

WordPerfect Document Compare Summary

Original document: P:\RG 1.206 draft\C.IV.5.wpd

Revised document: @PFDesktop\MyComputer\C:\Documents and Settings\dlc3.NRCDOMAIN\Application Data\NRC\ADAMSDesktop\Cache\ML0706300380.wpd

Deletions are shown with the following attributes and color:

~~Strikeout~~, **Blue** RGB(0,0,255).

Deleted text is shown as full text.

Insertions are shown with the following attributes and color:

Double Underline, **Redline**, **Red** RGB(255,0,0).

The document was marked with 111 Deletions, 107 Insertions, 0 Moves.

C.IV.5. ~~General~~ 5 General and Financial Information

An application for a ~~combined construction and conditional operating license (COL)~~ for a nuclear power plant ~~should~~must provide the information specified by ~~Title 10, Section 52.77, of the Code of Federal Regulations (10 CFR 52.77), “Content~~10 CFR 52.77, “Contents of applications; general information.” More precisely, ~~for construction permits and operating license applications, the COL~~ application ~~should~~must address the general and financial information ~~requirements, specified~~requirements specified in 10 CFR 50.33, “Content of applications; general information.”

~~As discussed in Section C.IV.9, “Applicability of Industry Guidance,” the Nuclear Energy Institute (NEI) developed Draft Revision E of NEI-04-01, “Industry Guideline for Combined License Applicants Under 10 CFR Part 52,” which summarizes, in part, the basic information requirements for a COL application. This section provides guidance drawn from NEI-04-01 and augmented by staff input and comments.~~

C.IV.5.1 General Information

The COL application ~~should~~must provide the following general information:

- name and address of the applicant
- description of the business or occupation of the applicant
- typeclass of license applied for
- use to which the facility ~~would~~will be put
- period of time for which the license is sought
- list of other licenses issued or applied for in connection with the proposed facility
- except for applications submitted by electric utilities, information sufficient to demonstrate the applicant’s financial qualifications to carry out the activities for which the license is sought, including the following:
 - ≡ estimates of the total construction costs and related fuel cycle costs; and sources of as well as sources of funds to cover ~~the~~ese costs
 - ≡ information showing that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction and related fuel cycle costs
 - ≡ information showing that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover the estimated operating costs for the period of the license
 - ≡ estimates of the total annual operating costs for each of the first 5 years of operation, and as well as sources of funds to cover those costs

In addition, if the applicant is an individual, the application ~~should~~must contain the citizenship of the applicant.

Alternatively, if the applicant is a partnership, the application ~~should~~must contain the following:

- name, address, and citizenship of each partner
- principal location ~~of~~where the partnership does business

Similarly, if the applicant is a corporation or unincorporated association, the application ~~should~~must contain the following:

- ~~the~~ State where ~~the corporation is~~it is incorporated or organized
- principal location of ~~the~~where it does business
- name, address, and citizenship of each director and principal officer of the corporation or association
- information on whether the corporation or unincorporated association is owned, controlled, or dominated by an alien, foreign corporation, or foreign government (if so, ~~the application~~ include details in the application)

If the applicant is a Federal agency, including a corporate agency and instrumentality of the Federal Government, the application should ~~provide details~~

contain the following:

- the agency's enabling legislation
- the location of the agency's headquarters
- the name and address of the principals of the agency, including, if applicable, that of each director, principal officer, board member, or commissioner of the agency

If the applicant is acting as an agent or representative of another person in filing the application, the applicant ~~should~~must identify the principal and furnish the information described above, as applicable to the individual, partnership, corporation, or unincorporated association.

Applications filed by a newly formed entity organized for the primary purpose of constructing or operating the facility must include the following information:

- legal and financial relationships the entity has or proposes to have with its stockholders or owners
- stockholders' or owners' financial ability to meet any contractual obligation to the entity that they have incurred or proposed to incur
- any other information that the Commission considers necessary to enable it to determine the applicant's financial qualifications

~~If the applicant proposes to construct the facility, the applicant should state the earliest and latest dates for completion of construction.~~ The applicant ~~should~~must also provide the names and addresses of regulatory agencies that may have jurisdiction over rates and services incident to the proposed activity, as well as a list of trade and news publications that would be appropriate to provide reasonable notice of the application to those municipalities, private utilities, public bodies, and cooperatives that might have a

potential interest in the facility.

