



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 14, 2022

SECRETARY

MEMORANDUM TO: Daniel H. Dorman
Executive Director for Operations

FROM: Brooke P. Clark, Secretary

SUBJECT: STAFF REQUIREMENTS – SECY-18-0026 – PROPOSED RULE:
FINANCIAL QUALIFICATIONS REQUIREMENTS FOR
REACTOR LICENSING (RIN 3150-AJ43)

The Commission has disapproved the draft proposed rule. Instead, the staff should address financial qualifications during the development of Part 53 and include the questions below, which solicit stakeholder feedback on this matter, in the *Federal Register* notice for the Part 53 draft proposed rule.

Questions for inclusion in the *Federal Register* Notice for the Part 53 draft proposed rule

Utility new reactor applicants are exempt under 10 CFR 50.33(f) from financial qualification reviews because they are generically presumed to be financially qualified for construction and operations. In contrast, merchant power plant new reactor applicants are required under 10 CFR 50.33(f)(2) to submit information that demonstrates they possess or have reasonable assurance of obtaining the funds necessary to cover estimated construction and operating costs for the period of the license. A “merchant power plant applicant” is a non-rate-regulated entity (e.g., a nonutility) that engages in the business of production, manufacturing, generating, buying, aggregating, marketing, or brokering electricity for sale at wholesale or for retail sale to the public. Over the past decade, the agency has heard some concerns about the challenges that merchant power plant applicants face in meeting the current financial qualification requirements.

Does this standard continue to pose challenges for merchant power plant applicants? If so, please provide a detailed explanation of these challenges.

How likely are new reactor applicants to fall into the category of merchant power plant applicants?

Should Parts 50 and 52 have the same financial qualification requirements as Part 53? Why or why not?

Are there categories of merchant new reactor applicants for which a Part 70 “appears to be financially qualified” standard would be more appropriate?¹ If so, please explain what types of applicants should be able to use the Part 70 financial qualification standard and what distinguishes these applicants from ones that should not be able to use this standard.

If a Part 70 financial qualification standard were to apply to a category of merchant new reactor applicants, should it also apply to pre-construction license transfer applications for these reactors? Why or why not?

Is there another standard the agency should consider for financial qualification of merchant new reactor applicants?

¹ 10 CFR 70.23(a)(5).

cc: Chairman Hanson
Commissioner Baran
Commissioner Wright
OGC
CFO
OCA
OPA
ODs, RAs, ACRS, ASLBP
PDR