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FOIA/PA REQUEST
Case No: 2002-0064
Date Rec'd: 12-14-01
Action Off: Brown
Related Case:

November 5, 2001

Carol Ann Reed
FOIA/Privacy Act Officer
U.S. Nuclear Regulatory Commission
Mail Stop T-6 D8
Washington, D.C. 20555

Re: Freedom of Information Act Request

Dear Ms. Reed:

Pursuant to 5 U.S.C. §552(a)(3) and 10 C.F.R. §9.23(b), I request a copy of LeBoeuf, Lamb, Leiby & MacRae comments filed on the NRC's proposed rule, Licensing of Production and Utilization Facilities; Antitrust Review Procedures, published in the Federal Register on April 26, 1978, 43 FR 17830. I have enclosed the Federal Register Final Rule regarding LeBoeuf's comments and the proposed rule to assist you with your research.

I agree in advance to pay any fees associated with this request up to $250.00. If costs are expected to exceed this amount, please notify me at (202) 467-7839.

Sincerely,

Marcus J. Page

Marcus J. Page
Legal Assistant

Enclosure

(b) The insured may, with the consent of the Corporation change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix "B"

Counties Designated for Rye Crop Insurance—7 CFR Part 420

In accordance with the provisions of 7 CFR 420.1, the following counties are designated for rye crop insurance:

North Dakota

Barnes Richland
Pierce

These regulations have been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria. A "Final" Impact "Statement" has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Approved by the Board of Directors on July 10, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: October 15, 1979.

Approved by:

James D. Deal,

Manager.

[FR Doc. 79-32581 Filed 10-19-79; 8:45 am]

BILLING CODE 3510-08-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 50

Licensing of Production and Utilization Facilities; Antitrust Review Procedures

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is hereby amending current regulations to reduce or eliminate the requirements for submission of antitrust information in certain "de minimis" instances and to clarify requirements for antitrust review of applications for licenses for class 103 facilities (commercial facilities) other than power reactors.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Argil Toalston, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-492-8339.

SUPPLEMENTAL INFORMATION: Each applicant for a license for a production or utilization facility under section 103 of the Atomic Energy Act of 1954, as amended, is required by § 50.33a of 10 CFR Part 50, Licensing of Production and Utilization Facilities, to respond to a series of questions provided by the Attorney General of the United States in connection with the review of antitrust matters pursuant to section 105c of the Atomic Energy Act of 1954, as amended. In the case of a nuclear power reactor, several utilities may join in a single application for a license. Some of the participants will hold very small shares of the facility and will be entitled to only small percentages of the total output of electricity from the facility.

Generally, participants holding a small share entitling them to a small percentage of the electricity generated by the facility tend to be small entities not normally having a significant competitive impact in their general area. Consequently, on April 26, 1978, the Commission caused to be published in the Federal Register (43 FR 17630) a notice of proposed rule making waiving the requirement that "de minimis" participants in nuclear power plants submit antitrust information specified in Part 50, unless specifically requested by the Commission to do so.

The NRC received comments from the law firm of LeBoeuf, Lamb, Leiby & MacRae (LeBoeuf) addressing the Federal Register Notice. Based on these comments, the Commission has adopted LeBoeuf's suggestion that threshold levels for determining whether an electric utility may be considered "de minimis" for antitrust purposes should be based on the generating capacity of the applicant at the time of its application rather than its entitlement to electrical output from the facility. Using generating capacity would provide a more direct measurement of the relative size, and thus competitive impact, of an applicant.

Thus, the Commission has concluded that participants whose generating capacity at the time of application is 200 MW(e) or less are not required to submit information specified in Appendix L of Part 50, unless specifically requested by the Commission to do so. The Commission notes that the limit of 200 MW(e) of generating capacity would currently require approximately the 200 largest electric utilities in the United States to respond to all or a portion of NRC's antitrust questions. The Commission believes that utilities smaller than these generally would have a negligible effect on competition. However, under certain circumstances these smaller systems could also be required to submit the information set forth in Appendix L of Part 50 if possible antitrust problems become apparent.

The Commission has also concluded that participants whose generating capacity at the time of application is more than 200 MW(e) but not more than 1400 MW(e) are required to respond only to Question 9 in Appendix L of Part 50. Question 9 deals with neighboring, non-affiliated electric utility systems with peak loads smaller than applicant's. Such applicants could, of course, subsequently be specifically requested by the Commission to submit all the information required by § 50.33a. The Commission notes that the limit of 1400 MW(e) of generating capacity would currently require approximately the 100 largest utilities in the United States to respond to all of the antitrust questions.

