

# Rules and Regulations

Federal Register

Vol. 73, No. 142

Wednesday, July 23, 2008

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 30, 31, 32, 40, 50, 61, 62, and 70

RIN 3150-AI46

[NRC-2008-0397]

### Administrative Changes

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**ACTION:** Final rule.

**SUMMARY:** This final rule removes obsolete text, restores material removed inadvertently from the NRC's regulations, and makes administrative changes to the NRC's regulations to correct errors published in recent rulemaking documents. This final rule also updates the definition of a not-for-profit organization. This document is necessary to inform the public of these changes.

**DATES:** *Effective Date:* July 23, 2008.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, Telephone 301-415-6863, e-mail [Michael.Lesar@nrc.gov](mailto:Michael.Lesar@nrc.gov).

**ADDRESSES:** You can access publicly available documents related to this document using the following methods:

*Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2008-0397]. Address questions about NRC dockets to Carol Gallagher 301-415-5905; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

*NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into 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's PDR reference staff at 1-899-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

### SUPPLEMENTARY INFORMATION:

#### Background

This final rule corrects miscellaneous errors contained in final rules published on October 16, 2007 (72 FR 58473) and January 31, 2008 (73 FR 5709). This final rule also removes obsolete text published in a final rule on January 16, 1996 (61 FR 1109), and makes minor administrative changes to the NRC's regulations and corrects erroneous authority citations.

#### Rulemaking Procedure

Because these amendments constitute minor administrative changes to the NRC's regulations, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(B). The amendments are effective upon publication in the **Federal Register**. Good cause exists under 5 U.S.C. 553(d) to dispense with the usual 30-day delay in the effective date of the final rule, because the amendments are of a minor and administrative nature dealing with administrative changes to the NRC's regulations due to errors published in other NRC rulemaking documents. These amendments do not require action by any person or entity regulated by the NRC, and the final rule does not change the substantive responsibilities of any person or entity regulated by the NRC.

#### Summary of Changes

Section 2.280—The NRC increased the receipts-based small business size standard from \$5 million to \$6.5 million to conform to the standard set by the Small Business Administration (SBA). This size standard reflects the most commonly used SBA size standard for

the nonmanufacturing industries. SBA adjusted this standard on January 23, 2002 (67 FR 3041) and on December 6, 2005 (70 FR 72577) to account for inflation. On August 10, 2007 (72 FR 44989), NRC amended 10 CFR 2.810(a)(1) and changed the size standard for a concern that provides a service for a concern not engaged in manufacturing but did not amend 10 CFR 2.810(b) to change the size standard for a small organization that is a not-for-profit organization which is independently owned and operated. This final rule updates the definition of a not-for-profit organization.

Sections 30.36(a), 40.42(a), and 70.38(a)—A final rule published on January 16, 1996 (61 FR 1109), extended certain types of licenses in effect at that time for an additional 5 years beyond their existing expiration date by revisions to §§ 30.36(a), 40.42(a), and 70.38(a). All of those licenses for which the expiration date was extended by this regulation have since expired. There is no longer a need for these provisions in the regulations. The text of these paragraphs reverts to the wording before the 1996 rulemaking.

Section 30.64—Removes reference to § 30.16.

The authority citation for part 31, and § 31.5 are revised to correct typographical errors.

Sections 32.12, 32.20, 32.25(c), and 32.29, were revised in a final rule published on October 16, 2007 (72 FR 58473), to change the reporting period for material transfers to annual, to change the content of the reports, and to remove the requirement to send copies to the Regional offices. Additionally, these sections were changed to reflect a reorganization within NRC. This administrative rule revises §§ 32.12, 32.20, 32.25(c), and 32.29 to restore the text as Originally stated in the October 16, 2007, rulemaking.

Section 32.15(d)(2)(ii) is revised to correct a typographical error.

Section 32.16 was revised in a final rule published on October 16, 2007 (72 FR 58473) to change the reporting period for material transfers to annual, to make minor changes to the content of the reports, to remove the requirement to send copies to the Regional offices, and to delete the reference to the deleted § 32.17. Additionally, the section was changed to reflect a reorganization within NRC. This

administrative rule revises § 32.16 to restore the text as Originally stated in the October 16, 2007, rulemaking.

