

ET NUMBER
PROPOSED RULE

PR-50

(46 FR 41786)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Proposed Rule:
10 CFR Par 50
Financial Qualifications;
Domestic Licensing of
Production and Utilization
Facilities



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PEOPLE OF THE STATE OF ILLINOIS COMMENTS

The NRC has issued a proposed rule (46 F. l. Reg. 41786) which would:

1. eliminate entirely the requirement of a financial qualifications review for construction permit applicants;
2. also eliminate the financial qualification requirements for operating license applicants;
3. retain these requirements insofar as they require submission of information concerning the costs of permanently shutting down the facility and maintaining it in a safe condition (decommissioning). In addition, utilities could be required to maintain the maximum amount of on-site property damage insurance.

As support for the abolition of these safety related requirements, the NRC relies on the several erroneous propositions.

The Commission "believes that its existing financial qualifications review has done little to identify substantial health and safety concerns at nuclear power plants." However, the NRC then admits that financial qualifications may affect matters important to safety. The purpose of the financial qualification review is exactly that, and is set forth unequivocally in 10 CFR part 50, Appendix C:

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The Act and the Commission's regulations reflect that the fundamental purpose of the financial qualifications provision of [42 U.S.C. §2232] is the protection of the public health and safety and the common defense and security.

Although, the Commission's safety determinations required the issuance of facility licenses based upon extensive and detailed technical review, an applicant's financial qualifications can also contribute to his ability to meet his responsibilities in safety matters. 33 Fed. Reg. 9704 (July 4, 1968).

Thus, the NRC acknowledged that the Congressional intent behind the Act manifests an effort to erect a double line of defense for the protection of the public health and safety.

The purpose of the financial qualifications review is not to "identify...safety concerns" but is to ensure that the utility is financially equipped to observe the strict standards necessary to protect the public health and safety.

The second erroneous NRC presumption, built upon the first, is that "technical reviews and inspection efforts are effective, direct methods of discovering deficiencies that could affect public health and safety." It makes much more sense prior to issuing a construction permit to review whether or not a company is financially equipped to meet high safety standards rather than to have an NRC inspector discover below-quality workmanship after the fact. Furthermore, the NRC does not have sufficient staff to thoroughly examine each utility during and after construction. In fact, the report of a recent Congressional investigation documents the deficiencies in NRC's inspection program for operating reactors.^{1/} Chairman Ahearn has written: "We are

particularity concerned about the public health and safety impact of the increasing number of reactor inspector vacancies." ^{2/}Moreover, the inspectors that are on the job are so busy doing "reactive inspections" to verify completion of new requirements and of previous enforcement actions, that only an average of 60% of routine preventive inspection is being accomplished. ^{3/}

The Congressional report concluded that "at present the NRC inspection program is not capable of offering . . . genuine assurance that the nuclear power industry is being safely operated."^{4/}

The NRC rarely does more than a "paper" or "desk top" review of licensees activities and these reviews are only of a fraction of those activities. It is unrealistic to think that NRC inspectors will catch all, or even a large portion of, either deviations from safety requirements or "corner-cutting."

The next presumption relied on by the Commission falls just short of preposterous. The Commission believes that regulated electric utilities, because they are regulated, will be able to meet the costs of safe construction and operation of a nuclear facility. Public Utility Commissions do not bear the responsibility of determining that a company has the finances available to construct a nuclear power plant.

^{1/} "Inspection Operating Nuclear Power plants: Shortcomings in the Nuclear Regulatory Commission Program," H.R. 97-144, Committee on Government Operations, 97th Cong. 1st Sess., June 12, 1981.

^{2/} Id., at 18, emphasis added.

^{3/} Id., at 14-15.

^{4/} Id. at 46, emphasis added.

There is no assurance whatsoever that costs can be recovered through a ratemaking process. Furthermore, the ratemaking process occurs subsequent to expenditures made on construction and in no way guarantees that the company's costs were related to either compliance with strict safety standards or high quality workmanship.

The proposed NRC rule is supposed to reduce or eliminate staff review on the presumption that an electric utility is able to finance the activities to be authorized under the permit. The NRC is ignoring reality; if anything, staff review of financial qualifications should be increased. It is well known that currently Washington Public Power Supply System has not been able to successfully finance all of its five proposed plants. Additionally, it is not an unlikely proposition that with the high inflation and financial pressures currently felt by utilities, the desire to keep construction costs down could easily result in poor quality assurance and quality control; the current proceedings in the South Texas case are an excellent example of failure to implement a decent QA/QC program.

Finally, the NRC should retain and strengthen the requirements that utilities demonstrate, as a condition for licensing, their ability to cover decommissioning costs. This requirement should not be limited to decommissioning, but should include the ability to finance costs of cleanup after an accident such as TMI-2.

CONCLUSION

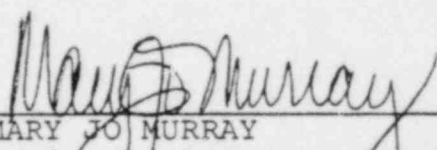
The Commission should retain, strengthen and enforce it financial qualifications requirements. A utility, before it is permitted to proceed with construction of a nuclear power plant, should be able to show that it has the financial capability to construct, operate, decommission and cover the costs of an accident. It is certainly questionable whether any utility which cannot do so successfully can meet either the strict safety standards of construction and operation, the costs of cleanup of an accident or the costs of decommissionsing.

Respectfully submitted

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DATED: October 19, 1981

CERTIFICATE OF SERVICE

I, DIANE WILSON, certify that I filed a copy of the foregoing Comments Of People Of The State Of Illinois Opposing Proposed Rules Abolishing Financial Qualification Requirements with The Secretary of the Commission by mailing same to him at the United States Nuclear Regulatory Commission, in a first class postage paid envelope, by U.S. mail, this 19th day of October 1981.

Diane Wilson

SUBSCRIBED AND SWORN TO
BEFORE ME THIS 19TH DAY
OF OCTOBER, 1981.

Joan D. Sladek
NOTARY PUBLIC