

| Section | Remove | Add |
|-----------------------------|--|----------------------|
| Part 1464, Appendix A | Agricultural Stabilization and Conservation Service. | Farm Service Agency. |

§ 1464.4 [Amended]

■ 2. In the first sentence of § 1464.4(b), revise the phrase “Claim Control Record, Form ASCS-604” to read “Claim Control Record.”

§ 1464.7 [Amended]

■ 3. In § 1464.7, remove paragraph (f).
 ■ 4. Revise § 1464.24 to read as follows:

§ 1464.24 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control numbers 0560-0058 and 0560-0182.

Signed at Washington, DC, on November 14, 2003.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 03-28990 Filed 11-19-03; 8:45 am]

BILLING CODE 3410-05-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AH32

Minor Changes to Decommissioning Trust Fund Provisions

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations related to decommissioning trust fund provisions to correct typographical errors and make minor changes to a final rule promulgated by the NRC in December of 2002. This action adds clarifying language to amendments regarding notification requirements, investment prohibitions, and the option for licensees to retain their existing license conditions.

EFFECTIVE DATE: The final rule will become effective December 24, 2003, unless significant adverse comments on the amendment are received by December 22, 2003. If the rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received

after December 22, 2003, will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AH32) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety on the NRC rulemaking web site. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov*. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC’s rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; email *cag@nrc.gov*.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone (301) 415-1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC’s Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC’s Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC’s Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC’s public documents. If you do not have

access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Brian J. Richter, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-1978; e-mail *bjr@nrc.gov*.

SUPPLEMENTARY INFORMATION: Because NRC considers this action to be noncontroversial, the NRC is using the direct final rule process for this rule. The amendments in this rule will become effective on December 24, 2003. However, if the NRC receives significant adverse comments on this direct final rule by December 22, 2003, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published elsewhere in this **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when—

(a) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the staff.

(2) The comment proposes a change or an addition to the rule and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

Background

On December 24, 2002, the Nuclear Regulatory Commission (NRC) published in the **Federal Register** (67 FR 78332) a final rule entitled "Decommissioning Trust Provisions," which amended the NRC's regulations relating to decommissioning trust provisions for nuclear power plant licensees. The rule required licensees that are no longer rate-regulated or who no longer have access to a non-bypassable charge for decommissioning to have decommissioning trust agreements in a form acceptable to the NRC in order to increase assurance that an adequate amount of decommissioning funds will be available for their intended purpose. The rule has an effective date of December 24, 2003.

After publication of the final rule, the Nuclear Energy Institute (NEI) suggested that an administrative rulemaking be undertaken to correct what it perceived to be administrative errors in the rule. The NRC agrees with NEI's requested changes, but because NRC considers this action noncontroversial and routine, the NRC is using the direct final rule procedure for this rule.

NEI's Proposed Changes

In a July 1, 2003, letter to the Director of the NRC's Office of Nuclear Reactor Regulation (NRR), NEI identified "four important instances" in which "administrative errors involving errors or omissions in drafting, * * * if uncorrected * * * could affect efficient implementation of the new rule." The four instances identified by NEI were (1) notification requirement for administrative expenses, (2) effective date of the new rule, (3) preserving the option to retain existing license conditions, and (4) investment prohibition.

Notification Requirement for Administrative Expenses

NEI stated that NRC failed to exclude ordinary administrative expenses from the new rule's requirement that the fund withdrawals require prior NRC notification. Further, NEI stated that the NRC did not intend, supported by the language in its Statement of Considerations, for licensees to notify the NRC when paying ordinary trust administrative expenses. NEI asserted that "* * * [T]he above-cited provisions of the final rule failed to associate administrative expenses with an exclusion from the notice requirement." In fact, the final rule states in § 50.75(h)(1)(iv) "* * * Disbursements, or payments from the

trust, escrow account, Government fund, or other account used to segregate and manage the funds, *other than for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been completed.* * * *" (emphasis added.)

