



Eden Isotope Production Complex Construction Permit Application

Enclosure 4: Request for Exemption from the Financial Qualification Requirements

Request for Exemption from the Financial Qualification Requirements in 10 CFR 50.33(f) and Appendix C to 10 CFR Part 50

Eden Radioisotopes, LLC (Eden) hereby requests an exemption from the current default financial qualification (FQ) requirements in 10 CFR 50.33(f) and Appendix C to 10 CFR Part 50 (Part 50 FQ Requirements) for construction of the utilization facility described in the construction permit application (CPA) for the Eden Isotope Production Complex (EIPC).

Eden further requests that the financial qualification standard in 10 CFR Part 70, “Domestic Licensing of Special Nuclear Material,” as provided in 10 CFR 70.23(a)(5) (Part 70 FQ Requirements), be applied to its CPA in lieu of the Part 50 FQ Requirements. Specifically, Eden requests that it be permitted to demonstrate that it “appears to be financially qualified” for the issuance of a CP under the review standard defined in Section 7 of the Financial Qualifications for Reactor Licensing Rulemaking (NRC, 2015) (Part 70 Review Standard). To satisfy the Part 70 FQ Requirements under the Part 70 Review Standard, Eden has provided, in Chapter 15 of the Preliminary Safety Analysis Report submitted as part of this CPA, both a construction cost estimate and a financial capacity plan.

Pursuant to 10 CFR 50.12, “Specific exemptions,” the Commission may grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law; will not present an undue risk to public health and safety; and are consistent with common defense and security; and (2) when special circumstances are present. As detailed below, each of those criteria is satisfied here. Furthermore, exemptions similar to the one requested by Eden, here, have been granted to Nuclear Innovation North America, for the South Texas Project (STP) Units 3 and 4 combined licenses (NRC, 2015), and to US SFR Owner, LLC, for the Kemmerer Unit 1 (KU1) construction permit (CP) (NRC, 2025), and provide precedent for granting this exemption request.

The Exemption is Authorized by Law

The Commission has the authority to issue Eden’s requested exemption. The exemption would not conflict with any provision of the Atomic Energy Act (AEA) of 1954, as amended, or any other law. In particular, the NRC has broad discretion to prescribe requirements for financial qualifications, as provided in Section 182(a) of the AEA. As such, the exemption requested by Eden is authorized by law.

The Exemption Presents No Undue Risk to Public Health and Safety

The exemption does not pertain to any NRC safety requirements that directly govern design or construction activities for the EIPC. Furthermore, use of the Part 70 FQ Requirements under the Part 70 Review Standard would not compromise public health and safety. As further documented and described in the Financial Qualifications for Reactor Licensing Rulemaking (NRC, 2015), when coupled with the Part 70 Review Standard, the agency’s oversight programs are sufficient to ensure public health and safety.

As discussed in SECY-79-299 (NRC, 1979), the Commission has concluded that:

“...although technical reviews and inspection efforts are very effective direct methods of discovering deficiencies that could affect safety, the analysis of financial qualifications is an additional method, albeit indirect, of determining an applicant’s ability to satisfy safety requirements. The financial qualifications review is one element in the Commission’s system of multiple and redundant safety reviews and inspections. The purpose of the financial qualifications review in this system is analogous to the overlapping protective echelons of the ‘defense-in-depth’ approach used in designing nuclear power plants.”

Further, SECY-13-0124 (NRC, 2014) states the following:

“Commission history and precedent has consistently shown an ongoing concern for the potential of degraded safety in the face of degraded financial qualifications. However, this history also consistently indicates a Commission belief that any nexus between safety and the NRC’s review of financial qualifications is indirect and of secondary importance to ensuring public health and safety. Furthermore, it is clear that Section 182a. of the AEA grants the Commission much flexibility in the arena of financial qualifications requirements.”

The direct means to ensure safety today include a detailed technical licensing review, the construction reactor oversight process, the vendor inspection program, and the quality assurance inspection program.

Although Eden is requesting an exemption from the Part 50 FQ Requirements, it will remain subject to the Part 70 FQ Requirements. Thus, a financial review still would be completed by the NRC. This, coupled with the direct means of ensuring safety described above, allow for a reasonable level of defense-in-depth to be maintained.

