

Nuclear Regulatory Commission

Office of New Reactors

Notice of Availability of the Final Interim Staff Guidance COL-ISG-02 on
Financial Qualifications of Applicants

AGENCY: Nuclear Regulatory Commission (NRC)

ACTION: Notice of availability

SUMMARY: The NRC is issuing its Final Interim Staff Guidance (ISG) COL-ISG-02. This COL-ISG provides guidance on financial qualifications for and combined license (COL) applicants. This COL-ISG summarizes the requirements under Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.33(f)(1) for COL applicants and corrects the information provided in Section C.IV.5.1 of Regulatory Guide 1.206, "COL Applications for Nuclear Power Plants (LWR Edition)."

The NRC staff issues ISGs to facilitate timely implementation of the current staff guidance and to facilitate activities associated with review of applications for design certifications and COLs for the Office of New Reactors. The NRC staff will also incorporate the approved DC/COL-ISGs into the next revision of the appropriate review guidance documents.

ADDRESSES: The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should

contact the NRC Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail at pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Arlon O. Costa, Acting Branch Chief, Financial, Policy and Rule Making Branch, Division of Policy and Rule Making, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC, 20555-0001; telephone 301-415-6402 or e-mail at roc@nrc.gov.

SUPPLEMENTARY INFORMATION: COL-IGS-02 is posted on the agency's external web page (<http://www.nrc.gov/reading-rm/doc-collections/isg/>).

Dated at Rockville, Maryland, this 2nd day of May 2008.

For the Nuclear Regulatory Commission,

/RA/

William D. Reckley, Branch Chief
Rulemaking, Guidance and
Advanced Reactors Branch
Division of New Reactor Licensing
Office of New Reactors

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Interim Staff Guidance on Financial Qualifications of Applicants For Combined License Applications

Purpose:

The purpose of this interim staff guidance (ISG) is to clarify the U.S. Nuclear Regulatory Commission (NRC) staff's expectations with regard to the financial qualification for combined license (COL) applicants. This guidance provides corrections and clarifications to the previous guidance issued in June 2007 in Regulatory Guide (RG) 1.206, "COL Applications for Nuclear Power Plants."

Background:

The source document for regulatory guidance for this issue was the recently issued RG 1.206 and Section C.IV.5.1, which states:

The COL application must provide the following general information:

- name and address of the applicant
- description of the business or occupation of the applicant
- class of license applied for
- use to which the facility 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 as well as sources of funds to cover these 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 as well as sources of funds to cover those costs

Issue:

Title 10, Section 52.77, "Contents of Applications - General Information" of the *Code of Federal Regulations* (10 CFR), stipulates that the COL application must contain all of the information as required by 10 CFR 50.33. The requirements of 10 CFR 50.33(f) are:

Enclosure

- (f) Except for an electric utility applicant for a license to operate a utilization facility of the type described in Section 50.21(b) or Section 50.22, information sufficient to demonstrate to the Commission the financial qualification of the applicant to carry out, in accordance with regulations in this chapter, the activities for which the permit or license is sought. As applicable, the following should be provided:
 - (1) If the application is for a construction permit (CP), the applicant shall submit information that demonstrates that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs. The applicant shall submit estimates of the total construction costs of the facility and related fuel cycle costs, and shall indicate the source(s) of funds to cover these costs.
 - (2) If the application is for an operating license (OL), the applicant shall submit information that demonstrates the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated operation costs for the period of the license. The applicant shall submit estimates for total annual operating costs for each of the first five years of operation of the facility. The applicant shall also indicate the source(s) of funds to cover these costs. An applicant seeking to renew or extend the term of an OL for a power reactor need not submit the financial information that is required in an application for an initial license. Applicants to renew or extend the term of an OL for a non-power reactor shall include the financial information that is required in an application for an initial license.
 - (3) Each application for a CP or an OL submitted by a newly-formed entity organized for the primary purpose of constructing or operating a facility must also include information showing:
 - (i) The legal and financial relationships it has or proposes to have with its stockholders or owners;
 - (ii) Its financial ability to meet any contractual obligation to the entity which they have incurred or proposed to incur; and
 - (iii) Any other information considered necessary by the Commission to enable it to determine the applicant's financial qualification.
 - (4) The Commission may request an established entity or newly-formed entity to submit additional or more detailed information respecting its financial arrangements and status of funds if the Commission considers this information appropriate. This may include information regarding a licensee's ability to continue the conduct of the activities authorized by the license and to decommission the facility.

Rationale:

The exception for electric utility applicants is applicable to OLs only, not to CPs. Therefore, electric utility applicants must comply with 10 CFR 50.33(f)(1). The guidance in RG 1.206, Section C.IV.5.1, incorrectly indicates electric utility applicants are exempt from providing:

- estimates of the total construction costs and related fuel cycle costs as well as sources of funds to cover these 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

The guidance in RG 1.206, Section C.IV.5.1, correctly indicates electric utility applicants are exempt from providing:

- 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 as well as sources of funds to cover those costs

The definition of “electric utility” is in 10 CFR 50.2 which states:

Electric utility means any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, are included within the meaning of “electric utility.”

Final Resolution:

The staff evaluated the Industry comments received on December 20, 2007 (NRC’s ADAMS Accession No. ML073541361) in response to the previously published guidance in October 30, 2007 (ML072920032). The final guidance is dispositioned and is issued in the following section as final and will be incorporated in the next revision to the RG 1.206.

Final Staff Guidance:

RG 1.206, Section C.IV.5.1, will be revised to state:

The COL application must provide the following general information:

- Name and address of the applicant
- Description of the business or occupation of the applicant

- Class of license applied for
- Use to which the facility 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
- 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 as well as sources of funds to cover these costs. The application should include a brief statement of the applicant's general financial plan for financing the cost of the facility, identifying the sources of funds on which the applicant typically relies for major capital projects. A detailed plan for financing the facility is not necessary at the time of COL application.
 - Information showing that the applicant possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction and related fuel cycle costs.
- Except for applications submitted by electric utilities, 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
- Except for applications submitted by electric utilities, estimates of the total annual operating costs for each of the first 5 years of operation as well as sources of funds to cover those costs.

Applicability:

This ISG is applicable to COL applicants.

References:

1. 10 CFR 52.77, "Contents of applications - general information"