



CHIEF FINANCIAL
OFFICER

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

March 22, 2022

Mr. Kevin Shoemaker
Project Director, Counsel
Southern Ohio Diversification Initiative
P.O. Box 517
Piketon, OH 45661

Dear Mr. Shoemaker:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated January 21, 2022 (Agencywide Documents Access and Management System Accession No. ML22026A289), requesting a fee exemption under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11, "Exemptions," to cover activities associated with three to four public meetings, regular project management contact, and the pre-application readiness assessment of an Early Site Permit Application (ESPA) template for the Southern Ohio Diversification Initiative (SODI).

The NRC has established regulations for the granting of fee exemptions under 10 CFR 170.11. An interested person may apply for an exemption under 10 CFR 170.11 in accordance with 10 CFR 170.5, "Communications." Because your letter did not cite a specific section of 10 CFR 170.11, the NRC staff reviewed your fee exemption request considering the regulations in 10 CFR 170.11(a)(1)(ii), 10 CFR 170.11(a)(13), and 10 CFR 170.11(b), which state:

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.

¹ 10 CFR 170.5 states, "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."

10 CFR 170.11(b) The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of this part as it determines are authorized by law and are otherwise in the public interest. Applications for exemption under this paragraph may include activities such as, but not limited to, the use of licensed materials for educational or noncommercial public displays or scientific collections.

After review, the NRC staff has determined that your fee exemption request does not meet the criteria for an exemption pursuant to 10 CFR 170.11(a)(1)(ii). A fee exemption may be granted under 10 CFR 170.11(a)(1)(ii) for special projects the NRC plans to use to assist in generic regulatory improvements or efforts (e.g., rules, regulatory guides, regulations, policy statements, generic letters, or bulletins). The NRC currently does not have plans for any generic regulatory improvements that will be assisted by the activities proposed in the fee exemption request. Therefore, the fee exemption request does not meet the requirements in 10 CFR 170.11(a)(1)(ii).

Additionally, the NRC staff has determined that your fee exemption request does not meet the criteria for an exemption pursuant to 10 CFR 170.11(b) (the public interest exemption). Under the Nuclear Energy Innovation and Modernization Act (NEIMA), the NRC is required to recover through fees, to the maximum extent practicable, approximately 100 percent of its annual budget authority, less the budget authority for excluded activities. NEIMA also requires the NRC first to collect service fees for NRC work that provides specific benefits to identifiable recipients, such as licensing activities, inspections, and special projects, in accordance with 10 CFR Part 170, "Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended." The development of a template ESPA for the nuclear industry is a fee-billable activity. The NRC staff's effort to review the template ESPA is for the commercial benefit of early site permit applicants and does not include activities that will benefit the public at large. Therefore, granting a fee exemption would not be in the public interest and does not meet the requirements in 10 CFR 170.11(b).

Based on the NRC staff's review of your fee exemption request under 10 CFR 170.11(a)(1)(ii) and 10 CFR 170.11(b), I am denying your request to grant SODI a fee exemption to cover activities associated with development of a template ESPA.

SODI is welcome to start technical engagement with the NRC, and 10 CFR Part 170 fees will be assessed to SODI for the NRC's efforts. SODI may submit a subsequent fee exemption request if SODI identifies activities that meet the requirements in 10 CFR 170.11 for a fee exemption. If a fee exemption is requested, it will be processed based on the criteria in 10 CFR 170.11.

If you have any technical questions regarding this matter, please contact Mr. William Kennedy at 301-415-2313. Please contact Ms. Jo Jacobs, of my staff, at 301-415-8388, for any fee-related questions.

Sincerely

Cherish K. Johnson
Chief Financial Officer

SUBJECT: RESPONSE TO SOUTHERN OHIO DIVERSIFICATION INITIATIVE'S FEE EXEMPTION REQUEST FOR THE ACTIVITIES ASSOCIATED WITH THE DEVELOPMENT OF AN EARLY SITE PERMIT APPLICATION TEMPLATE, DATED: March 22, 2022

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OFFICE	OCFO/DOC/LAFBB	OCFO/DOC/LAFBB	OGC	OCFO/DOB/LFPT
NAME	MLee	MBlair	CMcCann ^{NLO}	ARossi
DATE	03/10/2022	03/10/2022	03/16/2022	03/17/2022
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