Given the NRC’s established oversight programs, the evaluations of the applicant’s programs supporting the safe construction of the facility, and the financial review for the CPA, issuance of the exemption would not constitute an undue risk to public health and safety.

The Exemption is Consistent with the Common Defense and Security

The requested exemption pertains only to the financial qualification requirements and does not affect any security requirements for the EIPC. Therefore, the common defense and security will not be impacted. As such, the exemption request is consistent with the common defense and security.

Special Circumstances - 10 CFR 50.12(a)(2)(ii)

As to CP proceedings, the purpose of the Part 50 FQ Requirements is to protect public health and safety by preventing safety lapses during construction from underfunded projects. However, application of the Part 50 FQ Requirements is not necessary to achieve that underlying purpose in the specific circumstances presented here.

Eden is not merely proposing the elimination of a financial qualifications review for its CPA. This exemption request expressly proposes that the Part 50 FQ Requirements be

replaced with the Part 70 FQ Requirements. As documented in the Financial Qualifications for Reactor Licensing Rulemaking (NRC, 2015); consistent with Commission-approved exemptions in the STP and KU1 proceedings; and adopted by the Commission in its final rule for 10 CFR Part 53, the Part 70 FQ Requirements, when coupled with the NRC's robust construction oversight and licensing processes, provide a fully adequate alternative means to achieve the exact same underlying purpose of the default rule—to protect public health and safety by preventing safety lapses during construction from underfunded projects for non-utility applicants.

Section 6.1 of Financial Qualifications for Reactor Licensing Rulemaking (NRC, 2015) explains that many decades of experience have shown no direct correlation between initial financial qualifications review and later safe performance of licensed activities (noting that the 1979 SECY paper referenced above, a 2014 academic paper, and “[t]he NRC’s experience to date” support this conclusion). As another example, Section 6.2 of Financial Qualifications for Reactor Licensing Rulemaking (NRC, 2015) explains that the modern NRC oversight framework provides a means of preventing safety lapses during construction from underfunded projects (e.g., detailed technical licensing review, construction reactor oversight process, vendor inspection program, and quality assurance inspection program) that is more direct, robust, and reliable than predictive financial reviews.

This rationale was recently reaffirmed in the Part 53 rulemaking. The NRC stated, in its comment response document (NRC, 2026), that using the Part 70 FQ Requirements to evaluate the FQ of applicants seeking to construct new reactors:

“...would not compromise public health and safety and would allow NRC to readily identify any degradation in licensee performance during construction.”

In sum, application of the Part 50 FQ Requirements is not necessary to prevent safety lapses during construction from underfunded projects in the specific circumstances presented here—where Eden is proposing that the CPA be subject to the Part 70 FQ Requirements, which would achieve the same underlying purpose.

References

NRC, 1979. Generic Issue of Financial Qualifications: Licensing of Production and Utilization Facilities, Commission Paper SECY-79-299, ADAMS Accession No. ML12236A723, U.S. Nuclear Regulatory Commission, April 1979. [4]

NRC, 2014. Staff Requirements – SECY-13-0124 – Policy Options for Merchant (Non-Electric Utility) Plant Financial Qualifications, ADAMS Accession No. ML14114A358, U.S. Nuclear Regulatory Commission, April 2014. [5]

NRC, 2015. Final Safety Evaluation Report (SER) for the South Texas Project (STP), Units 3 and 4, Combined License Application, Chapter 1, ADAMS Accession No. ML15271A126, U.S. Nuclear Regulatory Commission, September 2015. [2]

NRC, 2016. Financial Qualifications for Reactor Licensing Rulemaking, RIN Number: 3150-AJ43, NRC Docket ID: NRC-2014-0161, ADAMS Accession No. ML15322A185, Regulatory Basis Document, U.S. Nuclear Regulatory Commission, October 2016. [1]

NRC, 2025. Safety Evaluation Related to the U.S. SFR Owner, LLC. Construction Permit Application for the Kemmerer Power Station Unit 1, ADAMS Accession No. ML25329A252, U.S. Nuclear Regulatory Commission, November 2025. [3]

NRC, 2026. Final Rule, Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors, RIN 3150-AK31, Comment Response Document, Volume I, ADAMS Accession No. ML26042A229, U.S. Nuclear Regulatory Commission, March 2026. [6]