



NUCLEAR ENERGY INSTITUTE

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USNRC

Anthony R. Pietrangelo  
SENIOR VICE PRESIDENT AND  
CHIEF NUCLEAR OFFICER

April 19, 2011 (9:05 am)

April 18, 2011

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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

Attn: Rulemakings and Adjudications Staff

**Subject:** Docket ID NRC-2011-0016; 10 CFR Parts 170 and 171, Revision of Fee Schedules; Fee Recovery for FY 2011; Proposed Rule (76 *Fed. Reg.* 14748)

**Project Number: 689**

Dear Ms. Vietti-Cook:

On behalf of the commercial nuclear energy industry, the Nuclear Energy Institute (NEI)<sup>1</sup> submits these comments on the above-referenced proposed rule to revise the licensing, inspection, and annual fees charged to NRC applicants and licensees.

### **Increase in Total Fee Recovery**

The proposed NRC total fee recovery for FY 2011 is \$915.7 million. Notably, this reflects a minor increase over the FY 2010 total fee recovery of \$912.2 million. Over the past six years, the NRC total fee recovery has increased by approximately 69% from a total fee recovery in FY 2005 of \$540.7 million. NEI and the industry welcome this leveling out of the budget. It is recognized that the Congress may enact a different version of the NRC budget than that included in the NRC submission and, as such, the fees in the NRC's FY 2011 final fee rule may need to be adjusted to reflect the enacted budget.

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<sup>1</sup>NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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### **NRC Programs Excluded from Fee Recovery**

The NRC's FY 2011 budget for fee-relief activities is lower than the comparable FY 2010 figure, due primarily to a decrease in budgeted resources for nonprofit educational exemptions, international activities, small entity subsidies, and grants for fellowships and scholarships. This lower budget creates a \$6.4 million surplus from the 10 percent of the NRC's budget that comes from appropriations which is proposed to be used to reduce NRC licensees' annual fees. We propose that NRC create a firewall between fee recovery and fee-relief sources of funds so that the user fee is not used as an additional source of funding for appropriated programs or vice versa. This would demonstrate that the budget fairly reflects those activities that are licensee-specific. In light of NRC's announced plans to review the impacts of the event at the Fukushima Daiichi plant in Japan upon U.S. power reactors, the industry supports using the fee-relief surplus funds to supplement this agency international activity.

Additionally, NEI continues to support the Integrated University Program and believes the NRC should continue to utilize the entire \$15 million (not, as proposed, \$11.5 million) for NRC administration of scholarships and fellowships in FY 2011. See 76 Fed. Reg. 14,752, Table III (Fee-Relief Activities). Such funds will contribute to the availability of persons with critical skills needed by the NRC and the nuclear sector especially now that additional analysis will be required to incorporate lessons learned from the Fukushima nuclear plant accident in Japan.

The U.S. government-wide support of recovery in Japan in FY2011 may require that the NRC devote additional resources that would likely otherwise be utilized for U.S. commercial planned activities. If resources originally designated for domestic activities are ultimately diverted to international activities, we request that the NRC seek input from industry stakeholders to the extent that expected licensing actions are impacted. The industry also believes that if budget demands exceed those that can be accommodated by shifting available resources, the necessary additional funds should be obtained through congressional appropriations, rather than imposing an additional surcharge to the industry through the user fee.

### **Small Reactors**

We appreciate the acknowledgement of the industry's variable annual fee proposal in the subject Federal Register notice. This proposal was developed to avoid a financial disincentive to the development of small reactor concepts. It is also structured to avoid disruption of the relative financial parity between operating reactors today and those to be licensed in the future. We value NRC's support of this approach and look forward to the FY 2013 rulemaking addressing this issue.

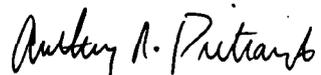
Ms. Annette L. Vietti-Cook

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If you have any questions regarding these comments, please contact me at 202.739.8081; [arp@nei.org](mailto:arp@nei.org) or Scott Bauer at 202.739.8058; [sab@nei.org](mailto:sab@nei.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony R. Pietrangelo". The signature is written in a cursive style with a large initial 'A'.

Anthony R. Pietrangelo

c: Mr. R. William Borchardt, EDO, NRC  
Mr. James E. Dyer, CFO, NRC  
NRC Document Control Desk

## Rulemaking Comments

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**From:** Vietti-Cook, Annette  
**Sent:** Tuesday, April 19, 2011 8:25 AM  
**To:** Rulemaking Comments  
**Subject:** FW: 10 CFR Parts 170 and 171, Revision of Fee Schedules; Fee Recovery for FY 2011; Proposed Rule  
**Attachments:** 04-18-11\_NRC\_Revision of Fee Schedules, Fee Recovery for FY 2011.pdf

**From:** PIETRANGELO, Tony [<mailto:arp@nei.org>]  
**Sent:** Monday, April 18, 2011 3:21 PM  
**Subject:** 10 CFR Parts 170 and 171, Revision of Fee Schedules; Fee Recovery for FY 2011; Proposed Rule

April 18, 2011

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

Attn: Rulemakings and Adjudications Staff

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Anthony R. Pietrangelo  
Senior Vice President and Chief Nuclear Officer

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