



OFFICE OF THE
CHIEF FINANCIAL
OFFICER

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

July 1, 2016

Mr. Russell J. Bell
Senior Director, New Plant Licensing
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

Dear Mr. Bell:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your February 1, 2016, letter requesting a fee waiver under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(iii) for the submission of your white paper entitled, "Proposed Consequence-Based Physical Security Framework for Small Modular Reactors and Other New Technologies", dated November 2015.

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.*

As stated, the purpose of your February 1, 2016, paper is to "discuss generic policy and technical issues associated with security for small modular reactors (SMRs) and other new technologies, such as non-light-water reactors (non-LWRs), that have not been addressed to-date, and to propose a consequence-based physical security framework that is more appropriate for these designs." Your waiver request and the paper does not adequately articulate a direct correlation to the support of ongoing NRC generic regulatory improvements with regards to physical security neither at the time your paper was submitted nor in the near future.

As a result, the NRC believes that the paper does not satisfy this criterion.

- *(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.*

As stated in paper entitled, "Proposed Consequence-based Physical Security Framework for Small Modular Reactors and Other New Technologies", "A consequence-based security framework is needed for SMRs and other new technologies, because the existing regulatory framework does not contemplate the significant reduction in risks ...". The industry will benefit from the paper review to "... avoid imposing undue regulatory burden on these designs, and to incentivize designers to reduce reliance on human actions by enhancing security through engineered features."

The NRC concludes that the primary beneficiary of the Technical Updates is the industry; therefore, the Technical Updates do not satisfy this criterion.

- *(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 paper entitled, "Proposed Consequence-Based Physical Security Framework for Small Modular Reactors and Other New Technologies", dated November 2015 was submitted in writing by the Nuclear Energy Institute (NEI); therefore, NEI's request meets this regulation.

The NRC staff concludes that paper entitled, "Proposed Consequence-Based Physical Security for Small Modular Reactors and Other New Technologies", dated November 2015 does not meet all criteria under 10 CFR 170.11(a)(1)(iii); therefore, the fee waiver request is denied. If you have any technical questions regarding this matter, please contact, Ms. Lucieann Vechioli at 301-415-6035. Please contact Mr. William Blaney, of my staff, at 301-415-5092, for any fee-related questions.

Sincerely,

/RA/ Mary C. Muessle (for)

Maureen E. Wylie
Chief Financial Officer

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 Maureen E. Wylie
 Chief Financial Officer

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