



CHIEF FINANCIAL  
OFFICER

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

January 16, 2020

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 November 26, 2019 requesting a fee waiver under Section 170.11(a)(1)(ii) of Title 10 of the *Code of Federal Regulations* (10 CFR) for NRC review and endorsement of NEI White Paper, "Changes to NEI 10-04 and NEI 13-10 Guidance for Identifying and Protecting Digital Assets Associated with the Balance of Plant," dated November 26, 2019.

The NRC has established regulations for the granting of fee exemptions under 10 CFR 170.11, "Exemptions," which may be applied for in accordance with 10 CFR 170.5, "Communications."<sup>1</sup> 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, and the Chief Financial Officer will grant or deny such requests in writing.*

The Nuclear Energy Institute (NEI) White Paper proposes changes to NEI 10-04, "Identifying Systems and Assets Subject to the Cyber Security Rule," Revision 2, dated July 2012, and NEI 13-10, "Cyber Security Control Assessments," Revision 6, dated August 2017. The changes are intended to improve the effectiveness and efficiency of licensee cyber security programs and address cyber security controls to meet the requirements of 10 CFR 73.54, "Protection of Digital Computer and Communication Systems and Networks."

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<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."

If approved by the NRC, the revised guidance may be used by licensees who have used Regulatory Guide (RG) 5.71, "Cyber Security Programs for Nuclear Facilities," or NEI 08-09, "Cyber Security Plan for Nuclear Power Reactors," Revision 6, dated April 2010, as a basis for their Cyber Security Plans. NEI 08-09, Revision 6, Appendix A, Section 3.1.3, "Identification of Critical Digital Assets," corresponds to NRC RG 5.71, Appendix A, Section 3.1.3. The changes described in the NEI White Paper are intended to: 1) improve the effectiveness and efficiency of licensee cyber security programs; 2) provide additional clarity and consistency in licensee implementation of the methodology for screening digital computer and communication systems and networks associated with emergency preparedness functions; 3) address alternative control/countermeasure activities; and 4) support NRC oversight activities. If accepted for use by the NRC, these changes will be incorporated in NEI 10-04 and NEI 13-10 at a later date agreed upon between NEI and the NRC.

Based on feedback provided by NEI at a public meeting on November 7, 2019, the staff anticipates that NEI will submit a series of proposals to revise the guidance in NEI 10-04 and NEI 13-10. The proposals will be based on multiple industry-led efforts to improve the efficiency and effectiveness of licensee cyber security programs and are expected to be submitted between January 2020 and December 2020.

The NRC staff concludes that NEI's request for NRC review of the NEI White Paper, "Changes to NEI 10-04 and NEI 13-10 Guidance for Identifying and Protecting Digital Assets Associated with the Balance of Plant," dated November 26, 2019, meets the criteria under 10 CFR 170.11(a)(1)(ii) because these changes will assist the NRC in generic regulatory improvements or efforts; therefore, the fee waiver request is approved. Consistent with your November 26, 2019, letter, the NRC will make revised versions of NEI 10-04, "Identifying Systems and Assets Subject to the Cyber Security Rule," and NEI 13-10, "Cyber Security Control Assessments," guidance available to all applicable licensees if the changes in the NEI White Paper are accepted for use. The NRC staff further determines that this fee waiver applies to any additional NEI requests submitted for NRC review of NEI White Papers proposing changes to NEI 10-04 and NEI 13-10 between the period of January 2020 and December 2020, so long as those additional guidance documents are also available to all applicable licensees.

If you have any technical questions regarding this matter, please contact Mr. Dan Warner at 301-287-3642. Please contact Mr. Billy Blaney, of my staff, at 301-415-5092 for any fee-related questions.

Sincerely,

/RA/

L. Benedict (Ben) Ficks  
Deputy Chief Financial Officer

SUBJECT: LETTER TO WILLIAM GROSS RESPONSE TO FEE WAIVER NEI WHITE  
PAPER DATED: January 16, 2020

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