

ADAMS
add

August 6, 2009

Mr. James H. Riley
Director, Engineering Nuclear
Generation Division
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006-3708

Dear Mr. Riley:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your July 1, 2009, letter requesting an exemption from fees under 10 CFR 170.11(a)(1)(iii) for all fees associated with NRC's review of Supplement 1 to the Nuclear Energy Institute (NEI) Topical Report 94-01, Revision 2A, "Industry Guidelines for Implementing the Performance-Based Option of 10 CFR 50, Appendix J." Your request meets the fee waiver criteria; therefore, I am granting your request, as explained below.

Your fee exemption request states that NEI Topical Report 94-01 facilitates the exchange of information in support of NRC's generic regulatory improvements. Supplement 1 to the report includes provisions for extending the performance-based reactor containment leak test interval to 15 years using a risk-informed regulatory approach, which addresses concerns associated with the grace period for testing Type C components.

The NRC staff has reviewed your fee exemption request and concluded that Supplement 1, upon review and approval, may result in a modification of Draft Regulatory Guide DG-1220, "Performance-Based Containment Leak-Test Program," which currently endorses NEI Topical Report 94-01, Revision 2A. Therefore, review of Supplement 1 supports NRC's generic regulatory improvement efforts and meets a primary criteria allowing a fee waiver under the provisions of 10 CFR 170.11(a)(1)(iii).

Although a fee exemption is granted, it is important to emphasize that the NRC is required by law to recover approximately 90% of its operating expenses through user fees. While the topical report described in this letter is exempt from direct fee assessment, NRC resources expended to resolve this issue will be included in fees assessed under the provisions of 10 CFR 171.

If you have any technical questions regarding this matter, please contact Ms. Tanya Mensah at 301-415-3610. For any fee-related questions please contact Ms. Rebecca Erickson, of my staff, at 301-415-7126.

Sincerely,

/RA/

J. E. Dyer
Chief Financial Officer

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Director, Engineering Nuclear
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Your fee exemption request states that NEI Topical Report 94-01 facilitates the exchange of information in support of NRC's generic regulatory improvements. Supplement 1 to the report includes provisions for extending the performance-based reactor containment leak test interval to 15 years using a risk-informed regulatory approach, which addresses concerns associated with the grace period for testing Type C components.

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Although a fee exemption is granted, it is important to emphasize that the NRC is required by law to recover approximately 90% of its operating expenses through user fees. While the topical report described in this letter is exempt from direct fee assessment, NRC resources expended to resolve this issue will be included in fees assessed under the provisions of 10 CFR 171.

If you have any technical questions regarding this matter, please contact Ms. Tanya Mensah at 301-415-3610. For any fee-related questions please contact Ms. Rebecca Erickson, of my staff, at 301-415-7126.

Sincerely,

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J. E. Dyer
Chief Financial Officer

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