



OFFICE OF THE  
SECRETARY

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

August 3, 2001

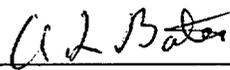
COMMISSION VOTING RECORD

DECISION ITEM:      SECY-01-0083

TITLE:                      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 (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of August 3, 2001.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

  
\_\_\_\_\_  
Annette L. Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc:      Chairman Meserve  
         Commissioner Dicus  
         Commissioner McGaffigan  
         Commissioner Merrifield  
         OGC  
         EDO  
         PDR

VOTING SUMMARY - SECY-01-0083

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	6/15/01
COMR. DICUS	X					6/25/01
COMR. McGAFFIGAN	X				X	7/18/01
COMR. MERRIFIELD	X				X	6/22/01

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on August 3, 2001.

**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Annette Vietti-Cook  
Secretary of the Commission

**FROM:** CHAIRMAN MESERVE

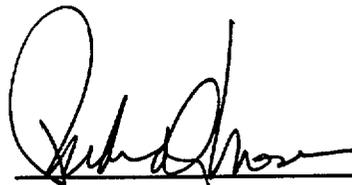
**SUBJECT:** SECY-01-0083 - PROPOSED RULE TO STANDARDIZE  
THE PROCESS FOR ALLOWING A LICENSEE TO  
RELEASE PART OF ITS REACTOR FACILITY OR SITE  
FOR UNRESTRICTED USE BEFORE NRC HAS  
APPROVED ITS LICENSE TERMINATION PLAN

Approved x with comment Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_ Request Discussion \_\_\_\_\_

**COMMENTS:**

See attached comments.



\_\_\_\_\_  
SIGNATURE

June 15, 2021

\_\_\_\_\_  
DATE

Entered on "AS" Yes X No \_\_\_\_\_

Chairman Meserve's Comments on SECY-01-0083

I approve publication in the Federal Register of the proposed rulemaking to allow a power licensee to release part of its reactor facility or site for unrestricted use before the NRC has approved the licensee's license termination plan. The proposed rule addresses a circumstance that was not envisioned when the NRC's current regulations were developed.

In light of the facts that there have not been requests for partial site releases by other types of licensees and that there may be technical issues in connection with such releases at certain material sites, I support a rulemaking limited to power reactors at this time. The Commission should be prepared to revisit the issue for other types of licenses if an interest in partial site releases should arise.

I suggest some editorial changes to the Federal Register notice.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 20, and 50

RIN 3150 - AG56

Releasing Part of a Power Reactor Site or Facility for Unrestricted Use  
Before the NRC Approves the License Termination Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to standardize the process for allowing a power reactor licensee to release part of its facility or site for unrestricted use before <sup>the</sup> NRC approves the license termination plan (LTP). This type of release is termed a "partial site release." The proposed rule would identify the criteria and regulatory framework that a licensee would use to request NRC approval for a partial site release and provide additional assurance that residual radioactivity would meet the radiological criteria for license termination, even if parts of the site were released before a licensee submits its LTP to the NRC. Also the proposed rule would clarify that the radiological criteria for unrestricted use apply to a partial site release. ✓

DATES: The comment period expires on **[75 days after publication in the Federal Register]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You also may provide comments via the NRC's interactive rulemaking Website (<http://ruleforum.llnl.gov>). This site provides the capability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Website, contact Ms. Carol Gallagher, (301) 415-5905, e-mail: [cag@nrc.gov](mailto:cag@nrc.gov).

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site (the Electronic Reading Room), [www.nrc.gov](http://www.nrc.gov).

FOR FURTHER INFORMATION CONTACT: Mr. W. Mike Ripley, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; telephone: 301-415-1112; or by Internet electronic mail to [wmr@nrc.gov](mailto:wmr@nrc.gov).

SUPPLEMENTARY INFORMATION:

Background

✓ Compliance with the decommissioning and license termination rules of 10 CFR Parts 20, and 50 ensure<sup>s</sup> adequate protection to the public and the environment from any radioactivity remaining in the facility and site when the reactor license is terminated. The NRC staff makes

The purpose of the License Termination Rule (LTR) [61 FR 39301; July 29, 1996, as amended at 62 FR 39091; July 21, 1997] and 10 CFR 50.82 is to ensure that the residual radioactivity for the licensed activity is within the criteria of the LTR. To avoid licensees taking a piecemeal approach to license termination, the LTP must consider the entire site as defined in the original license, along with subsequent modifications to the site boundary, to ensure that the entire area meets the radiological release requirements of 10 CFR Part 20, Subpart E, at the time the license is terminated. Therefore, the purpose of the LTR is to consider the whole site for application of the release criteria. That is, any site area controlled during the term of the license must be considered. The proposed rule would clarify this purpose and not establish new policies or standards. Although no further surveys of previously released areas are anticipated, the dose assessment in the LTP must account for possible dose contributions associated with previously released areas in order to ensure that the entire area meets the radiological release requirements of 10 CFR Part 20, Subpart E, (0.25 mSv/yr [25 mrem/yr] reduced to as low as reasonably achievable [ALARA]) at the time the license is terminated. The proposed requirement that licensees maintain records of property line changes and the radiological conditions of partial site releases ensures that these potential dose contributions can be adequately considered at the time of any subsequent partial releases and at the time of license termination. Specific guidance to assist licensees in identifying and accounting for these potential dose contributions is currently being developed, and will be available before publishing the final rule.

