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HEALTH AND SAFETY COMMISSION

Cost recovery for 'pre-licensing' regulatory assessment of nuclear power stations

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Issue

- Using the Health and Safety (Fees) Regulations 2007 to allow HSE to recover the costs of undertaking nuclear 'pre-licensing' assessments from April 2007.

Timing

- Routine.

Recommendation

- The Commission to agree HSE's intention to utilise the 2007 Fees Regulations to allow for the recovery of its costs in carrying out 'pre-licensing' assessments of new nuclear power station designs.

Background

- In its expert report to the Government's Energy Review, HSE proposed that in anticipation of renewed interest in nuclear power in the UK, it would revise and update its procedures for granting a licence for the start of construction. In line with regulatory practice abroad, HSE proposed a two-stage process: the first stage would be a pre-licensing review of the safety features of a particular reactor design against a UK generic site envelope. If successful, this would lead to the issuing of a statement of 'design acceptance' by HSE, which would remain valid for a number of years. The second stage would involve an applicant seeking a nuclear site licence to construct such a reactor at a specific site (or sites) UK.
- The Government's Energy Review report, published in July, welcomed HSE's proposals, and Malcolm Wicks, the then Energy Minister, subsequently wrote to Geoffrey Podger requesting that HSE (working together with other regulators)

bring forward the development of such a system for pre-licensing¹ nuclear reactor designs ready for early 2007. HSE has been working with the environment and security regulators on the development of such a process with the aim to be in a position to accept proposals for pre-licensing assessment in the New Year. This includes preparing regulatory guidance.

Argument

6. HSE has the legal vires to undertake nuclear pre-licensing assessment work. However, unlike work undertaken in pursuance of a site-specific licence application (where costs are recoverable from the applicant by means of the Nuclear Installations Act), the legal advice is that a new cost recovery mechanism should be used for pre-licensing work. It is HSE's preference that such work is charged for by means of the usual, Health and Safety Fees Regulations rather than by written agreement with a 'pre-licensing applicant', as this provides a practical and robust mechanism for cost recovery. These regulations, when drafted, would allow HSE to recover costs from 'pre-licensing' work on generic designs of a wide range of nuclear installations or processes as well as nuclear power stations (which may be needed, for instance, in connection with generic design proposals for radioactive waste stores, or for generic proposals for decommissioning across a number of licensees).
7. With the proposed transfer to HSE of the work of the security regulator, the Office of Civil Nuclear Security (OCNS) by April 2007, we are exploring the possibility that the same Fees regulations could be used for cost recovery for security related 'pre-licensing' assessments.

Consultation

8. Within HSE: Policy Group, PEFD, NSD, and Legal Advisers. Externally we have already consulted informally on the principle of charging with key nuclear industry stakeholders, with OGDs and with other regulators (EA, SEPA, OCNS). There is strong support from potential applicants for HSE introducing a charging mechanism that will enable pre-licensing work to be undertaken in 2007.
9. There are probably no more than six or seven major organisations (mostly of overseas origin) who are considered to be potential pre-licensing applicants, or who may be an interested party to such an application and their views will be sought on the form of the regulation allowing cost-recovery. HSE has already consulted on its regulatory process for pre-licensing and HSE's intention to recover costs from applicants. HSE will invite public input to any specific pre-licensing assessments.

¹ "Pre-licensing" is a commonly used misnomer for a new process that HSE intends to term 'generic design acceptance'. HSE already undertakes 'pre-licensing' assessments prior to granting a nuclear site licence. It would be more accurate to label the process as 'pre-application' assessment.

Presentation

10. The new Regulations will enable HSE to charge for any work it undertakes on applications for nuclear pre-licensing assessments from April 2007. This will satisfy the request to HSE by the former Energy Minister.
11. A small number of organisations have already expressed interest in HSE undertaking such work, and it is possible that formal engagements will need to start early in the New Year. Should HSE need to undertake any work associated with pre-licensing requests between January and April (when the Fees regulations come into force), it will be possible to use a written agreement to recover costs in that interim period. This would be an acceptable temporary measure, but would not give the robustness for cost recovery arrangements that PEFD would prefer in the longer-term.

Financial/Resource Implications for HSE

12. The revised Fees regulations will facilitate full HSE cost recovery for any work undertaken on pre-licensing assessments. The costs of preparation and implementation of these amendments is small and is provided for from existing resources.

Environmental Implications

13. None

Action

14. The Commission to note and agree the proposed form of the Fees regulations that will facilitate recovery of HSE's nuclear pre-licensing assessment costs.