OCFO TICKET

05-Aug-09

Assigned	DFM
Item No	2009-263
Priority	2
From	Riley
Office	NEI
To	Dyer
Date	07/01/2009
Due Date	09/08/2009
Ticket No	
Subject	Fee Waiver: NEI Technical Report 94-01, Industry Guideline for Implementing the Performance-Based Option of 10 CFR Part 50
Instructions	
Distribution	
Copies	

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NUCLEAR ENERGY INSTITUTE

James H. Riley
DIRECTOR
ENGINEERING
NUCLEAR GENERATION DIVISION

July 1, 2009

Mr. James E. Dyer
Chief Financial Officer
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Fee Waiver: NEI Technical Report 94-01, Revision 2A, "Industry Guideline for Implementing the Performance-Based Option of 10 CFR Part 50, Appendix J".

Project Number: 689

Dear Mr. Dyer:

NEI is requesting a fee waiver under 10 CFR 170.11 for review of Supplement 1 to NEI Technical Report 94-01. NEI 94-01, "Industry Guideline for Implementing the Performance-Based Option of 10 CFR Part 50, Appendix J" includes provisions for extending the performance-based reactor containment leak test interval to 15 years using a risk-informed regulatory approach.

The NRC previously reviewed and approved the current version of NEI 94-01 (Revision 2A); however, subsequent to issuance of the NRC Safety Evaluation for Revision 2A, we identified a concern with the grace period for leak testing some components. The wording in the NEI Technical Report would cause an undue burden for those plants on a 24-month fuel cycle. Revision 3A is being prepared to address this concern and will be submitted to the Staff upon completion.

We believe NRC staff review of NEI 94-01 is exempt from the fee recovery provision contained in 10 CFR Part 170. Pre-approval of the methodology by NRC for industry-wide use will simplify NRC reviews by reducing or eliminating the need for case-by-case review and approval of individual requests for each application. Review fees in such cases are exempted under §170.11, Exemptions, Subpart (a) (1) (iii). This provision states, (a) "No application fees, license fees, renewal fees, inspection fees, or special project fees shall be required for...(1) A special project that is a request/report submitted to the NRC--(iii) As a means of exchanging information between industry

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organizations and the NRC for the specific purpose of supporting the NRC's generic regulatory improvements or efforts. An NRC letter (Jesse Funches) to NEI (Anthony Pietrangelo) dated January 3, 2005, waived the review fee for Revision 2A of NEI 94-01.

If you have any questions, please feel free to contact me at 202-739-8137; jhr@nei.org or Julie Keys at 202-739-8128; jyk@nei.org.

Sincerely,

James H. Riley

c: Ms. Tanya M. Mensha, NRR/ADRO/DPR/PSP, NRC
Ms. Stacey L. Rosenberg, NRR/ADRO/DPR/PSP, NRC
NRC Document Control Desk