



CHIEF FINANCIAL
OFFICER

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

April 15, 2021

Mr. Stephen J. Geier
Senior Project Manager
Engineering and Risk
Nuclear Energy Institute
1201 F Street NW, Suite 1100
Washington, DC 20004

Dear Mr. Geier:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated February 23, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21071A150), requesting a fee exemption under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(ii) for NRC review and endorsement of Nuclear Energy Institute (NEI) 17-06, "Guidance on Using IEC 61508 Safety Integrity Level (SIL) Certification to Support the Acceptance of Commercial Grade Digital Equipment for Nuclear Safety Related Applications", Revision 0.

The NRC has established regulations for granting fee exemptions under 10 CFR 170.11, "Exemptions." An interested person may apply for an exemption under 10 CFR 170.11 in accordance with 10 CFR 170.5, "Communications." The NRC staff 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.

In 2016, the NRC implemented a digital instrumentation and control (I&C) regulatory infrastructure integrated action plan with Commission approval (SRM-SECY-16-0070), which included a modernization plan for commercial grade dedication (CGD) of digital equipment. NEI engaged NRC staff in April 2016 on developing the plans to address the CGD of digital

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."

equipment that resulted in NEI's submittal of draft NEI 17-06, Rev. B, "Guidance on Using IEC 61508 SIL Certification to Support the Acceptance of Commercial Grade Digital Equipment for Nuclear Safety Related Applications," in September 2019 for NRC feedback. This draft guidance leveraged the safety integrity level (SIL) certification efficacy from an Electric Power Research Institute (EPRI) technical report and addressed the quality assurance aspects of the SIL certification process. NEI continued to work on finalizing NEI 17-06 with periodic engagements with the NRC staff in several public meetings. In October 2019 and November 2020, the NRC staff observed an accreditation evaluation performed by the American National Standards Institute National Accreditation Board (ANAB), the accrediting body of exida.com LLC, a SIL certifying body, to facilitate the NRC staff's understanding of the draft guidance.

Currently licensees follow the NRC-endorsed EPRI TR-106439 guidance for dedicating commercial digital items. For verification of a dependability characteristic of the digital item being dedicated, this guidance requires survey of the original equipment manufacturer (OEM) design and developmental process. These surveys are not consistent and depend largely on the level of cooperation received from the OEM. Whereas, under the SIL certification process, the OEM seeking SIL certification for the same digital item would have to provide all necessary design and development details required by IEC 61508 standard. If NEI 17-06, Revision 0 is endorsed, all commercial grade digital items could be dedicated by a standard set of design details that is necessary for demonstration of the dependability characteristic. This standardization could allow NRC inspections to be streamlined, consistent with NEI 17-06, Revision 0 guidance, and provide less regulatory uncertainty in dedication of commercial digital items while continuing to ensure safety and security. NRC inspections and audits related to CGD of digital equipment when performed in accordance with NEI 17-06, Revision 0 could result in standardization and optimized resources allocation in regulatory oversight activities. The NRC digital I&C platform topical reports review could also be streamlined if the CGD activities are standardized in accordance with this guidance.

The NRC staff have reviewed the fee exemption request and determined that NRC review and potential endorsement of NEI 17-06, Revision 0 meets the criteria under 10 CFR 170.11(a)(1)(ii), as review of NEI 17-06, Revision 0 will assist the NRC in generic regulatory improvements or efforts; therefore, the fee exemption request is approved. This approval is not transferrable to any future revisions of NEI 17-06, Revision 0. Any future revisions to NEI 17-06, Revision 0 can be submitted separately for a fee exemption consideration.

If you have any technical questions regarding this matter, please contact Ms. Serita Sanders at 301-415-2956. For any fee-related questions, please contact Mr. Billy Blaney, of my staff, at 301-415-5092.

Sincerely,

Cherish K. Johnson
Chief Financial Officer

SUBJECT: LETTER TO STEPHEN GEIER RESPONSE TO FEE WAIVER NEI 17-06 DATED:
April 15, 2021

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