


File

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

April 25, 1980

**CONSENT CALENDAR ITEM** SECY-80-217

For: The Commissioners

From: Harold R. Denton, Director  
Office of Nuclear Reactor Regulation 

Thru: Acting Executive Director for Operations

Subject: ISSUANCE OF FEDERAL REGISTER NOTICE FOR PUBLIC COMMENT  
ON THE GENERIC FINANCIAL QUALIFICATIONS ISSUE

Purpose: To obtain Commission approval of a Federal Register Notice inviting public comments on the alternatives of either materially reducing or eliminating the requirements with respect to financial qualifications during the licensing process.

Discussion: By memorandum dated March 11, 1980 from the Secretary, the Commission indicated that it had reviewed SECY-79-299, "Generic Issue of Financial Qualifications: Licensing of Production and Utilization Facilities." As a result of its review, the Commission requested in the same memorandum that the staff prepare a Federal Register Notice (Enclosure 1) inviting public comment on the alternatives of either materially reducing or eliminating the requirements with respect to financial qualifications during the licensing process.

The staff notes that on May 25, 1978, it notified the public (43 FR 22373) of the Commission's order [in Public Service Company of New Hampshire, et. al. (Seabrook Station, Units 1 and 2) 7 NRC 1 at 20, CLI-78-1 (1978)] for a study of the generic financial qualifications issue. The staff requested interested members of the public to submit comments on the issue and to propose specific changes to the rules. In response to the notice seven sets of comments were received. Six of the submittals were from electric utilities, the Edison Electric Institute or law firms representing electric utilities. The law firms' clients hold construction permits and operating licenses for nuclear power plants. The seventh set of comments was from the National Consumer Law Center, Inc. (NCLC). A summary of the public comments is presented in SECY-79-299 (pp. 3-5) and a detailed analysis is presented in enclosure 1 of SECY-79-299. The utilities, the EEI and the law firms recommended that the regulations be revised to reduce

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substantially the scope of NRC's financial qualifications review. The NCLC recommended that the requirements be expanded to require the submittal of additional financial information.

The staff recognizes that the previous commenters were few in number. A second request for comments at this time may result in more comments submitted by a larger group of commenters, even though no developments specifically germane to the existing requirements have occurred in the intervening period. Nuclear regulation and financial qualifications have greater visibility today than they did in 1978 when the first Federal Register Notice invited comments. However, each of the comments submitted earlier appeared to be well reasoned and carefully researched. Also, a majority of the commenters recommended a substantial reduction in the financial qualifications requirements, an alternative that the Commission is apparently considering at present. Accordingly, the Commission may want to consider eliminating the second request for comments, and instead, acting on the staff's recommendations in SECY-79-299 which would substantially reduce the scope of the financial qualifications review.

The staff is conducting a comprehensive study of decommissioning which will include a proposed rule that would establish more explicit overall policy for nuclear facility decommissioning. The study includes an exhaustive review of methods for financing both planned and premature decommissioning. At the conclusion of its study the staff may recommend financial qualifications requirements related specifically to decommissioning. Since decommissioning financing may be seen as a special case, separate from NRC's current financial qualifications requirements, the staff may propose specific decommissioning financing requirements even if the current financial qualifications requirements are either materially reduced or eliminated.

These actions involve no new resource requirements.

The Commissioners

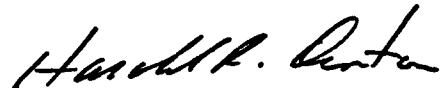
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Recommendation:

If the Commission does in fact desire to seek a second round of comments at this time, the staff recommends approval of the Federal Register Notice at Enclosure 1. Alternatively, the staff expresses its preference for approval of its recommendations in SECY-79-299: retain the requirement for a demonstration of financial qualifications, but reduce the scope of review for those applicants whose financial condition so warrants. This action would substantially reduce the scope of the financial qualifications review.

Coordination:

This paper has been concurred in by the Antitrust and Indemnity Group of NRR and the Office of Standards Development. The Office of the Executive Legal Director has no legal objection.



Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

Enclosure:

1. Federal Register Notice requesting public comments

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Tuesday, May 13, 1980.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT May 6, 1980, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of May 19, 1980. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

DISTRIBUTION

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ENCLOSURE 1

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Generic Issue of Financial Qualifications

AGENCY: Nuclear Regulatory Commission

ACTION: Request for comments.

SUMMARY: The NRC previously instructed the NRC staff to initiate a rulemaking proceeding with respect to the requirement for demonstrating financial qualifications to obtain Part 50 licenses for production and utilization facilities. Pursuant to this request, a notice of initiation of rulemaking was published at 43 FR 22373. As a result of comments received in response to this notice and also in light of the more recent events surrounding the Three Mile Island, Unit No. 2 nuclear accident, the NRC and the NRC staff are continuing to analyze the relationship between the NRC's financial qualifications requirements and the safe construction and operation of nuclear power plants. This analysis includes consideration of the factual, legal, and policy aspects of the financial qualifications issue, as well as the adequacy of the present rules and practices involved.

DATE: Comments are due on or before \_\_\_\_\_.\*

\_\_\_\_\_  
\* Insert date 60 days from publication in Federal Register.

ADDRESS: Send comments to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D. C. 20555.

FOR FURTHER INFORMATION CONTACT: Mr. Jim C. Petersen (301) 492-7331

SUPPLEMENTAL INFORMATION: At the Commission's request, the staff invites interested parties to submit comments relating to the alternatives of either materially reducing or eliminating the current requirements with respect to financial qualifications in order to simplify this aspect of the licensing process. These requirements are specified at Title 10 CFR, Part 50, Section 50.33 (f) and Appendix C to Part 50. Under these requirements an applicant for an NRC construction permit or operating license must demonstrate that it possesses or has reasonable assurance of obtaining the funds to carry out the activities for which the permit or license is sought.

The comments should address the aspects identified above and include any suggestions for specific changes to the rules. The staff has under separate study financial requirements

in the areas of decommissioning, major accident clean-up costs and concerns expressed by NRC's Special Inquiry Group regarding the TMI-2 accident. The staff is not inviting public comment at this time on these latter three areas. The staff may in the future propose financial requirements in these areas to the Commission for NRC applicants and licensees.

Following receipt of all comments and suggestions in response to this notice, the staff will evaluate them and integrate them where appropriate into a proposed policy position for consideration by the Nuclear Regulatory Commission.

All interested persons who desire to submit written comments or suggestions should send their comments to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, on or before

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\* Insert date 60 days from publication in Federal Register.

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Dated at Bethesda, Maryland, this \_\_\_\_\_ day of  
\_\_\_\_\_, 1980.

For the Nuclear Regulatory Commission.

William J. Dircks  
Acting Executive Director for Operations

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Insert date 60 days from publication in Federal Register.

Enclosure 1