These proposed changes would reduce the burden of preparing antitrust-related data on small applicants, while at the same time maintaining an adequate standard of antitrust review. The Antitrust Division of the Department of Justice has concurred in the Commission's proposed action.

Other commercial production and utilization facilities in addition to nuclear power reactors are subject to antitrust review requirements. Amendments are proposed to Parts 2 and 50 in order to clarify that the antitrust review associated with construction permit applications for uranium enrichment facilities and fuel reprocessing plants may also call for

submission of information by the applicant.

Because this rule making action reduces the burden on the resources of both the NRC staff and certain applicants without increasing the burden on anyone else, good cause exists for omitting a value/impact analysis.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 and section 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 2 and 50, have been adopted.

1. Paragraph 2.101(a)(5) of 10 CFR Part 2 is revised to read as follows:

§ 2.101 Filing of application.

(a) * * *

(5) An applicant for a construction permit for a production or utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b)(2) or (3) or 50.22 of this chapter or is a testing facility may submit the information required of applicants by Part 50 of this chapter in three parts. One part shall be accompanied by the information required by § 50.30(f) of this chapter, another part shall include any information required by §§ 50.34(a) and, if applicable, § 50.34a of this chapter and a third part shall include any information required by § 50.33a. One part may precede or follow other parts by no longer than six (6) months except that the part including information required by § 50.33a shall be submitted in accordance with time periods specified in § 50.33a. If an applicant for a construction permit for a nuclear power reactor is exempted pursuant to § 50.33a of this chapter from filing the information described by § 50.33a of this chapter, such applicant shall file with the first part of its application an affidavit setting forth facts as to the electrical generating capacity of its system. If it is determined that any one of the parts as described above is incomplete and not acceptable for processing, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will inform the applicant of this determination and the respects in which the document is deficient. Such a determination of completeness will generally be made within a period of thirty (30) days. Except for the part including information required by § 50.33a, whichever part is filed first shall also include the fee required by § 50.30(e) and 170.21 of this chapter and the information required by §§ 50.33, 50.34(a)(1), and 50.37 of this chapter. The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will accept for docketing an application for a construction permit for a production or utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b) (2) or (3) or 50.22 of this chapter or is a testing facility where one part of the application as described above is complete and conforms to the requirements of Part 50 of this chapter. Additional parts will be docketed upon a determination by the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, that they are complete.

2. In § 50.33a of 10 CFR Part 50, paragraph (a) is revised and a new paragraph (e) is added to read as follows:

§ 50.33a Information requested by the Attorney General for antitrust review.

(a)(1) An applicant for a construction permit for a nuclear power reactor shall submit the information requested by the Attorney General as described in Appendix L, if the application is for a class 103 permit and if the applicant has electrical generating capacity exceeding 1400 MW(e).

(2) An applicant for a construction permit for a nuclear power reactor shall submit the information requested by the Attorney General as described in paragraph 9 of Section II of Appendix L if the applicant has electrical generating capacity exceeding 200 MW(e) but no more than 1400 MW(e). Upon request of the Commission, the applicant shall furnish the other information described in Appendix L.

(3) An applicant for a construction permit for a nuclear power reactor is not required to submit the information described in Appendix L unless specifically requested by the Commission to provide the information, if the applicant has electrical generating capacity of 200 MW(e) or less.

(4) The information described in paragraphs (a)(1) and (2) of this section shall be submitted as a separate document prior to any other part of the license application as provided in paragraph (b) and in accordance with § 2.101 of this chapter.

* * * * *

(e) Any person who applies for a class 103 construction permit for a uranium enrichment or fuel reprocessing plant shall submit such information as may be requested by the Attorney General for antitrust review, as a separate document as soon as possible and in accordance with § 2.101 of this chapter.

3. In Appendix L of 10 CFR Part 50, paragraph I.1. is amended to read as follows:

Appendix L—Information Requested by the Attorney General for Antitrust Review Facility License Applications

* * * * *

I. DEFINITIONS

1. "Applicant" means the entity applying for authority to construct or operate subject unit and each corporate parent, subsidiary and affiliate. Where application is made by two or more electric utilities not under common ownership or control, each utility, subject to the applicable exclusions contained in § 50.33a, should set forth separate responses to each item herein.

(Secs. 103, 105, 161, Pub. L. 83-703, 64-1008, 68 Stat. 938, 938, 948, 70 Stat. 1066, 84 Stat. 1472 (42 U.S.C. 2133, 2135, 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Washington, D.C., this 15th day of October, 1979.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-32241 Filed 10-19-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Theodore E. Allison, Secretary Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3257).

