

**BRUCE S. MONTGOMERY**  
*Senior Project Manager, Licensing*

1201 F Street, NW, Suite 1100  
Washington, DC 20004  
P: 202.739.8128  
bsm@nei.org  
nei.org



March 29, 2016

Ms. Maureen E. Wylie  
Chief Financial Officer  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Subject:** Fee Exemption Request for NEI 15-03, *Licensee Actions to Address Nonconservative Technical Specifications*

**Project Number: 689**

Dear Ms. Wylie:

In 1998, the NRC issued Administrative Letter 98-10 (AL 98-10), "Dispositioning of Technical Specifications that are Insufficient to Assure Plant Safety." Since issuance of AL 98-10, regulatory experience has indicated the need to provide additional guidance to licensees. In December 2013, the U.S. Nuclear Regulatory Commission (NRC) staff requested that the industry consider developing guidance on addressing nonconservative technical specifications in lieu of the NRC developing new guidance. At the 2014 Regulatory Information Conference, in a session entitled "Nonconservative Technical Specifications? What Actions Are Needed," the NRC and the industry discussed the development of industry guidance to replace AL 98-10.

Following the conference, the industry developed draft guidance and provided it to the NRC for comment. The industry and NRC discussed the draft in public meetings in July, September and November 2014, and February 2015. On May 11, 2015, the Nuclear Energy Institute (NEI)<sup>1</sup> submitted NEI 15-03, *Licensee Actions to Address Nonconservative Technical Specifications*, and requested NRC review and concurrence (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15147A654). The NRC staff subsequently determined that the appropriate mechanism for concurrence is through a Regulatory Guide endorsing NEI 15-03.

---

<sup>1</sup> The Nuclear Energy Institute (NEI) is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

Ms. Maureen E. Wylie

March 29, 2016

Page 2

NEI requests that the NRC's review of NEI 15-03 and issuance of a Regulatory Guide be granted a fee waiver pursuant to the provisions of 10 CFR 170.11, "Exemptions." In paragraph (a), this regulation states that 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 organizations and the NRC. To receive this fee exemption:

(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;

(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; and.

(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.

This fee exemption request for NEI 15-03 meets the requirements of 10 CFR 170.11(a)(1)(iii), in that it is a means of exchanging information between industry organizations and the NRC for the specific purpose of supporting the NRC's generic regulatory improvements or efforts. In this case, the generic regulatory improvement effort is updated guidance to replace AL 98-10 and the development of a Regulatory Guide. The agency plans to use it for that purpose as stated at the 2014 Regulatory Information Conference session and in other public meetings. The NRC is the primary beneficiary of the NRC review and approval of the document in that it avoids the resources required for the NRC staff to develop updated guidance to replace AL 98-10. Industry benefit from NEI 15-03 can be realized without NRC endorsement, but the NRC staff benefits from having endorsed guidance on the proper application of existing regulations to the discovery of a nonconservative Technical Specifications. The submittal of this request satisfies 10 CFR 170.11(a)(1)(iii)(C).

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Bruce S. Montgomery