In order to eliminate any further confusion regarding the present rule language, the NRC is revising the rule language to essentially the language NEI proposed. That is, 10 CFR 50.75(h)(1)(iv) will read "Except for withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, * * *" (emphasis added.)

Further, this rulemaking is also revising the first sentence of 10 CFR 50.75(h)(2) to read "Licensees that are 'electric utilities' under § 50.2 that use prepayment or an external sinking fund to provide financial assurance, shall include a provision in the terms of the trust, escrow account, Government fund, or other account used to segregate and manage funds that except for withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made, from the trust, * * * ." (emphasis added.)

Effective Date of the New Rule

The second point NEI raised related to the effective date of the new rule. NEI's position is that certain changes made by the rule, other than those changes in 10 CFR 50.75(h)(1)–(3), should be made immediately effective, rather than on December 24, 2003, as now called for in the rule. The NRC believes that there is no substantive reason to change the effective date of the rule because the Commission has already determined that the December 24, 2003, effective date is appropriate.

Preserving the Option To Retain Existing License Conditions

NEI's third point related to licensees being able to retain their existing license conditions. NEI stated that the rule language does not reflect the intent of the Commission that individual licensees should have the option of retaining their existing license conditions. The NRC agrees with the comment and amends the rule by adding the following as a new section, 10 CFR 50.75(h)(5), to become effective on December 24, 2003:

The provisions of paragraphs (h)(1) through (h)(3) do not apply to any licensee that as of December 24, 2003, was subject to existing license conditions relating to the terms and conditions of decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions. If a licensee with existing license conditions relating to decommissioning trust agreements elects to amend the conditions, the license amendment shall be in accordance with the provisions of paragraph (h) of this section.

Investment Prohibition

Lastly, NEI discussed investment prohibition requirements of the rule. NEI stated that the rule failed "to include a general prohibition against investments in nuclear plant owners, although such a prohibition was intended * * *," and proposed the following change in § 50.75(h)(1)(i)(A) which, as revised, would read: "* * * is prohibited from investing the funds in securities or other obligations of the licensee or any other owner or operator of any power reactor * * *" (emphasis added.) The NRC agrees and is making the proposed change (with the modification "any nuclear power reactor" to be consistent with the rest of the rule) through this direct final rule effort.

Miscellaneous NRC Corrections

The NRC is clarifying the applicability of the *de minimis* limitation contained in the investment prohibition, so that the *de minimis* proviso will now read "* * * and provided further that no more than 10 percent of trust assets may be indirectly invested in securities of any entity owning or operating one or more nuclear power plants." In addition, the NRC is making an editorial change to clarify that the securities of operators, as well as owners, of nuclear power plants are subject to the investment provisions in their entirety. Finally, the NRC is correcting minor typographical errors in paragraphs (e)(1)(i) and (e)(1)(ii) so that the term "permanent termination of operations" is used in full where the term "permanent termination" now

appears, and correcting § 50.75(h)(1)(i)(B) to make consistent references to “standard of care”.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. In this final rule, the NRC is making clarifying changes to the existing rule and modifying the effective date of a part of the rule. These actions do not constitute the establishment of a standard that contains generally applicable requirements.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission’s regulations in Subpart A of 10 CFR part 51 that this rule is not a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. These changes would not result in any increased impact on the environment from decommissioning activities as analyzed in the Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities (NUREG–0586, August 1988) and Draft Supplement 1 (NUREG–0586, Draft Supplement 1, October 2001). Therefore, promulgation of this rule would not introduce any impacts on the environment not previously considered by the NRC.

Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB) approval 3150–0011, 10 CFR part 50.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this direct final rule because this rule is considered a minor,

nonsubstantive amendment; it has no economic impact on NRC licensees or the public.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This final rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of “small entities” set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

Backfit Analysis

The NRC has determined that the backfit rule does not apply to this rule, and, therefore, a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR chapter I.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

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.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 50.

