



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

July 2, 2021

CHIEF FINANCIAL
OFFICER

Mr. Nima Ashkeboussi
Senior Director
Fuel and Radiation Safety
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

Dear Mr. Ashkeboussi:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated May 6, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21130A633) requesting the NRC to reconsider the denial of a fee exemption under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(ii) to cover activities associated with reviewing and providing feedback on background document Electric Power Research Institute (EPRI) Technical Report 3002018457, "Alternative Licensing Approaches for Higher Burnup Fuel." Your May 6, 2021, letter was in response to the March 8, 2021, denial of a fee exemption request (ADAMS Accession No. ML21006A160) for review and comment of EPRI Technical Report 3002018457. The original fee exemption request was submitted by Mr. Ben Holtzman of the Nuclear Energy Institute (NEI) on January 12, 2021 (ADAMS Accession No. ML21012A134).

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." The 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.

The NRC staff reviewed this fee exemption request and finds that an exemption is not warranted under 10 CFR 170.11(a). Fee exemptions under 10 CFR 170.11(a) are granted for

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."

documents submitted to the NRC where the NRC can determine that at least one of the criteria stated in that regulation is met. In this case, the request does not satisfy the specified criteria and therefore, I am denying this second request to grant NEI a fee exemption to cover activities associated with reviewing and providing feedback on EPRI Technical Report 3002018457.

The NRC is aware that fuel vendors are pursuing several different approaches to the licensing of higher burnup fuel. In addition, both the NRC and the industry are still developing the technical information to support the evaluation of higher burnup fuel. As such, the NRC is still evaluating whether to develop regulatory guidance or other generic regulatory improvements or efforts for licensing of higher burnup fuels. Your May 6, 2021, letter provided additional information regarding industry support for the licensing approach detailed in EPRI Technical Report 3002018457; however, the additional information does not demonstrate sufficient advancement of the technical approach detailed in Technical Report 3002018457 to enable the NRC to proceed with generic regulatory improvements for licensing of higher burnup fuels, if such improvements are deemed necessary by the NRC. The EPRI approach is still conceptual in nature and lacks significant technical details. For these reasons, the basis for an exemption under 10 CFR 170.11(a)(1)(ii) does not exist.

The NRC does see the potential for the information in EPRI Technical Report 3002018457 to be part of, or the basis for, NRC guidance or other generic regulatory improvements in the future once the approach is more developed.

The NRC notes that NEI has commenced with two of the alternative paths mentioned in the NRC's March 8, 2021, letter. NEI submitted EPRI Technical Report 3002018457 as unsolicited information on May 19, 2021, (ADAMS Accession No. ML21139A326). Also, a public meeting was held with NEI on June 2, 2021, to discuss EPRI's alternative licensing approach. The meeting was not specifically dedicated to discussing EPRI Technical Report 3002018457 and during the meeting the industry acknowledged the early stage of the approach detailed in the report.

This denial of the fee exemption does not prevent NRC review and comment of this document subject to 10 CFR Part 170 fees, and the NRC is currently interacting with industry on the EPRI alternative licensing approach. Both NEI and EPRI are welcome to submit Technical Report 3002018457 under the topical report process for NRC's complete review and feedback. Alternatively, the industry may develop and submit its own guidance on the licensing of higher burnup submittals to the NRC for endorsement. If fee exemptions are requested for any of these activities, they would be processed based on the criteria in 10 CFR 170.11.

If you have any technical questions regarding this matter, please contact Mr. Michael Orenak at 301-415-3229. Please contact Ms. Jo Jacobs, of my staff, at 301-415-8388, for any fee-related questions.

Sincerely,


natu.c.

Signed by Johnson, Cherish
on 07/02/21

Cherish K. Johnson
Chief Financial Officer

SUBJECT: RESPONSE TO RECONSIDERATION OF INDUSTRY FEE EXEMPTION
REQUEST FOR REVIEW AND ENDORSEMENT OF INDUSTRY SUBMITTALS
OF GUIDANCE RELATED TO FUEL FRAGMENTATION RELOCATION AND
DISPERSAL ISSUES DATED: July 2, 2021

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ADAMS Accession No: ML21158A213 (Package); ML21130A633 (Incoming Letter);
ML21158A217 (Response Letter)

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