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. Sec. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations

proposed rules

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 2 and 50]

RULES OF PRACTICE

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Antitrust Review Procedures

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending current regulations to reduce or eliminate the requirements for submission of antitrust information in certain "de minimis" instances and to clarify requirements for antitrust review of applications for licenses for class 103 facilities (commercial facilities) other than power reactors.

DATE: Comment period expires June 26, 1978.

ADDRESS: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Mr. Argil Toalston, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-492-8339.

SUPPLEMENTAL INFORMATION: Each applicant for a license for a production or utilization facility under section 103 of the Atomic Energy Act of 1954, as amended, is required by § 50.33a of 10 CFR Part 50, Licensing of Production and Utilization Facilities, to respond to a series of questions provided by the Attorney General of the United States in connection with the review of antitrust matters pursuant to section 105c of the Atomic Energy Act of 1954, as amended. In the case of a nuclear power reactor, several utilities may join in a single application for a license. Some of the participants will hold a very small share of the facility and will be entitled to only a small percentage of the total output of electricity from the facility.

Because participants holding a small share entitling them to a small percentage of the electricity generated by the facility would not normally have a significant competitive impact in their area, the Commission has concluded that such participants entitled to 20 MW(e) or less of power generated should not be required to submit the antitrust information specified in Part 50, unless specifically requested by the Commission to do so. The Commission has selected the 20 MW(e) ownership limit because, under typical increments of installed capacity to meet new load growth, such a limit would normally require the 200 largest utilities in the United States to respond to all or portion of the antitrust questions. The Commission believes that utilities smaller than these generally would have a negligible effect on competition, but under certain circumstances these smaller systems could also be required to submit the information set forth in Appendix L.

The Commission has also concluded that participants entitled to more than 20 MW(e) but less than 80 MW(e) of power generated should be required only to respond to question 8 in Appendix L of Part 50 dealing with neighboring, non-affiliated electric utility systems with peak loads smaller than applicant's and should not initially be required to answer any of the other questions set forth in Appendix L, Part 50. Such an applicant could, of course, subsequently be specifically requested by the Commission to submit all the information required by § 50.33a. The Commission has selected the 80 MW(e) ownership limit because, under typical increments of installed capacity to meet new load growth, such a limit would normally require the 100 largest utilities in the United States to respond to all of the antitrust questions.

These proposed changes would reduce the burden of preparing antitrust-related data on applicants with a small percentage of ownership in the facility and its output, while at the same time maintaining an adequate standard of antitrust review. The Antitrust Division of the Department of Justice has concurred in the Commission's proposed action.

Other commercial production and utilization facilities in addition to nuclear power reactors are subject to antitrust review requirements. Amendments are proposed to Parts 2 and 50 in order to clarify that the antitrust review associated with construction permit applications for uranium enrichment facilities and fuel reprocessing plants may also call for submission of information by applicants.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 2 and 50, is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by June 26, 1978. Copies of comments may be examined in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

1. Paragraph 2.101(a)(5) of 10 CFR Part 2 would be revised to read as follows:

§ 2.101 Filing of application.

(a) * * *

* * * * *

(5) An applicant for a construction permit for a production or utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b)(2) or (3) or 50.22 of this chapter or is a testing facility may submit the information required of applicants by Part 50 of this chapter in three parts. One part shall be accompanied by the information required by § 50.30(f) of this chapter, another part shall include any information required by §§ 50.34(a) and, if applicable, 50.34a of this chapter and a third part shall include any information required by § 50.33a. One part may precede or follow other parts by no longer than six (6) months except that the part including information required by § 50.33a shall be sumitted in accordance with time periods specified in § 50.33a. If an applicant for a construction permit for a nuclear power reactor is not required pursuant to § 50.33a of this chapter to file information in accordance with § 50.33a of this chapter, such applicant shall file with the first part of its application an affidavit setting forth facts as to its ownership share in the proposed nuclear power reactor. If it is determined that

any one of the parts as described above is incomplete and not acceptable for processing, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will inform the applicant of this determination and the respects in which the document is deficient. Such a determination of completeness will generally be made within a period of thirty (30) days. Except for the part including information required by § 50.33a, whichever part is filed first shall also include the fee required by §§ 50.30(e) and 170.21 of this chapter and the information required by §§ 50.33, 50.34(aX1), and 50.37 of this chapter. The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will accept for docketing an application for a construction permit for a production or utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(bX2) or (3) or 50.22 of this chapter or is a testing facility where one part of the application as described above is complete and conforms to the requirements of Part 50 of this chapter. Additional parts will be docketed upon a determination by the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, that they are complete.

