

FINAL SUPPORTING STATEMENT  
FOR  
BANKRUPTCY FILING; NOTIFICATION REQUIREMENTS

10 CFR 50.54(cc)

DESCRIPTION OF THE INFORMATION COLLECTION

Under Section 50.54(cc), licensees are required to notify the appropriate NRC regional office immediately in writing in the event of the commencement of a bankruptcy proceeding involving the licensee, indicating the bankruptcy court in which the petition was filed and the date of the filing. There is no action required of a licensee unless and until a bankruptcy petition is filed.

A. JUSTIFICATION

1. Need for and Practical Utility of the Collection of Information

A licensee who is experiencing severe economic hardship may not be capable of carrying out licensed activities in a manner which protects public health and safety. In particular, a licensee involved in bankruptcy proceedings can have problems affecting payment for proper handling of licensed radioactive material and for decontamination and decommissioning of the licensed facility in a safe manner. Improper materials handling or decontamination activities can lead to spread of contamination throughout a licensee's facility and the potential for dispersion of contaminated material offsite. Financial difficulties can also result in problems affecting the licensee's waste disposal activities.

Instances have occurred in which licensees filed for bankruptcy and the NRC has not been aware that this has happened. NRC inspectors have found belatedly that a licensee has vacated property and abandoned licensed material or that a licensee has been unable to decontaminate its facility and properly dispose of the waste. The NRC is to be notified of these situations promptly so that it can take necessary actions to assure that the health and safety of the public is protected.

2. Agency Use of Information

Notification to NRC in cases of bankruptcy would alert the NRC so that it may deal with potential hazards to public health and safety posed by a licensee that does not have the resources to properly secure the licensed material or clean up possible contamination. The information provided by the required notification would be used by the regional inspection and licensing staff, in consultation with headquarters legal and program staff, to initiate a determination of the need for prompt NRC response or regulatory action. NRC actions may include orders to modify or amend a license or other necessary action and could include limitations on licensed activity which would only permit the storage of licensed material. The NRC has taken these actions in the past in similar circumstances. In addition, prompt notification to NRC would allow it to take timely and appropriate action in a bankruptcy proceeding to seek to have available assets of the licensee applied to cover costs of site cleanup before funds are disbursed and become unavailable for cleanup.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. Moreover, NRC encourages its use. However, at the present time, because of the type of information this notification is transmitting and the urgency that it reach the attention of the proper officials immediately so that action can be taken, the notification is not submitted electronically.

4. Effort to Identify Duplication and Use Similar Information

This requirement is not duplicated in other Federal regulations. The Information Requirements Control Automated System was searched for duplication and none was found.

There is no similar information available in a form which can be used by NRC for the purpose described in Item 2. Thus, although a licensee's involvement in a bankruptcy proceeding will be recorded at a bankruptcy court and although the United States Code contains requirements regarding notification of creditors of the commencement of bankruptcy proceedings, this information is not generally available to the NRC in a timely manner so that it can take necessary actions to protect public health and safety. The resources which would have to be committed by the NRC in monitoring bankruptcy court filings are far in excess of the small burden imposed by this regulation.

5. Effort to Reduce Small Business Burden

All affected licensees are either electric utilities operating power reactors or universities operating research and test reactors. No notifications are expected to be received from universities.

6. Consequences to Federal Program or Policy Activities if the Collection is Not Conducted or is Conducted Less Frequently

Information is required to be collected only following the filing of a petition for bankruptcy which is not expected to occur more than one time during the license period of a licensee. If the requested information were not collected at this time, NRC might not be aware of a licensee's significant financial problems. Without this information, NRC may not be aware of potential public health and safety problems and not able to act in a timely manner to protect public health and safety.

7. Circumstances which Justify Variation from OMB Guidelines

The subject regulation varies from OMB guidelines by requiring that licensees submit the notification in less than 30 days from the date of filing of the petition in bankruptcy. The requirement to provide notification promptly following the filing of the petition is a reasonable measure to ensure that NRC is made aware of the bankruptcy so as to take effective action to protect public health and safety. Allowing a period of 30 or more days to elapse might preclude NRC from becoming aware of the licensee's distressed financial circumstances in time to prevent the development or aggravation of a potential hazard to the public. Moreover, the United States Code contains requirements regarding notification of creditors of

bankruptcy. This regulation requires one additional notification. Notifying NRC promptly after the filing of the petition would in fact be less of a burden on the bankrupt than a separate notification later in the proceedings since these notifications are accomplished by forwarding to NRC a copy of the petition.

8. Consultations Outside the NRC

The opportunity for public comment was published in the Federal Register on August 29, 2003 (68 FR 52063). No comments were received.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

Confidential or proprietary information will be protected in accordance with the provisions of 10 CFR 2.790 and 9.17 of the NRC's regulations.

11. Justification for Sensitive Questions

This regulation does not request sensitive information.

12. Estimated Industry Burden and Burden Hour Cost

It is estimated that 127 licensees would need approximately 1 hour each to notify the NRC about a bankruptcy filing. However, no industry burden is expected during the clearance period because no bankruptcy notifications are anticipated at this time.

13. Estimate of Other Additional Costs

None.

14. Estimated Annualized Cost to the Federal Government

No cost is expected because no bankruptcy notifications are anticipated at this time.

15. Reasons for Changes in Burden or Cost

There has been no change in burden.

16. Publication for Statistical Use

The collected information is not used for statistical purpose.

17. Reason for Not Displaying the Expiration Date

The requirement is contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

None.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.