



OFFICE OF THE
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OFFICER

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

February 28, 2017

Mr. Mike Tschiltz
Director, New Plant, SMRs
and Advanced Reactors
Nuclear Energy Institute
1201 F Street NW, Suite 1100
Washington, DC 20004

Dear Mr. Tschiltz:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated December 14, 2016, requesting a fee waiver under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(ii) for NRC review of Nuclear Energy Institute (NEI) White Paper, "Proposed Physical Security Requirements for Advanced Reactor Technologies".

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)(ii):

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— . . . (ii) When the NRC, at the time the request/report is submitted, plans to use the information in response to an NRC request from the Office Director level or above to resolve an identified safety, safeguards, or environmental issue, or to assist the NRC in generic regulatory improvements or efforts (e.g., rules, regulatory guides, regulations, policy statements, generic letters, or bulletins).

Currently the Office of New Reactors (NRO) has ongoing activities supporting several policy issues, including physical security. NRO has discussed the possibility of revising the current security regulatory framework for nuclear power reactors, as documented in SECY-11-0184, "Security Regulatory Framework for Certifying, Approving, and Licensing Small Modular Nuclear Reactors." Although the established framework is considered applicable to SMRs and other technologies; the staff's assessment was based on the limited information that was currently available on reactors, fuel designs, and operations of these technologies. The NRC is interacting with multiple advanced reactor designers and other stakeholders, including NEI, to identify and resolve policy issues associated with the development and deployment of new technologies. The staff is currently developing and implementing strategies to assess unique aspects of advanced reactor licensing and any associated legal, regulatory, and policy issues the agency will need to address to develop a framework for licensing advanced reactors. Physical security requirements have routinely been identified as one of the policy issues facing advanced reactor designs.

As stated, the purpose of NEI's submission is to "discuss physical security requirements for advanced nuclear power generation technologies, such as small modular reactors (SMRs) and non-light water reactors (non-LWRs) with enhanced engineering safety security features." NRO staff agrees that "the establishment of new physical security requirements promotes clarity, predictability, and efficiency for licensing advanced reactor technologies, consistent with Commission policy, and avoids the inefficiency and uncertainty associated with achieving compliance through alternative measures, exemptions, and license conditions on an applicant-by-applicant basis." At this time, it is uncertain whether the ongoing activities to assess and resolve physical security issues for advanced reactors will ultimately result in a rulemaking. However, it is clear that the NRC will continue to interact with various stakeholders on this matter and that the NEI paper is useful for those dialogues as well as the expected issuance of guidance documents to support new or existing regulations. The staff has periodic meetings with stakeholders on technical and policy issues related to new reactors and physical security topics, including the subject NEI white paper and NRC paper on physical security design considerations planned to be released for public comment, have been identified as future topics for discussion and resolution.

The submitted NEI white paper will be used to support current efforts on this matter. Therefore, the NEI white paper satisfies the requirements stated in 10 CFR 170.11(a)(1)(ii).

10 CFR 170.11(a)(13) All fee exemption requests must be submitted in writing to the Chief Financial Officer in accordance with 10 CFR 170.5, and the Chief Financial Officer will grant or deny 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 of NEI White Paper, "Proposed Physical Security Requirements for Advanced Reactor Technologies" was submitted in writing by NEI; therefore, NEI's request meets this regulation.

The NRC staff concludes that NRC review of NEI White Paper, "Proposed Physical Security Requirements for Advanced Reactor Technologies," meets all criteria under 10 CFR 170.11(a)(1)(ii); therefore, the fee waiver request is approved. 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/

Maureen E. Wylie
Chief Financial Officer

SUBJECT: LETTER TO MIKE TSCHILTZ RE: NEI WHITE PAPER PROPOSED PHYSICAL SECURITY REQUIREMENTS, dated February 28, 2017

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