2. In § 50.33a of 10 CFR Part 50, paragraph (a) is revised and a new paragraph (e) is added to read as follows:

§ 50.33a Information requested by the Attorney General for antitrust review.

(aX1) An applicant for a construction permit for a nuclear power reactor, whose ownership in the proposed nuclear power reactor will entitle it to more than eighty megawatts of electricity (80 MW(e)) from the proposed nuclear unit, shall submit the information requested by the Attorney General as described in Appendix L, if the application is for a class 103 permit.

(2) An applicant for a construction permit for a nuclear power reactor, whose ownership in the proposed nuclear power reactor will entitle it to more than twenty megawatts of electricity (20 MW(e)) but no more than eighty megawatts of electricity (80 MW(e)) from the proposed nuclear unit, shall submit the information requested by the Attorney General as described in paragraph 9 of Section II of Appendix L; and, upon request of the Commission, the applicant shall furnish the other information as described in Appendix L.

(3) An applicant for a construction permit for a nuclear power reactor, whose ownership in the proposed nuclear power reactor will entitle it to twenty megawatts of electricity (20 MW(e)) or less from the proposed nuclear unit, is not required to submit the information as described in Appendix L unless specifically requested by the Commission to provide the information.

(4) The information described in paragraphs (aX1) and (2) of this section shall be submitted as a separate document prior to any other part of the license application as provided in paragraph (b) and in accordance with § 2.101 of this chapter.

* * * * *

(e) Any person who applies for a class 103 construction permit for a uranium enrichment or a fuel reprocessing plant shall submit such information as may be requested by the Attorney General for antitrust review, as a separate document as soon as possible and in accordance with § 2.101 of this chapter.

(Secs. 103, 105, 161, Pub. L. 83-703, 84-1006, 68 Stat. 939, 938, 948, 70 Stat. 1069, 84 Stat. 1472 (42 U.S.C. 2133, 2135, 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 20th day of April, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-11369 Filed 4-25-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 523, 526, 545, 561, 563 and 564]

[No. 78-351]

FEDERAL SAVINGS AND LOAN SYSTEM

Amendments Concerning Tax and Loan Accounts

APRIL 18, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposes to permit Federal savings and loan associations to participate as depositories for Federal taxes and as Treasury tax and loan depositories, as authorized by Pub. L. 95-147 of October 28, 1977. This action is needed because the Board's present regulations do not authorize such participation.

DATE: Comments must be received on or before May 26, 1978.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Rebecca H. Laird, Associate General Counsel, Federal Home Loan Bank Board, 202-377-6446, at the above address.

SUPPLEMENTARY INFORMATION: Pub. L. 95-147 has made it possible for savings and loan associations, including those with Federal charters, to participate in the Treasury tax and loan account system. Previously, only incorporated banks and trust companies were eligible.

The regulatory changes required to enable Federal associations to participate in the Treasury program are minor. Basically, they would explicitly authorize Federal associations to pledge collateral and maintain appropriate withdrawable accounts—tax and loan accounts and note accounts.

The Board proposes to alter a number of its other regulations to fit tax and loan and note accounts into the existing provisions governing liquidity, insurance coverage and premiums, Federal insurance reserve, and borrowings.

Concerning liquidity, both tax and loan accounts and note accounts will be counted in the liquidity base. However, if the collateral pledged by an association against either a tax and loan account or a note account contained liquid assets as defined by the Board, the assets could be counted toward meeting the liquidity requirement notwithstanding the pledge.

Insurance coverage will be $40,000, and will extend only to the tax and loan account (§§ 564.2(c), 561.3). With respect to insurance premiums and FIR, calculations pertaining to tax and loan accounts will be done on an averaged basis, rather than as of year end, to take into account possible large fluctuations in the balances of such accounts. Since note accounts are not considered eligible for insurance, they will not be taken into account for either premium or FIR purposes. Regarding the regulation imposing restrictions on borrowings, note accounts will be exempted from coverage (§ 563.8).

The remaining changes would clarify the status or effects of the new accounts. They would expressly remove note accounts from rate control (§ 526.2-1), and exclude both types of accounts from the prohibition against issuance by insured institutions of demand securities (§ 563.8). In addition, to ensure conformity of terminology and avoid confusion of tax and loan accounts and note accounts with savings accounts or savings deposits, new definitional language would be added (§§ 526.1 (e), (n), (o), 561.11b, 561.11c).

Accordingly, the Board proposes to amend: Part 523 by revising § 523.10 (d) and (e), and adding a new paragraph (j); Part 526 by revising paragraph (e) of § 526.1 and adding thereto