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(58FR 21662)

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July 30, 1993

U.S. Nuclear Regulatory Commission

Ms. Cheryl Phillips

Washington, D.C. 20555

In re: FY 1991 and 1992 Final Rule Implementing the U.S. Court of Appeals Decision and Revision of Fee Schedules; 100% Fee Recovery, FY 1993

PETITION FOR RECONSIDERATION OF FINAL RULE

It has come to the attention of the American Nuclear Society that the Commission published (July 20, 58 FR 38666) a Rulemaking on license fees for the current fiscal year, FY93. We respectfully request a reconsideration of that Rule on the following bases:

- 1) The brief 30-day comment period was inadequate to assure that interested parties could receive and act upon the proposed Rule.
- 2) The Commission does not appear to have exhaustively considered the "externalized benefits" of educational facilities as referred to by the precipitating federal court decision [*Allied Signal, Inc. v. U.S. Nuclear Regulatory Commission*, 988 E2d 146 (D.C. Cir. 1993)].
- 3) The practical effect of the Rule, which abandons fee exemptions for colleges and universities, will be to severely curtail practical nuclear education, research and development, isotope production, and neutron radiography performed in over 50 educational institutions in the United States. This would eliminate any possibility of our nation maintaining the level of expertise required for even nominal leadership in international nuclear affairs. And it would rob our country of future engineers needed to face the challenges of the coming century.

Accordingly, in our view this Rule fails to fulfill the charter of the Atomic Energy Act of 1954, which specifically declares its purpose to include the conducting, assisting, and fostering of research and development in order to encourage maximum scientific and industrial progress.

For these, as well as other reasons more exhaustively explored in the petition submitted by Cornell University et. al., the American Nuclear Society contends that the commission has erred in the Rule cited, and respectfully requests that the Ruling be reconsidered and rescinded, thereby reinstating the exemptions for nonprofit educational licensees.

Very truly yours,

Edward D. Fuller

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