

(Text in force on: 22/10/2012)

Regulation of the Minister of Economic Affairs, Agriculture and Innovation and the State Secretary for Social Affairs and Employment of 23 February 2011, No. WJZ/11005409 containing rules on the shutdown and decommissioning of nuclear facilities and on the application for approval of the way in which a financial security has been furnished for the costs of the shutdown and decommissioning of nuclear facilities at which nuclear energy can be or was able to be released (Nuclear Facilities (Shutdown and Decommissioning) Regulation)

The Minister of Economic Affairs, Agriculture and Innovation and the State Secretary for Social Affairs and Employment;

Having regard to Articles 20, 26 (3), 30b, 30d (2), 30e, 30f (2) and 44a (3) of the Nuclear Facilities, Fissionable Materials and Ores Decree;

Hereby order:

Section 1: General

Article 1

In this Regulation the following terms are defined as follows:

decommissioning fund position: the final sum that must be available on commencement of the shutdown and decommissioning of a facility at which nuclear energy can or was able to be released to cover the costs incurred in the shutdown and decommissioning of that facility, plus the sum required to cover uncertainties in the calculation of those costs;

facility: facility as referred to in Section 15 (b) of the Act;

Minister: the Minister of Economic Affairs, Agriculture and Innovation;

radioactive waste: radioactive waste as referred to in Article 1 of the Radiation Protection Decree.

Section 2: Content of Decommissioning Plan

Article 2

The decommissioning plan of the holder of a licence for the setting-up of a facility shall include at least:

- a. a measurement of the activity of the radionuclides on the site on which the facility is to be located;
- b. a description of how difficulties with the future shutdown and decommissioning of the facility are avoided in the design and construction of the facility.

Article 3

1. The decommissioning plan of the holder of a licence for the putting into operation or maintaining in operation of a facility shall include at least:

- a. a description of the location and activity of the radionuclides in the facility and on the site on which the facility is located that did not develop in the course of normal operation;
- b. a listing and categorization of the radioactive wastes, wastes containing fissionable material or ore and wastes referred to in Section 1.1 of the Environmental Management Act that are present in the facility or will be released on the shutdown and

decommissioning of the facility;

- c. a description of how the licensee intends to remove the fissionable materials present in the facility and dispose of the wastes referred to at b., including a description of the treatment and conditioning of those wastes and the management of the wastes containing fissionable material or ore and wastes referred to in Section 1.1 of the Environmental Management Act;
- d. a description of the measuring strategies and measuring techniques to be used to determine whether the decommissioning of the facility is complete;
- e. a description of the measures for the retention of knowledge and information referred to in Article 5 (1);
- f. a general description of the measures to be taken during the shutdown and decommissioning of the facility that have relevant consequences for the costs incurred in the shutdown or decommissioning, including at least a general description of the measures to be taken to:
 1. prevent or limit damage;
 2. ensure the safety of the environs of the facility.

2. The holder of a licence for the putting into operation or maintaining in operation of a facility shall ensure to the Minister's satisfaction that the degree of detail of the data referred to at (1) increases as the age of the facility increases.

Article 4

The decommissioning plan submitted with an application for a licence for the shutdown and decommissioning of a facility shall include at least:

- a. the data referred to in Article 3 (1) a.-d.;
- b. a description of the measures for the retention of knowledge and information referred to in Article 5 (2);
- c. a description of the reporting times referred to in Article 8;
- d. a description of the organizational measures referred to in Article 9;
- e. a description of the measuring strategies and measuring techniques to be used to determine the effective doses received by a member of the public or an employee as a result of the shutdown or decommissioning of the facility;
- f. an indication of the number of staff responsible for shutdown and decommissioning and a description of the allocation of responsibilities among those staff;
- g. a description of the procedures that the staff responsible for the shutdown and decommissioning of the facility must observe, including at least procedures relating to the internal supervision of the shutdown and decommissioning and to cases where the work is not carried out as planned;
- h. if Article 3 of the Asbestos Removal Decree 2005 applies: an asbestos survey report as referred to in Article 1 (1) b. of that Decree.

Section 3: Shutdown and Decommissioning

Article 5

1. The holder of a licence for the putting into operation or maintaining in operation of a facility shall take measures to retain radiological knowledge and information on the facility that is relevant to the shutdown and decommissioning. These measures shall include at least keeping records of actions carried out involving fissionable materials and radioactive materials.

2. The holder of a licence for the shutdown and decommissioning of a facility shall take measures to retain radiological knowledge and information required to demonstrate that decommissioning is complete until such time as the decommissioning licence is withdrawn.

Article 6

The holder of a licence for the putting into operation, maintaining in operation, shutdown or decommissioning of a facility shall draw up and update the decommissioning plan based on the state of the art.

