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HEALTH AND SAFETY COMMISSION

COST RECOVERY FOR NUCLEAR PRE-LICENSING ADVICE

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Issue

1. A proposal for introducing provisions in the 2008 Health & Safety (Fees) Regulations to enable HSE to recover costs for pre-licensing work with potential nuclear site licensees.

Timing

2. Routine.

Recommendation

3. The Commission is invited to agree to the proposals for cost recovery in relation to work with potential nuclear site licence applicants.

Background

4. In November 2007, paper HSC 07/68 informed the Commission of HSE's progress with Generic Design Assessments of four designs of potential new nuclear power stations. That paper noted that at the May meeting, the Commission had agreed that it would recommend that the 2007 Health & Safety (Fees) Regulations were amended to introduce a provision for charging for GDA work. Those amended regulations were subsequently signed by the Minister and came into force last July.

5. Associated with the industry's increased interest in the possibility of constructing new nuclear power stations, several companies have approached HSE's Nuclear Directorate seeking engagement in discussions about the licensing process and HSE's expectations of a company wishing to become a nuclear site licensee. HSE can recover most of its costs for any work it undertakes in connection with an application for a nuclear site licence (through provisions in the Nuclear Installations Act) and, as explained above, the existing Fees Regulations allow cost recovery for work on Generic Design Assessments. However HSE cannot currently recover any costs for work preparatory to a company seeking a site licence (or requesting a generic design assessment). Being unable to recover costs, has limited the extent to which HSE has been able to engage with companies who are seeking advice and guidance on the licensing process in preparation for an eventual site licence application. Consequently, in December 2007, paper HSC 07/76 noted that HSE

had work in hand to develop a proposal to charge for advice to potential nuclear licensees and that this would be brought forward to HSC in due course. This paper fulfils that commitment.

Argument

6. In December 2007, HSE wrote to 11 companies that have either expressed an interest in becoming a future UK nuclear power station licensee, or which are considered to be possible business partners with potential new nuclear power station licensees. Several of these companies had already approached HSE seeking engagement on matters relating to nuclear site licensing. The HSE letter outlined the proposed charging provision which would allow HSE to engage more fully with such companies on the basis of full cost recovery. As explained in the letter, HSE's intention is that the charging provisions would not be used to recover costs for sporadic and low levels of engagement with potential licensees; rather, the provisions would be used to recover costs for identified and mutually agreed substantive programmes of work, which would otherwise be unrecoverable.

7. The responses received from the industry were positive in favour of HSE being enabled to engage with potential licensees on pre-licensing matters. There were some reservations about the charging rates, the charging frequency and the nature of any formal charging agreement between HSE and the company concerned. We consider that all these concerns can be met by means of simple written agreements in which charging rates and limits are specified in advance. Such agreements would also be able to make provision for the period over which costs for intermittent engagement would be accrued.

Consultation

8. PFPD and the Legal Advisors Office have been consulted on these proposals. As explained above, the views of key nuclear industry companies have been sought on the nuclear charging provisions. Of the 11 companies approached, 9 have provided a formal response, one has stated that it wished to reserve its position and one had yet to respond.

Presentation

9. The announcement by the Government on January 10th giving its support to industry investment in new nuclear power stations is likely to increase pressure on HSE to engage in preliminary discussions with potential new nuclear site licensees. In February, in advance of the proposed charging provisions being enabled in the 2008 Fees Regulations, HSE (along with the Environment Agency) is proposing to hold a seminar to which all known potential licensees will be invited, which will provide an opportunity for preliminary regulatory engagement. Beyond that, it will be a matter for HSE to agree programmes of cost-recoverable work with individual nuclear companies which wish to take further steps towards a future nuclear site licence application.

Financial/Resource Implications for HSE

10. The proposed provision in the Health & Safety (Fees) regulations will provide HSE with the means to recover its costs for engaging in substantial work with companies wishing to develop knowledge about the licensing system and the responsibilities of a nuclear site licensee.

11. HSE intends to charge potential licensees as we do now for licensees, licence applicants and for Generic Design Assessments. This would be to record inspector effort using a 'Direct' charging number (unique to each Potential Licensee) in half-day units with the total multiplied by Nuclear Directorate's half-day unit rate. We would propose to invoice quarterly, retrospectively with payment terms within 30-days of invoice. Currently, it is difficult to estimate the likely income from this source, but assuming HSE engages, by agreement, in cost-recoverable work with 4 potential licensees, each involving 30 days of nuclear inspector effort during 2008/9, then this would lead to recovered costs of about £150k. The costs to HSE in taking these proposals forward are small, as this represents a minor additional provision within the much larger annual "Fees" regulations package.

Environmental and Other Implications

12. None.

Action

13. That HSC agree to the proposals for cost recovery for work with potential nuclear site licence applicants.