

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001



OFFICE OF THE
CHIEF FINANCIAL
OFFICER

January 22, 2016

Mr. James H. Riley
Senior Technical Advisor
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

Dear Mr. Riley:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated October 6, 2015, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15279A425) requesting a fee waiver under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(iii) for the review of Revision 1A to the Nuclear Energy Institute (NEI) guidance document NEI 12-06, "Diverse and Flexible Coping Strategies (FLEX) Implementation Guide."

The NRC has established regulations for the granting of fee exemptions under 10 CFR 170.11, "Exemptions," for which licensees may apply in accordance with 10 CFR 170.5, "Communications." The NRC staff has reviewed your request based on the following regulation, 10 CFR 170.11(a)(1)(iii):

- *10 CFR 170.11 (a) No application fees, license fees, renewal fee, 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 organizations and the NRC. In order for the fee waiver to be granted under this paragraph it must meet three criteria:*
 - *(A) The report should be submitted for the specific purpose of supporting ongoing NRC generic regulatory improvements or efforts (e.g., rules, regulations, regulatory guides, and policy statements), and the agency, at the time the document is submitted, plans to use it for that purpose. The exemption applies even if ultimately the NRC does not use the document as planned.*

Guidance document NEI 12-06 supports implementation of Order EA 12-049, "Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events," (ADAMS Accession No. ML12054A736) and completion of mitigating strategies assessments (MSAs) to reevaluated flood and seismic hazards. These MSAs, which account for the reevaluated hazards, are requirements of the proposed rule included in SECY 15-0065, "Proposed Rule: Mitigation of Beyond-Design-Basis Events" (ADAMS Accession No. ML15049A201). Guidance document NEI 12-06 provides the basis for NRC guidance documents being developed related to Order EA 12-049 and this proposed rule. The NRC staff plans to use NEI 12-06 to support its reviews of licensees' actions to comply with Order EA 12-049.

The NRC staff would also use NEI 12-06 to support its reviews of licensees' flooding and seismic hazard MSAs and eventual compliance with the proposed rule. Therefore, the NRC staff concludes that this report meets this regulation.

- *(B) The NRC must be the primary beneficiary of the NRC's review and approval of these documents. This exemption does not apply to a topical report submitted for the purpose of obtaining NRC approval for future use of the report by the industry to address licensing or safety issues, even though the NRC may realize some benefits from its review and approval of the document.*

The NRC is the primary beneficiary of this guidance because NEI 12-06, if endorsed, will provide the NRC with a consistent and efficient means to evaluate and confirm licensees' compliance with Order EA 12-049 and the proposed rule for the mitigation of beyond-design-basis events (SECY 15-0065). Therefore, the NRC staff concludes that this report meets this regulation.

- *(C) The fee exemption is requested in writing to the Chief Financial Officer in accordance with 10 CFR 170.5, and the Chief Financial Officer grants this request in writing. The 10 CFR 170.5 states, "All communications concerning the regulations in this part should be addressed to the NRC's Chief Financial Officer, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM.*

The fee exemption request for NEI-06 was submitted in writing by NEI; therefore, NEI's request meets this regulation.

The NRC staff concludes that NEI 12-06 meets all criteria under 10 CFR 170.11(a)(1)(iii); therefore, the fee waiver request is approved. If you have any technical questions regarding this matter, please contact, Mr. Stephen Philpott at 301-415-2365. Please contact Ms. Arlette Howard, of my staff, at 301-415-1481, for any fee-related questions.

Sincerely,

/RA/

Maureen E. Wylie
Chief Financial Officer

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/RA/
 Maureen E. Wylie
 Chief Financial Officer

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ADAMS Accession No: ML15349A014 ***via e-mail CFO-0009**

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