All restricted ~~and/or other~~ defense ~~data~~information developed as part of the application ~~should~~must be separated from the unclassified information.

C.IV.5.2 Commission Activities

The Commission will make the following information available on the NRC²s public Web site:

- a copy of the application
- copies of subsequent amendments
- records pertinent to the facility

The Commission may request that an established utility or newly formed entity ~~to~~ submit additional or more detailed information regarding financial arrangements; and the status of funds, if the Commission considers the information appropriate. This may include information regarding the licensee's ability to conduct activities authorized by the license and to complete decommissioning.

C.IV.5.3 Financial Qualifications

The Commission's regulations in 10 CFR 50.33, ~~“Contents of applications; general information,”~~ require COL applicants (except electric utilities) to submit financial qualification information to the NRC as part of the COL application. ~~A Revision 1 of NUREG-1577, provides additional guidance is provided in NUREG-1577, “Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance,” Revision 1.~~

The COL application should provide information to demonstrate that the applicant either possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs, related fuel cycle costs, and the costs of operation for the period of the license. Appendix C, “A Guide for the Financial Data and Related Information Required To Establish Financial Qualifications for Facility Construction Permits and Combined Licenses.” to 10 CFR Part 50 provides more specific information on ~~what is to be~~ the information to provided to support the NRC's financial qualification determination for ~~construction permits~~COLs.

If one or more of the ~~applicant(s)~~applicants is a newly-formed entity¹; as described in ~~NUREG-1577, Revision 1 to NUREG-1577,~~ the COL application ~~must~~should contain additional information regarding the financial status of each newly formed entity. The ~~additional information required~~provisions of ~~newly formed entities is prescribed in~~ 10 CFR 50.33, Appendix C to 10 CFR Part 50, and Revision 1 of NUREG-1577 state the additional information needed of newly formed entities.

C.IV.5.4 Decommissioning Funding Assurance

Each COL applicant for a power reactor ~~is required to~~must describe in its application how it will

¹ A “newly formed entity” is a company that has been formed or organized for the primary purpose of constructing, operating, owning, or decommissioning a nuclear power plant; and does not have an established 5-year financial record; ~~or a~~ demonstrated a financial capability for raising and managing capital similar to the level required to fund a nuclear power plant's construction, capital additions, and operating and decommissioning expenses, as appropriate, or the licensee's stipulated share of those operating expenses. A nuclear operating company formed from an existing power reactor licensee or licensees is a newly formed entity.

provide reasonable assurance that funds will be available to decommission the plant, when required. The regulations in 10 CFR 50.75, “Reporting and Recordkeeping for Decommissioning Planning,” describes the NRC’s requirements for decommissioning funding assurance, which differ depending on whether the plant applicant will be operated as a regulated entity in a cost-of-service environment; or as a merchant plant unregulated entity in a competitive market. For example, a merchant plant unregulated licensee may not rely exclusively on an external sinking fund to provide decommissioning funding assurance.

C.IV.5.4.1 Estimates of Funding Requirements

The COL application must include a report that provides an estimate of total decommissioning costs and the applicant’s funding proposals to cover those costs, as provided in 10 CFR 50.75; “Reporting and recordkeeping for decommissioning planning.” Each report must contain a certification that the applicant will provide financial assurance for decommissioning will be provided no later than 30 days after the Commission publishes a notice in the Federal Register under 10 CFR 52.103(a) in an amount no less than that calculated from the formula given in 10 CFR 50.75. Applicants may provide a certification of a higher amount, based on a detailed site-specific analysis, may be made. The applicant need not obtain or submit at the application stage a copy of the financial instrument to be used in providing financial assurance.

The formula amount must be adjusted using escalation factors for energy, labor, and waste burial costs. Decommissioning costs for which funding assurance must be provided do not include the costs of dismantling or demolishing non-radiological systems and structures. Funding assurance need only cover the removal of radiologically contaminated systems and structures; and the reduction of residual radioactivity to a level that permits (1) release of the property for unrestricted use and termination of the license; or (2) release of the property under restricted conditions and termination of the license. Also, In addition, decommissioning costs for which there must be funding assurance under 10 CFR 50.75 do not include the costs of managing and storing spent fuel on site until transfer to the U.S. Department of Energy for permanent disposal are not included in decommissioning costs for which there must be funding assurance under 10 CFR 50.75.

