



CHIEF FINANCIAL
OFFICER

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

June 22, 2021

Ms. Susan H. Perkins
Senior Director
Nuclear Security & Incident Response
Nuclear Energy Institute
1201 F Street NW, Suite 1100
Washington, DC 20004

Dear Ms. Perkins:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated May 7, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21130A045), 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) 99-01, "Development of Emergency Action Levels for Non-Passive Reactors," Revision 7.

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.

If NEI 99-01, Revision 7 is endorsed, it would provide guidance to nuclear power plant operators for development of site specific emergency classification schemes that would meet the requirements of 10 CFR 50.47(b)(4), related sections of 10 CFR Part 50, Appendix E, "Emergency Planning and Preparedness for Production and Utilization Facilities," and the associated planning elements of NUREG-0654/FEMA-REP-1, Rev. 2, *Criteria for Preparation*

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 Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants, December 2019. As a result, if approved by the NRC, NEI 99-01, Revision 7, would promote a consistent approach to the development of emergency classification schemes, and NRC staff review and approval of emergency classification changes as required by 10 CFR Part 50, Appendix E, section IV.B.2 would be more efficient.

Additionally, this consistent approach to scheme development would also increase the efficiency of emergency preparedness inspection activities under the Reactor Oversight Process. The revision to NEI 99-01 will likewise benefit activities under the Reactor Licensing Process. The primary efficiency improvement will be realized by more standardized applications and potential decrease in requests for information. If NEI 99-01, Revision 7 is endorsed, enhanced guidance on acceptable methods will help ensure licensees provide NRC with the necessary information to perform the safety evaluation. In the absence of NEI's proposed guidance, NRC has determined that the agency would likely develop and issue guidance on the development of site specific emergency classification schemes.

At present, previous NEI revisions to 99-01 that were reviewed and endorsed by NRC staff are publicly available for use by all U.S. power reactor facilities. As such, publicly available NEI 99-01, Revision 7 and all revisions in its entirety, would be accessible for power reactors, including non-NEI members. This guidance will promote a consistent approach to the development of emergency classification schemes for power reactors throughout the U.S.

The NRC staff have reviewed the fee exemption request and determined that NRC review and potential endorsement of NEI 99-01, Revision 7, meets the criteria under 10 CFR 170.11(a)(1)(ii) because it 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 99-01. Any future revisions to NEI 99-01 can be submitted separately for fee exemption consideration.

If you have any technical questions regarding this matter, please contact Raymond Hoffman at 301-287-3764. For any fee-related questions, please contact Christine Galster, of my staff, at 301-415-0662.

Sincerely,

Cherish K. Johnson
Chief Financial Officer

SUBJECT: LETTER TO SUSAN H. PERKINS RESPONSE TO FEE WAIVER NEI 99-01,
REVISION 7, DATED: June 22, 2021

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