



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

August 16, 2018

CHIEF FINANCIAL
OFFICER

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 May 16, 2018, and supplemented on July 26, 2018, requesting a fee waiver under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(iii) for NRC review of Nuclear Energy Institute (NEI) 05-05, "Force-on-Force Exercise Controller Responsibilities Guideline," Revision 6, dated May 16, 2018.

Initially, I note that the exemption provisions under 10 CFR 170.11 were revised by the fiscal year 2016 Fee Rule rulemaking. Specifically, the NRC removed paragraph (a)(1)(iii), which is the regulation you cited as the basis for requesting a fee waiver. This change was effective August 23, 2016. Therefore, the NRC staff has 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.

NEI 05-05, Revision 6, is intended to provide guidance to individuals who function as controllers, which are part of the group of licensee individuals who plan, conduct, and evaluate force-on-force (FOF) drills and exercises.

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."

Specifically, Revision 6 will address the knowledge and skills necessary to be a controller and will provide guidance on acceptable simulations and control measures for a broad range of expected tactics. This guidance will be applicable for use during the performance of all FOF drills and exercises.

Additionally, this guidance will be made available upon request to all power reactor licensees at no cost. Existing controller guidance is currently captured in NEI 05-05, "Force-on-Force Exercise Controller Responsibilities Guideline," Revision 4; however, this document does not provide adequate guidance for controlling FOF drills and exercises. NEI 05-05, Revision 6, is intended to provide updated and more complete guidance to address appropriate controller actions. If endorsed by the NRC, it will be used by the staff in evaluating FOF drills and exercises during inspections conducted under Inspection Procedures 71130.03 and 71130.05 (that is, the NRC will use this information to assist in its generic regulatory improvements or efforts).

The NRC staff concludes that NRC review of NEI 05-05, "Force-on-Force Exercise Controller Responsibilities Guideline," Revision 6, for final NRC endorsement meets all criteria under 10 CFR 170.11(a)(1)(ii); therefore, the fee waiver request is approved.

If you have any technical questions regarding this matter, please contact Mr. Joseph Willis at 301-287-3667. Please contact Ms. Jo Jacobs, of my staff, at 301-415-8388 for any fee-related questions.

Sincerely,

/RA/

Maureen E. Wylie
Chief Financial Officer

SUBJECT: LETTER TO WILLIAM GROSS RESPONSE TO FEE WAIVER (NEI),
DATED: August 16, 2018

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