



Proposed Financial Qualifications Requirements and Draft Regulatory Basis for the Financial Qualifications for Reactor Licensing Rulemaking

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Background

- SECY-13-0124, Policy Options for Merchant Plant Financial Qualifications (ML13057A006)
- SRM-SECY-13-0124, Policy Options for Merchant Plant Financial Qualifications (ML14114A358)
 - Amend 10 CFR Part 50 financial qualifications demonstration requirements and conform reactor financial qualifications requirements to 10 CFR Part 70 standards.

Outline of Draft Regulatory Basis

1. Executive Summary
2. Background
3. Current Regulatory Framework
4. Statement of the Problem
5. Alternatives Considered and Approach Selected to Address Problem
6. Basis for Proceeding with Rulemaking Alternative to Conform Power Reactor Financial Qualification Requirements to 10 CFR Part 70 Standard
- 7. Proposed Financial Qualifications Requirements**
8. Stakeholder Involvement
9. Additional Analyses
10. Conclusion
11. References

Enclosure 1 – Draft Rule Language

Enclosure 2 – Questions Considered During Development of Regulatory Basis and Requesting Public Comments

Enclosure 3 – Historical Background on Financial Qualifications and the Electric Generation Market Structure

Enclosure 4 – Regulatory Analysis

Current Regulatory Framework

- Summary of pertinent 10 CFR Part 50 requirements for Financial Qualifications
 - 10 CFR 50.33(f) and Appendix C to Part 50
 - Construction permit and COL applicants - possess or have reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs.
 - Operations and COL applicants - possess or have reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the license.

Why Change NRC Financial Qualification Requirements?

- No identified direct correlation between initial financial qualifications review and later safe operating performance
- Existing NRC Safety Review Processes and Programs
 - NRC Licensing Review Process
 - Construction Reactor Oversight Process
 - Reactor Oversight Process and Resident Inspector Program
 - Reactor Operating Experience Program
 - Vendor Inspection Program
 - Quality Assurance Inspection Program
- Details of applicant financial arrangements go well beyond the NRC's mandate of ensuring safety

Proposed Financial Qualifications Requirements (Section 7)

New Review Standard - Appears to be Financially
Qualified and the Demonstration of Financial Capacity

Addresses Classes of Applicants

- *Merchant Applicants*
- *Utilities*
- *Non-power Production and Utilization Facilities*
- *License Transfers*
- *Change of Status*

New Review Standard - Appears to be Financially Qualified and the Demonstration of Financial Capacity

- Reflect the financial capacity of the applicant to obtain the necessary funding for the project.
- Financial capacity
 - Is not a predictive finding of the likelihood of an applicant ultimately obtaining financing.
 - Reflects the level of understanding of the size and scope of the project.
- Applicant must provide
 - Construction Cost Estimate
 - Applicant Financial Capacity Plan (AFCP)
 - A description of the management team.
 - A description of the anticipated funding methods and sources.

Classes of Applicants - Merchant Applicants

Financial Qualifications Review for Construction

- Merchant Applicants with Less Than 50% Financing at the Time of Application

The NRC staff expects that the applicant will provide:

- A construction cost estimate and
- An AFCP with proposed license condition(s)

Example of License Condition:

The licensee will notify the NRC at least 60 days prior to its anticipated date of construction that the license condition has been fulfilled and that the following are available for inspection:

- An updated cost estimate;
- Documentation justifying any variances from the original cost estimate provided in the application; and
- Documentation demonstrating that the licensee has secured financing to meet the updated cost estimate for the project.

Classes of Applicants - Merchant Applicants

Financial Qualifications Review for Construction

- Merchant Applicants with More Than 50% Financing at the Time of Application

The NRC staff expects that the applicant will provide:

- A construction cost estimate and
- An AFCP with documentation demonstrating commitments of financing equal to at least 50% of the construction cost estimate.
- Use of license conditions for meeting financial qualifications is NOT envisioned for this applicant class.

Classes of Applicants - Utilities

- Provide Financial Qualifications for construction.
 - Demonstration of the availability of rate recovery.
- Qualified for operations based on the availability of rate recovery.
- If the utility does not have rate recovery for construction, the NRC will treat the applicant in the same manner that it treats merchant applicants.

Classes of Applicants - Non-power Production and Utilization Facilities

- Non-power production and utilization facilities include all existing non-power reactors licensed under 10 CFR 50.21(a) and (c) and proposed production and utilization facilities licensed under 10 CFR 50.22 for the production of medical radioisotopes.
- The NRC expects that this class of applicants will show they are financially qualified by demonstrating their availability of funds at the time of licensing.

Classes of Applicants – License Transfers

- Review conducted pursuant to 10 CFR 50.80.
 - Submit the same FQ information as for an initial license.
- Transfer of a facility that is either under construction or where construction has not yet begun; it would be reviewed as a Merchant (construction) or Utility.
- Transfer to a merchant applicant for a facility where construction has been completed but where operations have not yet begun; would be reviewed as Merchant (operation).
- Transfer of a license to a merchant applicant for a facility that is operating; would be reviewed as Merchant (operation).

Classes of Applicants – Change of Status

- Review conducted pursuant to 10 CFR 50.76.
- The NRC staff does not anticipate that there will be a significant change in its review of change of status applications.
- The review will follow a similar approach as for the license transfer of an operating license.

Summary

- Staff evaluated reactor financial qualifications (FQ) requirements in response to industry inquiry – 11/2013
- Commission provided staff direction – 4/2014
- Part 50 FQ requirements to be conformed to Part 70 standard; from “reasonable assurance” standard to “appears to be financially qualified”
- Proposed Approach to evaluate Applicant’s Financial Capacity
- Proposed Approach may rely on Applicant’s use of License Conditions

Milestones

- 4/24/14 – SRM Tasking; Staff Begins Work
- 4/15/15 - Public Meeting to Discuss Proposed FQ Requirements in Draft Regulatory Basis
- 6/17/15 – Publication of Regulatory Basis in Federal Register (public comment period ends 8/3)
- 7/8/15 – Public Meeting on Regulatory Basis
- 8/3/15 – Comment Period Ends
- 12/15 - Final Regulatory Basis

Questions

