



CHIEF FINANCIAL
OFFICER

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

March 5, 2020

Mark A. Richter, Ph.D.
Senior Project Manager
Used Fuel and Decommissioning Programs
Nuclear Energy Institute
1201 F Street NW, Suite 1100
Washington, DC 20004

Dear Dr. Richter:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated January 14, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20029D667), requesting a fee waiver under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(iii) for NRC review of the Nuclear Energy Institute (NEI) 14-05A, "Guidelines for the Use of Accreditation in Lieu of Commercial Grade Surveys for Procurement of Laboratory Calibration and Test Services," Revision 1.

The NRC has an established regulation governing fee exemptions at 10 CFR 170.11, "Exemptions." An interested person may apply for an exemption in accordance with 10 CFR 170.5, "Communications." 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, 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 § 170.5,¹ and the Chief Financial Officer will grant or deny such requests in writing.

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."

In a letter dated February 9, 2015 (ADAMS Accession No. ML14322A535), the NRC concluded that NEI 14-05A provides an acceptable approach for licensees and suppliers to use laboratory accreditation by accrediting bodies that are signatories to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA). The NRC concluded that licenses and suppliers could use this approach in lieu of performing commercial-grade surveys as part of the commercial-grade dedication process for procurement of calibration and testing services performed by domestic and international laboratories accredited by signatories to the ILAC MRA.

The use of the ILAC accreditation process by licensees and suppliers subject to the quality assurance (QA) requirements of Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," is contingent upon meeting the conditions listed in NEI 14-05A. Among these conditions, the laboratory must be accredited under the 2005 Revision of International Standard Organization (ISO)/International Electrotechnical Commission (IEC) 17025, "General Requirements for the Competence of Testing and Calibration Laboratories."

On November 30, 2017, ISO published a new version of ISO/IEC 17025. Subsequently, ISO designated a three-year transition period for laboratories to update their accreditation programs to the 2017 Edition of ISO/IEC 17025, with the three-year period ending November 30, 2020. To ensure a successful transition, domestic and international accrediting bodies have begun the process of accrediting laboratories to ISO/IEC 17025:2017.

In a letter dated April 16, 2019 (ADAMS Accession No. ML19056A451), the NRC granted provisional recognition of ISO/IEC 17025:2017. The NRC's letter indicated acceptance of ISO/IEC 17025:2017 is only applicable during the designated three-year transition period by ISO (November 30, 2017 to November 30, 2020).

Formal endorsement of NEI 14-05A, Revision 1, will ensure that after November 30, 2020, licensees and suppliers can continue to meet the QA requirements of Appendix B to 10 CFR Part 50 when purchasing commercial-grade calibration and testing services from domestic and international calibration and testing laboratories accredited by an ILAC MRA. Consistent with the regulations in 10 CFR 50.54(a)(3)(2), once NEI 14-05A, Revision 1, is approved by the NRC staff in a safety evaluation, any licensee (and supplier) can incorporate this alternative into their respective QA program without NRC review and approval as long as the bases of the NRC staff's approval is applicable to the licensee or supplier.

NRC staff reviewed the fee waiver request and agrees with NEI that NRC's review and approval of NEI 14-05A, Revision 1, meets the criteria under 10 CFR 170.11(a)(1)(ii), as these changes will assist the NRC in generic regulatory improvements or efforts; therefore, the fee waiver request is approved. Any future revisions to NEI 14-05A, Revision 1 should be submitted for fee waiver considerations under 10 CFR 170.11(a)(1)(ii).

If you have any technical questions regarding this matter, please contact Ms. Kerri Kavanagh at 301-415-3749. Please contact Mr. Billy Blaney, of my staff, at 301-415-5092 for any fee-related questions.

Sincerely,

/RA/

Cherish K. Johnson
Chief Financial Officer

SUBJECT: LETTER TO MARK RICHTER RESPONSE TO FEE WAIVER NEI 14-05A,
REVISION 1 DATED: March 5, 2020

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**ADAMS Accession No: ML20034F030 (pkg); ML20029D667 (incoming);
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