



OFFICE OF THE
CHIEF FINANCIAL
OFFICER

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

August 28, 2017

Mr. Michael D. Tschiltz
Senior Director
New Plant, SMR, & 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 June 14, 2017, letter requesting a fee waiver under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(ii) for activities performed by the NRC for NEI White Paper, "First Principles for Use in Developing Design Certification Tier 1 Information and Inspections, Tests, Analyses and Acceptance Criteria".

The NRC has established regulations for the granting of fee exemptions under 10 CFR 170.11, "Exemptions," which licensees may apply for, in accordance with 10 CFR 170.5, "Communications." The NRC staff has reviewed your request based on the following regulations, 10 CFR 170.11(a)(1)(ii) and 10 CFR 170.11(a)(13):

10 CFR 170.11(a) 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— . . . (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).

10 CFR 170.11(a)(13) All fee exemption requests must be submitted in writing to the Chief Financial Officer in accordance with § 170.5,¹ and the Chief Financial Officer will grant or deny such requests in writing.

During the Combined License application review of the first AP1000 reactors at the Vogtle Electric Generating Plant and Virgil C. Summer Nuclear station, the NRC identified lessons-learned from designating information in the design control document (DCD) as Tier 1, Tier 2, or Tier 2* information (information that resides in Tier 2 of a design certification but requires prior NRC approval to change, similar to Tier 1), to ensure a facility is safely designed, constructed,

¹ 10 CFR 170.5 provides that "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."

and operated. To address these lessons, the NRC staff issued SECY-17-0075 entitled, "Planned Improvements in Design Certification Tiered Information Designations," on July 24, 2017. SECY-17-0075 also discusses stakeholder feedback during a June 2016 public meeting. At this public meeting, NEI and industry stakeholders agreed that objective guidance should be developed and that the proposed guidance in NEI 15-02, "Industry Guideline for the Development of Tier 1 and ITAAC under 10 CFR Part 52," provide a starting point. The NEI white paper contains a revision to the First Principles discussion in NEI 15-02.

Consistent with the discussion in SECY-17-0075, the NRC plans to use the information provided in the NEI white paper to inform potential improvements in the use of these designations in future design certification reviews, thereby enhancing the predictability and consistency of the continued use of these designations in future applications. These improvements may include infrastructure updates (e.g., guidance improvements and inspection program adjustments) as well as enhancements to the descriptions of Tier 1 and Tier 2 information. Because it will inform potential improvements in designations in future design certification reviews, the NEI white paper meets the requirements of 10 CFR 170.11(a)(1)(ii) by assisting the NRC in regulatory improvements or efforts.

Additionally, the fee exemption request for NRC review of the NEI white paper was submitted in writing by NEI; therefore NEI's request meets the requirements of 10 CFR 170.11(a)(13).

The NRC staff concludes that the review of the NEI White Paper, "First Principles for Use in Developing Design Certification Tier 1 Information and Inspections, Tests, Analyses and Acceptance Criteria", supports the potential improvements in infrastructure updates discussed in the draft Commission paper and fulfills the criteria required by 10 CFR 170.11(a)(1)(ii) and 10 CFR 170.11(a)(13); and therefore, the fee waiver request is approved. But any future revisions to NEI White Paper, "First Principles for Use in Developing Design Certification Tier 1 Information and Inspections, Tests, Analyses and Acceptance Criteria", will require you to submit a new fee waiver request for NRC consideration, pursuant to the new fee-exemption provisions under 10 CFR 170.11(a)(1)(ii) and 10 CFR 170.11(a)(13). If you have any technical questions regarding this matter, please contact, Ms. Carolyn Lauron at (301) 415-2736. 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 MICHAEL TSCHILTZ, NEI WHITE PAPER IN RESPONSE TO A FEE WAIVER DATED JUNE 14, 2017. (NEI 17-04, REV 0), dated August 28, 2017

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