

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50 and 72

RIN: 3150-AH39

Submission of Annual Financial Reports: Elimination of Requirement

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations so that licensees who file financial reports with the Securities and Exchange Commission (SEC) or the Federal Energy Regulatory Commission (FERC), need not submit annual financial reports, including the certified financial statements, to the Commission. The Commission is also proposing to amend its regulations 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 statements, to the Commission.

EFFECTIVE DATES: Comments on the proposed rule must be received on or before (insert date 30 days after publication in the *Federal Register*).

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number RIN 3150-AH39 in the subject line of your comments. Comments on rulemakings or petitions submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

E-mail comments to: [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking website at <http://ruleforum.llnl.gov>. Address questions about our rulemaking website to Ms. Carol Gallagher, (301) 415-5905 (e-mail: [CAG@nrc.gov](mailto:CAG@nrc.gov)). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm on Federal workdays. (Telephone (301) 415-1966)

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking or petition may be viewed electronically on the public computers located at the NRC Public Document Room (PDR), O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking website at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm.html>. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone

(301) 415-3224, e-mail [MTJ1@nrc.gov](mailto:MTJ1@nrc.gov).

SUPPLEMENTARY INFORMATION:

For additional information see the direct final rule published in the Rules and Regulations section of this *Federal Register*.

Background

Section 182.a of the Atomic Energy Act of 1954, as amended, provides that each application for a license shall state such information as the Commission, by rule or regulation, may determine to be necessary to decide the financial qualifications of the applicant as the Commission may deem appropriate for the license. The Act and the Commission's regulations reflect that the fundamental purpose of the financial qualifications provision of that section is the protection of the public health and safety and the common defense and security. Although the Commission's safety determinations required for the issuance of facility licenses are based upon extensive and detailed technical review, an applicant's financial qualifications can also contribute to its ability to meet its responsibilities on safety matters.

Discussion

NRC considers this action noncontroversial and is publishing this proposed rule concurrently as a direct final rule. The Commission considers this rulemaking action noncontroversial because 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, that may be outdated by the time it is published. The reports can be found posted on the company's web site as well as on the SEC or FERC websites. The NRC 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. The direct final rule will become effective on (insert date 75 days after publication of the *Federal Register*). However, if the NRC receives significant adverse comments on the direct final rule by (insert date 30 days after publication in the *Federal Register*), then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when –

(A) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(B) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(C) The comment raises a relevant issue that was not previously addressed or

considered by the staff.

(2) The comment proposes a change or an addition to the rule and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

### List of Subjects

#### 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

#### 10 CFR PART 72

Administrative practice and procedure, Hazardous waste, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act for 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendment to 10 CFR Parts 50 and 10 CFR Part 72.

#### PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for 10 CFR part 50 continues to read as follows:

AUTHORITY: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112

Stat. 2750 (44 U.S.C. 3504 note).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(d), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.71, paragraph (b) is revised to read as follows:

**§50.71 Maintenance of records; making of reports.**

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(a)

(b) With respect to any production or utilization facility of a type described in §50.21(b) or 50.22, or a testing facility, each licensee and each holder of a construction permit shall submit its annual financial report, including the certified financial statements, to the Commission, as specified in §50.4, upon issuance of the report. However, licensees and holders of a construction permit who submit a Form 10-Q with the Securities and Exchange Commission or a Form 1 with the Federal Energy Regulatory Commission need not submit the annual financial report or a certified financial statement under this paragraph.

PART 72 - LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.

3. The authority citation for 10 CFR Part 72 continues to read as follows:

AUTHORITY: Secs, 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended; sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended; 202, 206, 88 Stat. 1242, as amended; 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241; sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under section 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)), Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (U.S.C. 10198).

4. In § 72.80, paragraph (b) is revised to read as follows:

**§72.80 Other records and reports.**

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(a)

(b) Each licensee shall furnish a copy of its annual financial report, including the certified financial statements, to the Commission. However, licensees who submit a Form 10-Q with the Securities and Exchange Commission or a Form 1 with the Federal Energy Regulatory Commission, need not submit the annual financial report or a certified financial statement under this paragraph.

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Dated at Rockville, Maryland, this 2<sup>nd</sup> day of May, 2006.

For the Nuclear Regulatory Commission.

**/RA/**

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Luis A. Reyes,  
Executive Director for Operations.

**§72.80 Other records and reports.**

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(a)

(b) Each licensee shall furnish a copy of its annual financial report, including the certified financial statements, to the Commission. However, licensees who submit a Form 10-Q with the Securities and Exchange Commission or a Form 1 with the Federal Energy Regulatory Commission, need not submit the annual financial report or a certified financial statement under this paragraph.

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Dated at Rockville, Maryland, this 2<sup>nd</sup> day of May, 2006.

For the Nuclear Regulatory Commission.

**/RA/**

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Luis A. Reyes,  
Executive Director for Operations.

Enclosures:

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

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

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