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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AG52

Decommissioning Trust Provisions; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains a correction to an amendment included with the final regulations establishing licensing criteria for the decommissioning trust provisions for nuclear power plants that the Nuclear Regulatory Commission published in the **Federal Register** of December 24, 2002.

EFFECTIVE DATE: December 24, 2003.

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SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction become effective on December 24, 2003. The final rule, published December 24, 2002 (67 FR 78332), amended parts 50 and 72 of 10 CFR Chapter 1. One of the amendments included in the final rule was to § 50.75(e). However, as a result of that amendment, paragraphs (e)(1)(ii)(A) and (e)(1)(ii)(B) would be inadvertently removed from the NRC's regulations at § 50.75(e) when the December 24, 2002, final rule becomes effective. The NRC does not intend to remove these paragraphs.

Need for Correction

As published, the final regulations erroneously omit two paragraphs of § 50.75(e) that address the requirements for an external sinking fund sufficient to fund decommissioning costs for a nuclear power facility at the time permanent termination of operations is expected. This correction restores those paragraphs to 10 CFR Part 50.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, and Reporting and recordkeeping requirements.

Accordingly, 10 CFR Part 50 is corrected by making the following correcting amendments:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.75, revise paragraph (e)(1)(ii) to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

* * * * *

(e) * * *

(1) * * *

(ii) External sinking fund. An external sinking fund is a fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the administrative control of the licensee and its subsidiaries or affiliates in which the total amount of funds would be sufficient to pay decommissioning costs at the time permanent termination of operations is expected. An external sinking fund may be in the form of a trust, escrow account, or Government fund, with payment by certificate of deposit, deposit of Government or other securities, or other method acceptable to the NRC. This trust, escrow account, Government fund, or other type of agreement shall be established in writing and maintained at all times in the United States with an entity that is an appropriate State or Federal government agency, or an entity whose operations in which the external linking fund is managed are regulated and examined by a Federal or State agency. A licensee that has collected funds based on a site-specific estimate under § 50.75(b)(1) of this section may take credit for projected earnings on the external sinking funds using up to a 2 percent annual real rate of return from the time of future funds' collection through the decommissioning period, provided that the site-specific estimate is based on a period of safe storage that is specifically described in the estimate. This includes the periods of safe storage, final dismantlement, and license termination. A licensee that has collected funds based on the formulas in § 50.75(c) of this section may take credit for collected earnings on the decommissioning funds using up to 2 percent annual real rate of return up to the time of permanent termination. A licensee may use a credit of greater than 2 percent if the licensee's rate-setting authority has specifically authorized a higher rate. However, licensees certifying only to the formula amounts (*i.e.*, not a site-specific estimate) can take a pro-rata credit during the dismantlement period (*i.e.*, recognizing both cash expenditures and earnings the first 7 years after shutdown). Actual earnings on existing funds may be used