Holders of a COL shall annually adjust the minimum amount of decommissioning funding assurance that must be provided using the formula (as required by Section 10 CFR 50.75); however, the actual. Both 2 years and 1 year before the scheduled date of initial loading of fuel, consistent with the schedule required by 10 CFR 50.75(e)(3), a holder of a COL shall submit a report to the NRC containing a certification updating the information provided at the application stage. These updated certifications must also include a copy of the financial instruments need not be tendered until instrument to be used for providing financial assurance for decommissioning. The financial instrument may be in draft and unexecuted at this time.

No later than 30 days after the Commission has authorized fuel load publishes a notice in the Federal Register under 10 CFR 52.103(a), the holder of a COL shall submit a report containing a certification that it is providing financial assurance for decommissioning in an amount specified in the COL holder’s most recent updated certification and shall include as part of the certification a copy of the financial instrument obtained to provide financial assurance. The financial instrument should be a final, executed version.

C.IV.5.4.2 Methods for Providing Assurance of Decommission Decommissioning Funding

The regulations in 10 CFR 50.75 allows the following methods for providing financial assurance that decommissioning funding will be available when required:

- prepayment
- deposits into an external sinking fund, escrow account, or government fund that is segregated from the future licensee's administrative control, provided that either of the following conditions are met:

→ = The licensee establishes its own rates and thereby recovers all of its decommissioning costs; or is regulated by an external ratemaking authority, such as a public service commission, and recovers all decommissioning costs through traditional cost-of-service ratemaking regulation

→ = The licensee receives a Federal or State government-mandated non-bypassable wires charge that will cover all decommissioning costs.

- a surety method
- insurance
- a parent company guarantee
- for a Federal licensee, a statement of intent containing a cost estimate for decommissioning and indicating that funds will be available for decommissioning when necessary
- certain acceptable contractual obligations
- any other method proposed by the licensee and approved by the NRC, that provides mechanism, or combination of mechanisms, that provides, as determined by the NRC, assurance of decommissioning funding equivalent to that provided by the above methods

Any Applicants may use any of the above methods (or combination thereof) may be used to provide decommissioning funding assurance, with the exception that, as stated in 10 CFR 50.75(e)(1)(ii)(A) and (B), licensees that are not self-regulated or not regulated by a cost-of-service ratemaking authority or whose decommissioning funds are not entirely provided through a non-bypassable wires charge are precluded from relying may not rely solely on an external sinking fund.

The estimate of funding provided for in the application may take limited credit for earnings on the decommissioning on decommissioning funds to be prepaid or collected and deposited into a sinking fund, as provided by 10 CFR 50.75. More detailed guidance is, when calculating the amount of financial assurance being provided in Revision 1 of NUREG-1577 and Revision 1 of Regulatory Guide 1.159, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors," provide more detailed guidance.²²

C.IV.5.5 Antitrust Requirements

The Energy Policy Act of 2005 amended the Atomic Energy Act to eliminate the previous statutory requirement that the NRC must conduct an antitrust review for new applicants to construct or operate utilization or production facilities.

C.IV.5.6 Foreign Ownership Restrictions

Foreign

Section 103d of the Atomic Energy Act, as amended, and 10 CFR 50.38 prohibit foreign ownership, control, or domination of a power reactor licensee ~~is prohibited by Sections 103d and 104d of the Atomic Energy Act and 10 CFR 50.38.~~ The Commission will not issue a license to an applicant if the Commission knows or has reason to believe that the applicant is an alien or is owned, controlled, or dominated by an alien; or by a foreign corporation or foreign government. The Commission must be able to conclude that issuance of a license to an entity (whether or not a foreign ownership or control issue is raised) would not be inimical to the common defense and security or the health and safety of the public.

Some degree of foreign ownership may be allowed under certain circumstances. The principal guidance document is the NRC's "Final Standard Review Plan on Foreign Ownership, Control, or Domination" (~~64 FR 52355 et seq., September 28, 1999).~~

C.IV.5.7 References

~~Nuclear Energy Institute, "Industry Guideline for Combined License Applicants Under 10 CFR Part 52," NEI 04-01, Revision E, Draft, October 5, 2005.~~
Volume 64 of the Federal Register, page 52355).