



CHIEF FINANCIAL
OFFICER

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

October 20, 2023

AJ Clore, Sr. Project Manager
Nuclear Security & Incident Preparedness
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

SUBJECT: LETTER TO THE NUCLEAR ENERGY INSTITUTE IN RESPONSE TO A
REQUEST FOR A FEE EXEMPTION FOR NEI 03-12, REVISION 8

Dear AJ Clore:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated September 7, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML23251A042), requesting a fee exemption under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(ii) for the NRC staff's review of Nuclear Energy Institute (NEI) 03-12, Revision 8, "Template for the Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, Independent Spent Fuel Storage Installation Facilities Security Program and, Security Measures During New Reactor construction Within the Owner Controlled Area and, Security Measures for a Green Site During New Reactor Construction" (NEI 03-12, Revision 8).

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."¹ The NRC staff reviewed your request based on the regulations in 10 CFR 170.11(a)(1)(ii) and 10 CFR 170.11(d). Section 170.11(a)(1)(ii) states:

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 to assist the NRC in generic regulatory improvements or efforts (e.g., rules, regulatory guides, regulations, policy statements, generic letters, or bulletins).

Section 170.11(d) states:

All fee exemption requests must be submitted in writing to the Chief Financial Officer in accordance with § 170.5, and the Chief Financial Officer will grant or

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."

deny such requests in writing.

Your letter states that NEI 03-12, Revision 8, will improve the effectiveness and efficiency of the NRC's review of current licensee and future applicant physical security programs. Specifically, the NRC's continued endorsement of NEI 03-12 will enable continued alignment with the NRC'S Regulatory Guide (RG) 5.76, "Physical Protection Programs at Nuclear Power Plants," which describes NEI 03-12 as "an acceptable approach for licensee development of site-specific security plans." In addition, NEI 03-12, Revision 8, will incorporate the previously NRC-approved and endorsed Section 21, "Compensatory Measures," security frequently asked questions, and other NEI and NRC guidance impacting the security plan template since its last revision in 2010. This revision will also include editorial and conforming changes to more closely align the guidance with the regulatory structure set forth in 10 CFR 73.55. Finally, you state that maintaining these updates in a single document will improve the efficiency of licensee programs and NRC reviews by obviating the need for the NRC and licensees to reference and use multiple information sources.

I have determined that NEI 03-12, Revision 8, provides a template for licensees and applicants to use in developing and maintaining their security plans and to assist licensees and applicants in complying with 10 CFR 73.55, which requires physical protection of nuclear power reactors against radiological sabotage. This template is used by all licensees across the commercial nuclear industry. NEI 03-12, Revision 8, will incorporate guidance and security frequently asked questions issued since the document was last endorsed in 2011. Maintaining an up-to-date template that consolidates and incorporates the latest regulatory requirements, guidance, and lessons learned from operating experience will enhance the ability of licensees and applicants to develop, document, and maintain their physical security programs to meet NRC requirements. Further, an up-to-date template will also assist the NRC in conducting efficient and consistent reviews of physical security programs for licensees and applicants, and inform updates to its regulatory guidance – not only RG 5.76, "Physical Protection Programs at Nuclear Power Plants," which describes NEI 03-12 as "an acceptable approach for licensee development of site-specific security plans," but also an in-progress update to RG 5.54, "Standard Format and Content of Safeguards Contingency Plans for Nuclear Power Plants," where staff is proposing to expand the guidance in RG 5.54 to address all security plans and changes to those plans. Both regulatory guidance documents are available to all licensees.

Therefore, I conclude that your request for NRC review and approval of NEI 03-12, Revision 8, meets the criteria under 10 CFR 170.11(a)(1)(ii) because the guidance will assist the NRC in generic regulatory improvements or efforts; therefore, the fee exemption request is approved.

If you have any technical questions regarding this matter, please contact Amanda Marshall at 301-287-3677. Please contact Billy Blaney, of my staff, at 301-415-5092 for any fee-related questions.

Sincerely,



Signed by Osborne, Howard
on 10/20/23

Howard K. Osborne
Chief Financial Officer

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 REQUEST FOR A FEE EXEMPTION FOR NEI 03-12, REVISION 8, DATED:
 OCTOBER 20, 2023

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