Section 32.57—The term, “radium-226,” was added to the introductory text of § 32.57 and should have been added to § 32.57(b)(1), (b)(3), (b)(4), (c) and the introductory text or paragraphs (d) and (d)(1). This was an omission in the October 1, 2007 (72 FR 55863) rulemaking. This final rule adds the term “or radium-226” after americium-241 in these paragraphs.

Section 32.303—Removes reference to § 32.17.

Appendix E to part 50—Two paragraphs from Section I, and Sections IV.F.2.d through IV.F.2.h. were inadvertently removed from the Code of Federal Regulations in the implementation of the final rule published on August 28, 2007 (72 FR 49351). These sections are restored in this final rule.

The authority cites for parts 61 and 62 are revised to correct typographical errors.

#### **Environmental Impact: Categorical Exclusion**

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

#### **Paperwork Reduction Act Statement**

This final rule does not contain information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **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.

#### **Backfit Analysis**

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

#### **Congressional Review Act**

In accordance with the Congressional Review 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**

##### **10 CFR Part 2**

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

##### **10 CFR Part 30**

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

##### **10 CFR Part 31**

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

##### **10 CFR Part 32**

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

##### **10 CFR Part 40**

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

##### **10 CFR Part 50**

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

##### **10 CFR Part 61**

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

##### **10 CFR Part 62**

Administrative practice and procedure, Denial of access, Emergency access to low-level waste disposal, Low-level radioactive waste, Low-level radioactive waste treatment and disposal, Low-level waste policy amendments act of 1985, Nuclear materials, Reporting and recordkeeping requirements.

##### **10 CFR Part 70**

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

■ 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 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Parts 2, 30, 31, 32, 40, 50, 61, 62, and 70.

#### **PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS**

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10143(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871).

Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 90, as amended by section 3100(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Subpart C also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Section 2.301 also issued under 5 U.S.C. 554. Sections 2.343, 2.346, 2.712 also issued under 5 U.S.C. 557. Section 2.340 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.390 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154).

Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also

issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–550, 84 Stat. 1473 (42 U.S.C. 2135).

#### **§ 2.810 [Amended]**

- 2. In § 2.810, paragraph (b) is amended by revising “\$5” to read “\$6.5”.

### **PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL**

- 3. The authority citation for part 30 continues to read as follows:

**Authority:** Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

- 4. In § 30.36, paragraph (a) is revised to read as follows:

#### **§ 30.36 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.**

(a) Each specific license expires at the end of the day on the expiration date stated in the license, unless the licensee has filed an application for renewal under § 30.37 not less than 30 days before the expiration date stated in the existing license. If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license, the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

\* \* \* \* \*

#### **§ 30.64 [Amended]**

- 5. In § 30.64, paragraph (b) is amended by removing the reference to § 30.16.

### **PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL**

- 6. The authority citation for part 31 is revised to read as follows:

**Authority:** Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841,

5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), P. Law 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

#### **§ 31.5 [Amended]**

- 7. In § 31.5(c)(8)(iii), the reference “(c)(8)(I)” is revised to read “(c)(8)(i)”.

### **PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL**

- 8. The authority citation for part 32 continues to read as follows:

**Authority:** Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

- 9. In § 32.12, paragraph (a) is revised to read as follows:

#### **§ 32.12 Same: Records and material transfer reports.**

(a) Each person licensed under § 32.11 shall maintain records of transfer of byproduct material and file a report with the Director of the Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 30.6(a) of this chapter, including in the address: ATTN: Document Control Desk/Exempt Distribution.

(1) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(2) The report must indicate that the byproduct material is transferred for use under § 30.14 of this chapter or equivalent regulations of an Agreement State.

\* \* \* \* \*

#### **§ 32.15 [Amended]**

- 10. In § 32.15(d)(2)(ii), the reference “(d)(2)(I)” is revised to read “(d)(2)(i)”.

