

April 24, 2014

MEMORANDUM TO: Mark A. Satorius
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS – SECY-13-0124 – POLICY OPTIONS
FOR MERCHANT (NON-ELECTRIC UTILITY) PLANT
FINANCIAL QUALIFICATIONS

The Commission has approved staff's recommendation Option 2 to engage in a rulemaking to amend 10 CFR Part 50 financial qualifications demonstration requirements and Approach C to conform reactor financial qualifications requirements to 10 CFR Part 70 standards. The rulemaking would permit the inclusion of a license condition to assure applicant financial qualifications reflecting the revised standards for review, and require the applicant to submit a plan for how it will proceed to finance the construction and operation of the facility to ensure that the applicant has both a well-articulated understanding of the size of the project it is undertaking and the financial capacity to obtain the necessary financing when the applicant is ready to start construction. The rulemaking would allow a 10 CFR Part 50 or Part 52 license to be issued with license conditions addressing financial qualifications.

As part of the rulemaking effort, the staff should perform a careful examination of decommissioning funding regulations to ensure against unintended impacts on the agency's decommissioning funding rules. The staff should inform the Commission if any issues are identified during the examination of the decommissioning funding regulations.

The rulemaking should define how compliance with requirements for financial qualification is to be demonstrated for new facilities to be licensed under 10 CFR Part 50 and 10 CFR Part 52.

The rulemaking should be inclusive of all Part 50 applicants and licensees currently required to submit detailed financial information and should reflect both initial licensing and license transfers.

The Commission will receive diverse comments from industry, citizen groups, and other members of the public that will merit consideration as this process proceeds. As with any rulemaking, the staff should provide ample opportunity for such input and discussion so that any final product is well informed and considers all points of view.

The rulemaking should seek to develop a standard of review that approximates, as appropriate, the approach currently used for 10 CFR Part 70 applications, but does not reduce the standard of review below that of "appears to be financially qualified."

The staff should consider utilizing an exemption process to address existing and emergent cases, as appropriate and necessary, during the pendency of the rulemaking process and that anticipates the outcome of the proposed changes to the current financial qualification regulations. If the staff intends to grant an applicant an exemption, the staff should notify the Commission by memorandum five business days in advance of issuing the exemption.

The staff should consider performing a detailed study to determine whether there exists any significant correlation between NRC's financial qualification reviews and later safe operations and use of nuclear materials, since the original rule was first promulgated in 1968.

cc: Chairman Macfarlane
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
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