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STATUTORY INSTRUMENTS

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**2013 No. 126**

**The Nuclear Decommissioning and Waste Handling (Finance and Fees) Regulations 2013**

**Modifications to which section 49 does not apply**

**11.**—(1) Section 49 does not apply to a proposal for a modification of an approved funded decommissioning programme under section 48 (“a proposal”) if the proposal is an exempt proposal as described in paragraph (2) or (3).

(2) A proposal is an exempt proposal where—

- (a) all the modifications contained in the proposal are relevant modifications;
- (b) the proposal—
  - (i) would result in only a change in the estimates of costs described in regulation 5(1)(a) or, as appropriate, (b); or
  - (ii) relates only to the funding of the costs likely to be incurred in connection with the designated technical matters; and
- (c) the requirements of regulation 14 are complied with in relation to the proposal.

(3) A proposal that is not a proposal for a relevant modification is an exempt proposal where—

- (a) the proposal would result in only a change in the estimates of costs described in regulation 5(1)(a) or, as appropriate, (b); or
- (b) the proposal relates to the details of the steps to be taken under the programme in relation to the technical matters, and
- (c) the conditions set out in paragraph (4) are satisfied, and
- (d) the requirements of regulation 14 are complied with in relation to the proposal.

(4) The conditions referred to in paragraph (3)(c) are that the proposal would result in a relevant change in A which is—

- (a) less than 5%;
- (b) an increase of 5% or more, provided that the conditions set out in regulation 12 are satisfied; or
- (c) a reduction in the estimate of costs described in regulation 5(1)(a) of 5% or more where the reduction—
  - (i) relates directly to a reduction in the fee for the disposal of relevant hazardous material provided for in a section 66 agreement; and
  - (ii) is calculated in accordance with provisions in the funded decommissioning programme.

(5) In this regulation—

“A” means the estimates of costs described in regulation 5(1)(a) or, as appropriate, (b);

“prices index” means any prices index specified in the funded decommissioning programme for the purposes of this regulation;

“relevant change in A” is the difference, expressed as a percentage, between—

- (a) the amount of A set out in the section 48 proposal; and
- (b) the amount of A set out in the relevant estimate, adjusted in accordance with the formula—

$$A = B + \left( B \times \frac{Y - X}{Y} \right)$$

where—

- (i) B = the amount of A set out in the relevant estimate;
- (ii) X = the level of the prices index at the date of the relevant estimate;
- (iii) Y = the level of the prices index as at the date of the section 48 proposal;

“relevant estimate” means A contained in the funded decommissioning programme at the latest of—

- (a) the date of its approval by the Secretary of State under section 46;
- (b) the day after the last date, before the section 48 proposal, on which the funded decommissioning programme was modified further to a decision of the Secretary of State under section 49(6)(a);
- (c) the day after the last modification made by virtue of regulation 11(4)(b); or
- (d) the first day of the current quinquennial reporting period;

“relevant modification” means a modification specified in the funded decommissioning programme as a modification to which this regulation applies and includes a modification which is permitted only if conditions set out in the programme are met;

“section 66 agreement” means an agreement made pursuant to section 66 between the site operator and the Secretary of State and which relates to the site which is the subject of the proposal.