- 11. In § 32.16, paragraph (a) is revised to read as follows:

#### **§ 32.16 Certain items containing byproduct material: Records and reports of transfer.**

(a) Each person licensed under § 32.14 shall maintain records of all transfers of byproduct material and file a report with the Director of the Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 30.6(a) of this chapter, including in the address: ATTN: Document Control Desk/Exempt Distribution.

(1) The report must clearly identify the specific licensee submitting the

report and include the license number of the specific licensee.

(2) The report must indicate that the products are transferred for use under § 30.15 of this chapter, giving the specific paragraph designation, or equivalent regulations of an Agreement State.

\* \* \* \* \*

- 12. In § 32.20, paragraph (b) is revised to read as follows:

#### **§ 32.20 Same: Records and material transfer reports.**

\* \* \* \* \*

(b) The licensee shall file a summary report with the Director of the Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 30.6(a) of this chapter, including in the address: ATTN: Document Control Desk/Exempt Distribution.

(1) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(2) The report must indicate that the materials are transferred for use under § 30.18 or equivalent regulations of an Agreement State.

\* \* \* \* \*

- 13. In § 32.25, the introductory text of paragraph (c) is revised to read as follows:

#### **§ 32.25 Conditions of licenses issued under § 32.22: Quality control, labeling, and reports of transfer.**

\* \* \* \* \*

(c) Maintain records of all transfers and file a report with the Director of the Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 30.6(a) of this chapter, including in the address: ATTN: Document Control Desk/Exempt Distribution.

\* \* \* \* \*

- 14. In § 32.29, the introductory text of paragraph (c) is revised to read as follows:

#### **§ 32.29 Conditions of licenses issued under § 32.26: Quality control, labeling, and reports of transfer.**

\* \* \* \* \*

(c) Maintain records of all transfers and file a report with the Director of the Office of Federal and State Materials and Environmental Management Programs by an appropriate method listed in § 30.6(a) of this chapter, including in the address: ATTN: Document Control Desk/Exempt Distribution.

\* \* \* \* \*

**§ 32.57 [Amended]**

■ 15. In § 32.57, paragraphs (b)(1), (b)(3), (b)(4), (c), the introductory text of paragraph (d) and paragraph (d)(1) are amended by adding “or radium-226” after “americium-241”.

**§ 32.303 [Amended]**

■ 16. Section 32.303(b) is amended by removing the reference to § 32.17.

**PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL**

■ 17. The authority citation for part 40 continues to read as follows:

**Authority:** Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 18. In § 40.42, paragraph (a) is revised to read as follows:

**§ 40.42 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.**

(a) Each specific license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under § 40.43 not less than 30 days before the expiration date stated in the existing license. If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license, the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

\* \* \* \* \*

**PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES**

■ 19. The authority citation for part 50 is revised to read as follows:

**Authority:** Secs. 102, 103, 104, 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); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111). 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).

■ 20. In Appendix E to part 50, Section I is amended by adding two new paragraphs following the existing paragraphs and adding footnotes 1 and 2; and Sections IV.F.2.d through IV.F.2.h are added to read as follows:

**Appendix E to part 50—Emergency Planning and Preparedness for Production and Utilization Facilities****I. Introduction.**

\* \* \* \* \*

The potential radiological hazards to the public associated with the operation of research and test reactors and fuel facilities licensed under 10 CFR parts 50 and 70 involve considerations different than those associated with nuclear power reactors. Consequently, the size of Emergency Planning Zones<sup>1</sup> (EPZs) for facilities other

<sup>1</sup> EPZs for power reactors are discussed in NUREG-0396; EPA 520/1–78–016, “Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants,” December 1978. The size of the EPZs for a nuclear power plant shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled nuclear reactors and for reactors with an

than power reactors and the degree to which compliance with the requirements of this section and sections II, III, IV, and V as necessary will be determined on a case-by-case basis.<sup>2</sup>

Notwithstanding the above paragraphs, in the case of an operating license authorizing only fuel loading and/or low power operations up to 5 percent of rated power, no NRC or FEMA review, findings, or determinations concerning the state of offsite emergency preparedness or the adequacy of and the capability to implement State and local offsite emergency plans, as defined in this Appendix, are required prior to the issuance of such a license.

