



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

CHIEF FINANCIAL  
OFFICER

January 7, 2022

Mr. Alan Campbell  
Technical Advisor  
Nuclear Energy Institute  
1201 F Street NW, Suite 1100  
Washington, DC 20004

Dear Mr. Campbell:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated October 15, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21288A160), 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) 20-07, "Guidance for Addressing Software Common Cause Failure in High Safety-significant Safety-related [HSSSR] DI&C Systems."

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,<sup>1</sup> and the Chief Financial Officer will grant or deny such requests in writing.*

The NRC staff currently has guidance in place to ensure that the safety and technical implications of common cause failure (CCF) in digital instrumentation and control (DI&C) systems is adequately addressed. This guidance is contained in Branch Technical Position (BTP) 7-19, Revision 8 (ADAMS Accession No. ML20339A647), and conforms to the direction

---

<sup>1</sup> 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."

the Commission provided to the NRC staff in the Staff Requirements Memorandum (SRM) SECY-93-087, "Policy, Technical, and Licensing Issues pertaining to Evolutionary and Advanced Light-Water Reactor (ALWR) Designs," dated July 21, 1993 (ADAMS Accession No. ML18145A018).

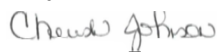
NEI developed NEI 20-07, Draft D, to provide applicants with a new risk-informed, performance-based approach to address potential HSSSR DI&C systematic failures. NEI indicated that the proposed guidance in NEI 20-07, Draft D, does not conform to the SRM to SECY-93-087. As NEI acknowledged in the NEI 20-07, Draft D, Section 3.1, "SRM/SECY-93-087 provides NRC Commission direction regarding policy, technical and licensing issues for light water reactors. As such, the process described here within does NOT wholly conform to the four (4) positions in SRM/SECY-93-087, Section 18 [25]. A policy change to allow for risk-informed, performance-based approaches to addressing Digital I&C CCF is recommended..."

The NRC staff acknowledges and welcomes industry interest using risk-informed approaches to modernize the nation's commercial nuclear fleet with digital technology and welcomes additional approaches to addressing DI&C CCF. The NRC staff is currently considering the policy implications of approaches that may not wholly conform with SRM to SECY-93-087 and plans to hold public stakeholder engagement in the near term to inform its thinking on how best to potentially expand the policy for addressing DI&C CCF, including but not limited to the potential for developing a path for consideration of risk-informed alternate means to provide diversity for HSSSR. All external stakeholders, including NEI, may participate in the NRC's stakeholder engagement activities without being assessed 10 CFR Part 170 fees.

I am denying your request because an exemption may be granted under 10 CFR 170.11(a)(1)(ii), when the NRC, at the time the request/report is submitted, plans to use the information to assist the NRC in generic regulatory improvements or efforts (e.g., rules, regulatory guides, regulations, policy statements, generic letters, or bulletins). At this time, the NRC staff's review of NEI 20-07, Draft D, for endorsement would be premature as the proposed guidance in NEI 20-07, Draft D, is contrary to current NRC policy in the SRM to SECY-93-087. As noted, NRC staff is considering new approaches for addressing DI&C CCF and plans to hold public meetings for stakeholder input. If appropriate, NEI may elect to resubmit the request for a fee exemption for the review and endorsement of NEI 20-07, Draft D once the new approaches have been addressed by the staff and Commission.

If you have any technical questions regarding this matter, please contact Ms. Tekia Govan at 301-415-6197. Please contact Ms. Jo Jacobs, of my staff, at 301-415-8388 for any fee-related questions.

Sincerely,



Signed by Johnson, Cherish  
on 01/07/22

Cherish K. Johnson  
Chief Financial Officer

SUBJECT: LETTER TO ALAN CAMPBELL RESPONSE TO FEE EXEMPTION NEI 20-07

**DISTRIBUTION:**

NAridi, OCFO  
WMorton, NRR  
NCarte, NRR  
RidsNRROd Resource

ADAMS:  Yes  No Initials: JJ SUNSI Review: JJ  
 Publicly Available  Non-Publicly Available  Sensitive  Non-Sensitive

**ADAMS Accession No: ML21308A063 (pkg); ML21288A160 (incoming);**

**ML21308A062 (letter)**

**CFO-21-00196**

<b>OFFICE</b>	OCFO/DOB/LFPT	OCFO/DOB/LFPT	NRR/DRO/IRSB	NRR/DEX/ELTB
<b>NAME</b>	JJacobs	WBlaney	TGovan	SDarbali
<b>DATE</b>	11/30/2021	11/30/2021	12/06/2021	12/07/2021
<b>OFFICE</b>	NRR/DEX/ELTB	NRR/DEX/EICB	NRR/DEX/D	NRR/DOD
<b>NAME</b>	JJohnston	MWaters	EBenner	AKock
<b>DATE</b>	12/09/2021	12/10/2021	12/10/2021	12/14/2021
<b>OFFICE</b>	OCFO/DOC/LAFBB	OCFO/DOC/LAFBB	OGC	OCFO/DOB/LFPT
<b>NAME</b>	SLee	MBlair	CMcCann <sup>NLO</sup>	ARossi
<b>DATE</b>	12/14/2021	12/16/2021	01/03/2021	12/14/2021
<b>OFFICE</b>	OCFO/DOB	OCFO/DOB	DCFO	CFO
<b>NAME</b>	RAllwein	JShay	BFicks	CKJohnson
<b>DATE</b>	01/04/2021	01/05/2021	01/05/2021	01/ /2021

**OFFICIAL RECORD ONLY**