



OFFICE OF THE  
CHIEF FINANCIAL  
OFFICER

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

July 14, 2016

Mr. Kristopher W. Cummings  
Senior Project Manager  
Nuclear Energy Institute  
1201 F Street NW, Suite 1100  
Washington, DC 20004

Dear Mr. Cummings:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated June 6, 2016, requesting a fee waiver under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(iii) for NRC review and endorsement of the Nuclear Energy Institute (NEI) guidance document NEI 16-03, "Guidance for Monitoring of Fixed Neutron Absorbers in Spent Fuel Pools."

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.*

In April 2016, the NRC issued to all power and non-power reactor licensees Generic Letter (GL), 2016-01, "Monitoring of Neutron-Absorbing Materials in Spent Fuel Pools," (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16097A169). In discussions concerning the implementation of GL 2016-01, NRC staff requested that industry issue guidance providing licensees with an acceptable approach to develop neutron absorber programs. NEI 16-03 is intended to be specifically responsive to the request. At the request of the NRC staff during an October 21, 2015, Public Meeting with NEI on NEI 12-16, "Guidance for Performing Criticality Analyses of Fuel Storage at Light-Water Reactor Power Plants," Revision 0, (ADAMS Accession No. ML15294A491), NEI 16-03 was created as stand-alone guidance from Section 9.5, "Neutron Absorber Monitoring Programs,"

of NEI 12-16, dated March 2013, (ADAMS Accession No. ML13084A047), which was submitted to the NRC for endorsement in March 2013 and received a similar fee exemption (ADAMS Accession No. ML13261A080).

Therefore, the NRC staff concludes that this report meets Criterion (A).

- *(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 NEI 16-03 because, if endorsed, the NRC will utilize NEI 16-03 as a guidance document for developing and monitoring programs for neutron absorbers in spent fuel pools. NEI 16-03 will assist the NRC in completing the process of updating and stabilizing the regulatory framework governing spent fuel pools through publication of the planned regulatory guide.

Therefore, the NRC staff concludes that this report meets Criterion (B).

- *(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 NRC review and endorsement of NRC review and endorsement of the NEI guidance document NEI 16-03, "Guidance for Monitoring of Fixed Neutron Absorbers in Spent Fuel Pools." was submitted in writing by NEI.

Therefore, the NRC staff finds that NEI's request meets Criterion (C).

The NRC staff concludes that NRC review and endorsement of NEI 16-03, "Guidance for Monitoring of Fixed Neutron Absorbers in Spent Fuel Pools," 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. Brian Benney at 301-415-2767. Please contact Ms. Jo Simpson of my staff, at 301-415-8388, for any fee-related questions.

Sincerely,

/RA/

Maureen E. Wylie  
Chief Financial Officer

the NRC for endorsement in March 2013, and received a similar fee exemption (ADAMS) Accession No. ML13261A080).

Therefore, the NRC staff concludes that this report meets Criterion (A).

- o (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 NEI 16-03 because, if endorsed, the NRC will utilize NEI 16-03 as a guidance document for developing and monitoring programs for neutron absorbers in spent fuel pools. NEI 16-03 will assist the NRC in completing the process of updating and stabilizing the regulatory framework governing spent fuel pools through publication of the planned regulatory guide.

Therefore, the NRC staff concludes that this report meets Criterion (B).

- o (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 NRC review and endorsement of NRC review and endorsement of the NEI guidance document NEI 16-03, "Guidance for Monitoring of Fixed Neutron Absorbers in Spent Fuel Pools." was submitted in writing by NEI.

Therefore, the NRC staff finds that NEI's request meets Criterion (C).

The NRC staff concludes that NRC review and endorsement of NEI 16-03, "Guidance for Monitoring of Fixed Neutron Absorbers in Spent Fuel Pools," 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. Brian Benney at 301-415-2767. Please contact Ms. Jo Simpson of my staff, at 301-415-8388, for any fee-related questions.

Sincerely,

/RA/

Maureen E. Wylie  
Chief Financial Officer

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ADAMS:  Yes  No

Initials: JS

SUNSI Review: JS

Publicly Available  Non-Publicly Available

Sensitive

Non-Sensitive

ADAMS Accession No: **ML16172A189**

**\*via email**

**CFO-16-00302**

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