\* \* \* \* \*

**IV. Content of Emergency Plans.**

F. \* \* \*

(2) \* \* \*

d. A State should fully participate in the ingestion pathway portion of exercises at least once every six years. In States with more than one site, the State should rotate this participation from site to site.

e. Licensees shall enable any State or local Government located within the plume exposure pathway EPZ to participate in the licensee’s drills when requested by such State or local Government.

f. Remedial exercises will be required if the emergency plan is not satisfactorily tested during the biennial exercise, such that NRC, in consultation with FEMA, cannot find reasonable assurance that adequate protective measures can be taken in the event of a radiological emergency. The extent of State and local participation in remedial exercises must be sufficient to show that appropriate corrective measures have been taken regarding the elements of the plan not properly tested in the previous exercises.

g. All training, including exercises, shall provide for formal critiques in order to identify weak or deficient areas that need correction. Any weaknesses or deficiencies that are identified shall be corrected.

h. The participation of State and local governments in an emergency exercise is not required to the extent that the applicant has identified those governments as refusing to participate further in emergency planning activities, pursuant to 10 CFR 50.479(c)(1). In such cases, an exercise shall be held with the applicant or licensee and such governmental entities as elect to participate in the emergency planning process.

\* \* \* \* \*

**PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE**

■ 21. The authority citation for part 61 is revised to read as follows:

authorized power level less than 250 MW thermal. Generally, the plume exposure pathway EPZ for nuclear power plants with an authorized power level greater than 250 MW thermal shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius.

<sup>2</sup> Regulatory Guide 2.6 will be used as guidance for the acceptability of research and test reactor emergency response plans.

**Authority:** Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

## PART 62—CRITERIA AND PROCEDURES FOR EMERGENCY ACCESS TO NON-FEDERAL AND REGIONAL LOW-LEVEL WASTE DISPOSAL FACILITIES

■ 22. The authority citation for part 62 is revised to read as follows:

**Authority:** Secs. 81, 161, as amended, 68 Stat. 935, 948, 950, 951, as amended (42 U.S.C. 211, 2201); secs. 201, 209, as amended, 88 Stat. 1242, 1248, as amended (42 U.S.C. 5841, 5849); secs. 3, 4, 5, 6, 99 Stat. 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857 (42 U.S.C. 2021c, 2021d, 2021e, 2021f); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

## PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

■ 23. The authority cite for part 70 continues to read as follows:

**Authority:** Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835 as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

■ 24. In § 70.38, paragraph (a) is revised to read as follows:

### § 70.38 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(a) Each specific license expires at the end of the day on the expiration date

stated in the license unless the licensee has filed an application for renewal under § 70.33 not less than 30 days before the expiration date stated in the existing license. If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license, the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

\* \* \* \* \*

Dated at Rockville, Maryland, this 14th day of July 2008.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration.

[FR Doc. E8–16730 Filed 7–22–08; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2008–0665; Airspace Docket 08–ANE–100]

#### Removal of Class E5 Airspace; Madison, CT

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action removes Class E5 airspace at Griswold Airport, Madison, CT, (N04). The VHF Omnidirectional Range (VOR) approach into Griswold Airport has been discontinued; eliminating the need for Class E5 700 foot controlled airspace.

**DATES:** Effective 0901 UTC, September 25, 2008. This rule is effective without further action, unless adverse comment is received by August 22, 2008. If adverse comment is received, the FAA will publish a timely withdrawal of the rule in the **Federal Register**. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey, SE., Washington, DC

20590–0001; Telephone: 1–800–647–5527; Fax: 202 493–2251. You must identify the Docket Number FAA–2008–0665; Airspace Docket No. 08–ANE–100, at the beginning of your comments. You may also submit and review received comments through the Internet at <http://www.regulations.gov>.

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 101 Columbia Avenue, College Park, Georgia 30337.

#### FOR FURTHER INFORMATION CONTACT:

Melinda Giddens, Operations Support, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

#### SUPPLEMENTARY INFORMATION:

##### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. There will be no further action by the FAA 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. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

##### Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. An electronic copy of this document may be downloaded from and comments may be submitted and reviewed at <http://www.regulations.gov>. Recently