

August 3, 2001

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS - SECY-01-0083 - PROPOSED RULE TO STANDARDIZE THE PROCESS FOR ALLOWING A LICENSEE TO RELEASE PART OF ITS REACTOR FACILITY OR SITE FOR UNRESTRICTED USE BEFORE NRC HAS APPROVED ITS LICENSE TERMINATION PLAN

The Commission has approved the publication in the *Federal Register* of the notice of proposed rulemaking and acknowledged that this rule, if adopted, will not have a significant impact on a substantial number of small entities and satisfies the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

The Commission encourages the staff to work with stakeholders in developing clear-cut regulatory guidance and acceptance criteria for reviewing Part 50 partial site release requests involving a co-located independent spent fuel storage installation (ISFSI).

Section 50.75(g)(4) proposes 4 new record keeping requirements for licensees. It requires licensees to keep records of: i) the original site boundary; ii) any acquisition, or use of property outside of the original boundary; iii) the licensed activities carried out on the property; and iv) documents associated with a partial site release (site assessment, surveys, etc.). Only the last item appears to be associated with partial site release. It is therefore, not clear from the rulemaking package ; which licensees the staff believe should meet these regulations. The proposed rule wording as written would apply to all licensees. However, the regulatory analysis associated with the rule appears to indicate that these record keeping requirements are only required for those licensees that request the release of a portion of their facility prior to NRC approval of their License Termination Plan. If it is staff's intention that 50.75(g) apply to all licensees, then the regulatory analysis should make this clear and include a description of the associated impacts for all licensees to develop and maintain all records under the various provisions in 50.75(g)(i) - (iv). If the new record keeping requirements are intended to apply only to the subset of licensees requesting partial site release, the staff needs to explain why those licensees are subject to additional record keeping beyond those pertaining to partial site release, e.g. acquisition and use of property.

Section 50.75(g)(4) should be modified to make the record keeping requirements effective when the rule becomes effective if it applies only to partial site release facilities.

Prior to public release of SECY-01-0083, the enclosure to attachment 4 should be revised. On page 1, item SRM-R1, sentences 4 and 5 should be deleted (The U.S. Nuclear Regulatory ... and dose consequences.)

Attachment: Changes to the Federal Register notice in SECY-01-0083

cc: Chairman Meserve
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield
OGC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

Changes to the Federal Register notice in SECY-01-0083

1. On page 1, revise line 3 to read ' ... unrestricted use before **the** NRC approves'
2. On page 2, last paragraph, line 2, add an 's' to 'ensure'.
3. On page 4, last paragraph, revise line 1 to read ' ... therefore, provide **adequate** ~~greater~~ assurance that'
4. On page 6, revise line 9 from the top to read ' ... should NRC **determine** ~~deem~~ surveys and sampling **were** ~~as-being~~ needed, such'
5. On page 6, delete the last 2 lines (However, the ability ... above background,) and replace it with 'However, in light of the variability in background and the limitation of survey instruments, the approach would require the definition of some minimum dose or concentration above mean background against which to compare survey results. Because the NRC has not established such value, the NRC is no longer considering the use of background as a release criterion.'
6. On page 7, delete lines 1 and 2 and line 3 up to the period (such as the ... by the NRC.) Revise line 4 to read ' ... impacted or non-impacted **will determine** ~~remains a criterion for determining~~ whether the release'
7. On page 12, last paragraph, revise lines 2 and 3 to read ' ... under Parts 30, 40, and 70 ~~and would apply to the partial release of materials sites.~~ Section'
8. On page 13, paragraph 1, revise line 1 to read ' ... in a part of a **reactor** facility or' Revise lines 3 and 4 to read ' ... transfer of land, and not **reactor** ~~plant~~ operations. **The issues would also be** ~~This approach is similar to the treatment of materials licensing issues'~~
9. On page 15, revise line 2 from the top to read ' ... when it **begins** ~~becomes~~ "decommissioning."'
10. On page 16, 3rd full paragraph, line 1, delete '(4)'.
11. On page 19, revise line 12 from the top to read ' ... process and **without** ensuring that the'
12. On page 20, last paragraph, revise line 11 to read ' ... should NRC **determine** ~~deem~~ surveys and sampling **were** ~~as-being~~ needed,' Revise line 13 to read ' ... impacted and, therefore, **that** do have some'
13. On page 21, 3rd full paragraph, revise line 2 to read ' ... all other applicable **statutory and** regulatory'

14. On page 22, revise item 5. to read ‘ ... adequately clear that **when performing partial site releases and when releasing the entire site at license termination**, licensees must consider ~~the fact that, when performing partial site releases and when releasing the entire site at license termination~~; potential dose contributions from previous partial releases **in** ~~must be considered~~ when demonstrating compliance with’
15. On page 27, 2nd full paragraph, revise lines 1 and 2 to read ‘ ... the application of the **radiological criteria of the** license termination rule (LTR) [~~61 FR 39301; July 29, 1996, as amended at 62 FR 39091 ; (July 21, 1997)~~] for partial site’
16. On page 31, the last line may need to be revise to reflect the final Part 63 which will be promulgated later this year and supersede Part 60. Conforming changes are also needed throughout the document, such as on page 32.
17. On page 34, revise line 1 to read ‘ ... the areas with some **reasonable** potential for residual’
18. On page 36, revise 50.83(a) to read ‘**Prior written** NRC approval is required to ... license termination plan. **Section 50.75 specifies recordkeeping requirements associated with partial release.** Nuclear power reactor’
19. On page 37, revise (vi) to read ‘ ... other applicable **statutory and** regulatory requirements’ [EXM]
20. On page 37, revise (3)(b) to read ‘For **release of** non-impacted areas, the’ [EXM]
21. On page 37, revise (c)(1) to read ‘ ... whether the licensee’s **has adequately evaluated the effect of releasing the property as required by (a)(1)** ~~proposed release of the property meets all other applicable regulatory requirements ;~~ [EXM]
22. On page 37, revise (d) to read ‘For **release of** impacted areas, the’ [EXM]
23. On page 38, revise (e)(1) to read ‘ ... whether the licensee’s **has adequately evaluated the effect of releasing the property as required by (a)(1)** ~~proposed release of the property meets all other applicable regulatory requirements ;~~ [EXM]