



CHIEF FINANCIAL
OFFICER

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

August 31, 2021

Mr. William R. Gross
Director, Incident Preparedness
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

Dear Mr. Gross:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated July 9, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21194A350) and supplemented on July 26, 2021 (ADAMS Accession No. ML21208A175), requesting a fee exemption under Title 10 of the Code of Federal Regulations (10 CFR) 170.11(a)(1)(ii) to cover activities associated with the review of Nuclear Energy Institute (NEI) White Paper, "Development of Adversary Timelines" (NEI White Paper).

The NRC has established regulations for the granting of 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 your letters, you state that the NEI White Paper will help nuclear power reactor licensees develop adversary timelines consistent with the guidance in NRC Regulatory Guide (RG) 5.81, "Target Set Identification and Development for Nuclear Power Reactors," Revision 1. Under this guidance, a licensee may consider the interdiction capabilities of a site security response force

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."

when determining adversary timelines. These timelines are then used by licensees to develop site protective strategies and evaluate operator actions to prevent core damage.

The revisions to Regulatory Guide 5.81, Revision 1, present an opportunity for licensees to consider the interdiction capabilities of a site security response force when determining adversary timelines. NEI's White Paper would appear to supplement the NRC's revisions to Regulatory Guide 5.81, Revision 1. Specifically, the White Paper would potentially contribute to a new, viable, and consistent approach to developing adversary timelines by all power reactor licensees. Additionally, reviewing the White Paper will allow the NRC a chance to explore the viability of NEI's proposal as the NRC continues with its own efforts to pursue generic regulatory improvements and further risk-inform security requirements. In summary, if endorsed by the NRC, the White Paper will provide a consistent approach for the development of adversary timelines, and with NEI's commitment to make the endorsed process available for both members and non-members, it will be available for all power reactor licensees at no cost.

The NRC staff have reviewed the fee exemption request and determined that NRC review and potential endorsement of the NEI White Paper meets the criteria under 10 CFR 170.11(a)(1)(ii). This is because the NEI White Paper 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 the NEI White Paper. Any future revisions to the NEI White Paper can be submitted separately for fee exemption consideration.

If you have any technical questions regarding this matter, please contact Mr. F. Scot Sullivan at 301-287-3624. Please contact Ms. Jo Jacobs, of my staff, at 301-415-8388, for any fee-related questions.

Sincerely,

Cherish K. Johnson (*Ben Ficks Acting CFO*)
Chief Financial Officer

SUBJECT: RESPONSE TO FEE EXEMPTION REQUEST FOR NEI WHITE PAPER,
 "DEVELOPMENT OF ADVERSARY TIMELINES," DATED: August 31, 2021

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OFFICE	OCFO/DOC/LAFBB	OCFO/DOC/LAFBB	OGC	OCFO/DOB/LFPT
NAME	JGibbs-Nicholson	MBlair (JGibbs-Nicholson for)	MClark ^{NLO}	ARossi (JJacobs for)
DATE	08/02/2021	08/02/2021	08/26/2021	08/26/2021
OFFICE	OCFO/DOB	OCFO/DOB	D/CFO	CFO
NAME	RAllwein	JEShay (RAllwein for)	LBFicks	CKJohnson (BFicks for)
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