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. 5851). 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, the sixth sentence of paragraphs (e)(1)(i) and the sixth sentence of (e)(1)(ii), paragraph (h)(1)(i)(A), the first sentences of paragraphs (h)(1)(i)(B), (h)(1)(iv), and (h)(2), are revised, and a new paragraph (h)(5) is added to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

* * * * *

(e) * * *

(1) * * *

(i) * * * A licensee that has prepaid funds based on the formulas in § 50.75(c) of this section may take credit for projected earnings on the prepaid decommissioning funds using up to a 2 percent annual real rate of return up to the time of permanent termination of operations.

(ii) * * * 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 a 2 percent annual real rate of return up to the time of permanent termination of operations.* * *

* * * * *

(h) * * *

(1) * * *

(i) * * *

(A) Is prohibited from investing the funds in securities or other obligations of the licensee or any other owner or operator of any nuclear power reactor or their affiliates, subsidiaries, successors or assigns, or in a mutual fund in which at least 50 percent of the fund is invested in the securities of a licensee or parent company whose subsidiary is an owner or operator of a foreign or domestic nuclear power plant. However, the funds may be invested in securities tied to market indices or other non-nuclear sector collective, commingled,

or mutual funds, provided that this subsection shall not operate in such a way as to require the sale or transfer either in whole or in part, or other disposition of any such prohibited investment that was made before the publication date of this rule, and provided further that no more than 10 percent of trust assets may be indirectly invested in securities of any entity owning or operating one or more nuclear power plants.

(B) Is obligated at all times to adhere to a standard of care set forth in the trust, which either shall be the standard of care, whether in investing or otherwise, required by State or Federal law or one or more State or Federal regulatory agencies with jurisdiction over the trust funds, or, in the absence of any such standard of care, whether in investing or otherwise, that a prudent investor would use in the same circumstances. * * *

* * * * *

(iv) Except for withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, or the Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. * * *

(2) Licensees that are "electric utilities" under § 50.2 that use prepayment or an external sinking fund to provide financial assurance shall include a provision in the terms of the trust, escrow account, Government fund, or other account used to segregate and manage funds that except for withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given the Director, Office of Nuclear

Reactor Regulation, or the Director, Office of Nuclear Material Safety and Safeguards, as applicable at least 30 working days before the date of the intended disbursement or payment. * * *

* * * * *

(5) The provisions of paragraphs (h)(1) through (h)(3) of this section do not apply to any licensee that as of December 24, 2003, has existing license conditions relating to decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions. If a licensee with existing license conditions relating to decommissioning trust agreements elects to amend those conditions, the license amendment shall be in accordance with the provisions of paragraph (h) of this section.

Dated at Rockville, Maryland, this 20th day of October, 2003.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 03-29022 Filed 11-19-03; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2003-16409; Airspace Docket No. 03-ACE-78]

Modification of Class E Airspace; Sidney, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: Sidney Municipal Airport, Sidney, NE, has been renamed Sidney Municipal/Lloyd W. Carr Field. This action modifies the Sidney, NE Class E airspace areas by replacing "Sidney Municipal Airport" in the legal descriptions of Sidney, NE Class E airspace areas with "Sidney Municipal/Lloyd W. Carr Field" and brings the legal description into compliance with FAA Orders.

DATES: This direct final rule is effective on 0901 UTC, February 19, 2004. Comments for inclusion in the Rules Docket must be received on or before December 17, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the

docket number FAA-2003-16409/ Airspace Docket No. 03-ACE-78, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE-520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone (816) 329-2524.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 modifies the legal description of the Class E airspace designated as a surface area and the Class E airspace area extending upward from 700 feet above the surface at Sidney, NE. It replaces "Sidney Municipal Airport," the former name of the airport, with "Sidney Municipal/Lloyd W. Carr Field," the new name of the airport, in the both legal descriptions. This action brings the legal descriptions of both Sidney, NE airspace areas into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. The areas will be depicted on appropriate aeronautical charts. Class E airspace designated as surface areas are published in paragraph 6002 of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of the same FAA Order. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal**