

April 4, 2006

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: J. E. Dyer, Director */RA/*
Office of Nuclear Reactor Regulation

SUBJECT: DIRECT FINAL RULE - AMENDING REQUIREMENTS IN PARTS 50
AND 72 REGARDING THE REQUIREMENT TO SUBMIT ANNUAL
FINANCIAL REPORT

Attached for your signature is a direct final rule and associated proposed rule that amends 10 CFR 50.71(b) so that licensees who file financial reports with the Securities and Exchange Commission (SEC) or with the Federal Energy Regulatory Commission (FERC), need not submit annual financial reports, including the certified financial statements, to the Commission. The NRC is also amending 10 CFR 72.80(b) so that Independent Spent Fuel Storage Installation (ISFSI) licensees who file financial reports with the SEC or the FERC, need not submit annual financial reports, including the certified financial statement, to the Commission.

Background: In SECY-02-0081, "Staff Activities Related to the NRC Goal of Reducing Unnecessary Regulatory Burden on Power Reactor Licensees," dated May 13, 2002, the NRC staff described various interactions with stakeholders regarding ways to reduce unnecessary regulatory burden. By memorandum dated June 25, 2002, the Commission directed the staff to proceed with its evaluation of possible rule changes. In developing the initiative described in SECY-02-0081, the NRC staff had solicited observations and suggestions by placing a notice in the Federal Register (66 FR 22134; May 3, 2001) and sponsoring a workshop on May 31, 2001. In a letter dated July 2, 2001, the Nuclear Energy Institute (NEI) provided a list of suggestions from its members for possible changes to several regulations that could reduce unnecessary regulatory burden.

The annual reports and the certified financial statements currently required by §50.71(b) and 72.80(b), are typically written for the shareholders, and contain information pertaining to financial qualifications, such as: (1) a letter to the shareholders that covers the company's changing conditions, goals achieved or missed, and its outlook; (2) sales and marketing data showing the product lines of the company, sales volume, and the products that produce the most revenue; (3) CPA (certified public accountant) opinion letter on the company's financials; (4) list of directors and officers; (5) management discussion and analysis of significant financial trends; (6) consolidated financial statements that show multi-year trends in revenue, spending, profits, inventory and debt; (7) trends in the stock price; and (8) notes to the consolidated financial statements that explain most line items on the financials. By comparing the company's past year performance to previous years, insights can be obtained as to how the company, as a whole, has been doing financially as of the end of the past year.

Because the information in the annual report may be outdated by the time it is published and submitted to the NRC, the staff has been using in many instances, a more current source of information, called Form 10-Q, the quarterly financial report submitted to the SEC. Form 10-Q usually contains: (1) the three months and the year-to-date income statement compared to the same period of the previous year; (2) the company's balance sheets; (3) the three months and year-to-date cash flow statements compared to the same period of the previous year; (4) notes to the consolidated financial statements; and (5) management discussion and analysis of financial condition and results of operations. The Form 10-Q gives a snap shot of the company's performance on a quarterly basis. The report can be found posted on the company's web site as well as on the SEC website. Similarly, Form 1, submitted to the FERC contains similar up-to-date financial information that can be electronically accessed by the staff.

The staff has concluded that for licensees that are required to file financial reports with the SEC or the FERC, licensee financial information can be collected in a more cost-effective way than requiring licensees to submit the reports required by 10 CFR 50.71 (b) and 10 CFR 72.80 (b). The NRC has access to other more current sources of information than the annual financial reports to assess the licensees' financial condition, making the submittal of the annual financial report to the NRC unnecessary. Additionally, NRC has the authority to request licensees to submit additional or more detailed information regarding their financial status if the Commission considers this information appropriate.

Accordingly, the staff has concluded that 10 CFR 50.71(b) "Maintenance of records, making of reports" and 10 CFR 72.80(b) "Other records and reports" may be revised in order to eliminate reporting requirements for licensees who already file financial reports with the SEC or the FERC.

Notices: A notice to the Commission that the EDO has signed the attached final rule is attached (Enclosure 4). Appropriate congressional committees will be also notified.

Resources and Coordination: The Office of the General Counsel has no legal objection to this rulemaking. The Office of the Chief Financial Officer has no resources-related objection to this rulemaking. The Office of Administration concurs with this paper. It is anticipated that 0.3 NRR FTEs will be needed to complete this action. These resources are within existing budget allocations. Copies of this concurrence package have been forwarded to ACRS, ACNW, CRGR, CFO, CIO, OE, and IG for information.

Enclosures:

1. Federal Register Notice of Final Rulemaking
2. Approved for Publication
3. Federal Register Notice of Proposed Rulemaking
4. Notice of Final Rule Signed by EDO
5. EDO Daily Note
6. EDO Weekly Notice
7. SBREFA Forms
8. Congressional Letters

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Enclosure 1: ML060270034 Enclosure 2: ML060270039 Enclosure 3: ML060270056 Enclosure 4: ML060270037
 Enclosure 5: ML060270058 Enclosure 6: ML060270063 Enclosure 7: ML060270489 Enclosure 8: ML060270083
 ADAMS Accession Number: ML053500087 Package Accession Number: ML053500098

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DIRECT FINAL RULE RELATED TO THE NRC GOAL OF REDUCING UNNECESSARY
REGULATORY BURDEN ON PARTS 50 AND 72 LICENSEES

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