3150-AI70

TITLE: Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements

Legal Authority. 42 U.S.C. 2011; 42 U.S.C. 5801

Legal Deadline. None.

Need: This rulemaking would codify alternative requirements for ECCS at nuclear power reactors by using risk information to refine ECCS requirements based on the likelihood of pipe breaks of various sizes. The proposed rule would divide all coolant piping breaks currently considered in emergency core cooling requirements into two size groups: breaks up to and including a "transition" size, and breaks larger than the transition size up to the largest pipe in

the reactor coolant system. Selection of the transition size was based upon pipe break frequency estimates and associated uncertainties. Because pipe breaks in the smaller size group are considered more likely, they would be analyzed using existing criteria for ensuring that the reactor core stays cool during and after an accident. Larger breaks are considered less likely and would be analyzed with less conservative methods. Plants would still have to mitigate the effects of breaking the largest pipe and maintain core cooling. Under the revised proposed rule, power plant operators could make plant design changes that could enhance safety and/or provide operational benefits. The proposed rule specifies risk acceptance criteria to ensure that modified designs would continue to provide adequate protection of public health and safety.

Alternatives. The alternative is for the NRC not to issue these requirements. The alternative would not allow operators of nuclear power plants to have the increased design and operational flexibility that would be allowed by these risk-informed requirements.

Anticipated Costs and Benefits. There are no costs or benefits associated with this rule for licensees who choose not to implement it. For the licensees who do choose to comply with the alternative requirements, if they request to increase power generation at their facilities and eliminate the need for fast-starting of emergency diesel generators, they would need to invest an estimated overall total of approximately $445 million to $1,221 million (in 2008$ @ 3 percent discount rate) for plant modifications and staff support. Total estimated NRC costs associated with implementing the alternative requirements and reviewing licensee design change requests at these facilities would be approximately $22 million to $24 million (in 2008$ @ 3 percent discount rate). Substantial net benefits would result after subtracting both licensee and NRC costs from the benefits that licensees would obtain from making these plant modifications. The total cumulative net benefits are estimated to range from $279 million to $2,876 million (in 2008$ @ 3% discount rate).

Risks: The rule would allow plant design and operational changes which could result in small but acceptable increases in risk. Specific acceptance criteria for risk increases are contained in the rule which limit overall risk increases to very small amounts. Allowable risk increases under this rule are consistent with the current risk increase guidelines specified in Regulatory Guide 1.174, “An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis.”

Timetable: Proposed rule published November 7, 2005 (70 FR 67598)
Supplemental proposed rule published August 10, 2009 (74 FR 40006)
Final rule expected to be published late spring 2011

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RIN: 3150-AH29