Article 7

The holder of a licence for the shutdown and decommissioning of a facility in which nuclear energy can or was able to be released shall remove the fissionable materials present in that facility as soon as is reasonably possible.

Article 8

The holder of a licence for the shutdown and decommissioning of a facility shall report to the Minister on the progress of the shutdown and decommissioning and on any major changes in the measures designed to prevent or limit damage. He shall in any event report immediately once:

- a. all the fissionable materials have been removed;
- b. major systems have been permanently shut down.

Article 9

The holder of a licence for the shutdown and decommissioning of a facility shall take organizational measures to ensure that damage during the shutdown and decommissioning of the facility is prevented or limited and that the requirements laid down for the shutdown and decommissioning are complied with.

Section 4: Demonstrating that Decommissioning is Complete

Article 10

1. The holder of a licence for the decommissioning of a facility shall draw up a final report demonstrating that decommissioning is complete.

2. The final report shall include at least:

- a. the results of measurements of the activity and activity concentration referred to in Article 1 of the Radiation Protection Decree on the site on which the facility was located and in the groundwater below and in the immediate vicinity of the site on which the facility was located;
- b. a description of how the facility was shut down and decommissioned;
- c. a description of how the licensee has disposed of the fissionable materials, radioactive wastes and wastes containing fissionable materials or ore that were created in the course of the shutdown and decommissioning;
- d. insofar as the description referred to at c. differs from the listing referred to in Article 3 (1) b., the reasons for that difference.

Section 5: Application for Approval of the Financial Security as referred to in Section 15f of the Act

Article 11

If the holder of a licence for the putting into operation, maintaining in operation, shutdown or decommissioning of a facility in which nuclear energy can or was able to be released furnishes the financial security referred to in Section 15f of the Act in the form of a suretyship or bank guarantee, the application for approval thereof shall include at least:

- a. a description of the uncertainties in the calculation of the costs for the various cost items for the shutdown and decommissioning;
- b. data indicating the creditworthiness of the institution furnishing the suretyship or bank guarantee and a description of how this creditworthiness is to be ensured in the future;
- c. a copy of the agreement setting out the suretyship or bank guarantee.

Article 12

If the holder of a licence for the putting into operation, maintaining in operation, shutdown or decommissioning of a facility in which nuclear energy can or was able to be released furnishes the financial security referred to in Section 15f of the Act in the form of participation in a fund set up for the purpose, the application for approval thereof shall include at least:

- a. the data referred to in Article 11 a.;
- b. data indicating the creditworthiness of the institution where the decommissioning fund position is built up and a description of how this creditworthiness is to be ensured in the future;
- c. a description of how the decommissioning fund position is to be built up in annual steps;
- d. a description of the uncertainties regarding the building-up of the decommissioning fund position, the likelihood of these occurring and the measures to reduce any consequences thereof;
- e. a copy of the Articles of the fund indicating the structure and management of and payout from the fund or, if those Articles are not yet available, the draft thereof;
- f. the fund's investment mandate;
- g. data on the supervision of the fund;
- h. a copy of the agreements that the applicant has entered into with the fund.

Article 13

If the holder of a licence for the putting into operation, maintaining in operation, shutdown or decommissioning of a facility in which nuclear energy can or was able to be released furnishes the financial security referred to in Section 15f of the Act in the form of any provision other than referred to in Articles 11 and 12, the application for approval thereof shall include data indicating that that other provision will cover the costs of shutdown and decommissioning at the time of the commencement thereof, including at least:

- a. the data referred to in Article 11 a. and Article 12 c. and d.;
- b. data indicating the creditworthiness of the institution granting the provision;
- c. a copy of the agreements that the applicant has entered into in connection with this provision.

Article 14

1. Notwithstanding Articles 11 c., 12 h. and 13 c., the application for approval of the way in which the financial security is furnished, if submitted before 1 July 2011, may include a draft agreement as referred to in these Articles instead of a copy of the agreement.

2. If the decision approving the way in which the financial security is furnished is made based on a draft agreement as referred to at (1), this approval shall expire on 1 January 2012 unless the licensee submits before 1 January 2012 a copy of an agreement entered into that is identical to the draft previously submitted or in the opinion of the Minister and the Minister of

Finance provides the same degree of financial security.

Section 6: Final Provisions

Article 15

1. This Regulation, with the exception of Section 5, shall enter into force on 1 July 2011.
2. Section 5 shall enter into force on 1 April 2011.

Article 16

This Regulation shall be cited as the ‘Nuclear Facilities (Shutdown and Decommissioning) Regulation’.

This Regulation shall be published with its Explanatory Notes in the Government Gazette.

The Hague, 23 February 2011

The Minister of Economic Affairs, Agriculture and Innovation,
M.J.M. Verhagen

The State Secretary for Social Affairs and Employment,
P. de Kom