The proposed rule would, therefore, provide <sup>adequate</sup> ~~greater~~ assurance that residual radioactivity from licensed activities that remains in areas released for unrestricted use will meet the radiological criteria for license termination. It should increase public confidence in decisions to release parts of reactor sites and make more efficient use of NRC and licensee resources.





~~ANNEX~~

such as the 10 CFR Part 20, Subpart E, radiological release criteria. ~~Minimum radionuclide concentrations from licensed operations have been proposed in the past, however there are no values currently endorsed by the NRC.~~ The proposed release area's classification as either impacted or non-impacted <sup>will</sup> ~~remains a criterion for~~ determining whether the release may be approved by letter, or whether a license amendment is required. Guidance for demonstrating that a proposed release area is non-impacted is contained in NUREG-1575, Revision 1.

Subpart K of 10 CFR Part 20 provides in § 20.2002 that a licensee may request NRC approval of a proposed disposal method that is not otherwise authorized by NRC regulations. Some have argued that a partial site release should be covered by § 20.2002; however, a partial site release leaving residual radioactivity at a site that meets the release criteria for unrestricted use of 10 CFR 20.1402 is not considered a disposal. In any case, the proposed rule, if adopted, would authorize partial site releases, thereby removing the argument that a partial site release is within the scope of § 20.2002. Additionally, any disposals made under § 20.2002 on those portions of the site proposed for release will be considered impacted areas.

In contrast to the license termination process, the proposed rule does not require a license amendment to release property for unrestricted use in all cases. The NRC believes this difference is justified for the following reasons. First, the license termination process was created to deal with the facility or site as a whole, which inevitably involves handling residual radioactivity, such as that found in plant systems. The proposed rule preserves the license amendment approach for those cases in which the potential exists for residual radioactivity and requires that the area meets the radiological criteria for unrestricted use. Second, for cases in which the change does not adversely affect reactor safety and it is demonstrated that the area is non-impacted and, therefore, there is no reasonable potential for residual radioactivity, a license amendment is not required to adequately protect public health and safety. The

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER DICUS

SUBJECT: **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**

Approved   x   Disapproved        Abstain       

Not Participating       

COMMENTS:

None.

Anette Joy Dicus  
SIGNATURE

June 25, 2001  
DATE

Entered on "STARS" Yes   x   No

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MCGAFFIGAN  
SUBJECT: **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**

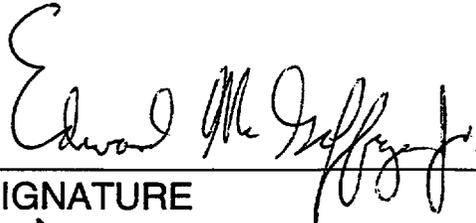
w/comments

Approved  Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_

Not Participating \_\_\_\_\_

COMMENTS:

See attached comments, and edits.



SIGNATURE

DATE

July 18, 2001

Entered on "STARS" Yes  No \_\_\_\_\_

2001 MAY -9 PM 5:14

### Commissioner McGaffigan's Comments on SECY-01-0083

I approve the publication in the *Federal Register* of the notice of proposed rulemaking and acknowledge 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). I also generally agree with the changes proposed by Commissioner Merrifield in his vote.

Clearly, this rulemaking attempts to address circumstances never contemplated when any of the currently licensed Part 50 reactor facilities were initially licensed. I commend the staff for its efforts thus far in developing a rule to standardize the process for allowing partial site release. However, there does appear to be some ambiguity concerning how the staff would consider a partial site release involving non-impacted land for an operating Part 50 reactor licensee with an Independent Spent Fuel Storage Installation (ISFSI), specifically regarding the requirements for the ISFSI controlled area pursuant to §72.106(b). Even a licensee without a current ISFSI but with the potential need for an ISFSI in the future may need to consider future ISFSI physical protection requirements in making partial site release proposals.

In a separate rulemaking (SECY-01-0101), the staff proposes to make changes to Part 72 and Part 73 regarding physical protection requirements for spent fuel in order to achieve greater consistency between security requirements for generally and specifically licensed ISFSI (i.e, both types of licensees would fall under §73.51). In SECY-01-0101, the staff also states that it is currently examining §73.51 and the physical protection requirements of dry cask storage and will forward its recommendations to the Commission in a separate policy paper. Because this draft rule addresses a voluntary activity for the licensee, rather than a required activity, I encourage the staff to work with stakeholders in developing clear-cut, articulate regulatory guidance and acceptance criteria for reviewing Part 50 partial site release requests involving a co-located ISFSI.

The proposed rule contains some ambiguous wording that can be readily clarified by making the following changes.

1. The proposed wording for 50.83(a)(1)(vi) should be modified to read "All other applicable **statutory** and regulatory requirements continue to be met."
2. The definition for impacted areas should be changed to specify that impacted areas "mean the areas with some **reasonable** potential for residual radioactivity..."
3. The proposed wording for 50.83 should be modified to add the following identified in bold italics: "(a) **Prior written** NRC approval is required to release part of a facility or site for unrestricted use..."

4. A statement should be added to the proposed wording for 50.83 to reference the fact that 50.75 contains record keeping requirements associated with this rule.
5. The proposed wording for 50.83(c)(1) and (e)(1) should be changed from "Determine whether the licensee's proposed release of the property meets all other applicable regulatory requirements" to "***Determine whether the licensee has adequately evaluated the effect of releasing the property as required by (a)(1).***"

A mark-up of the proposed rule with other minor edits and suggested editorial changes to the *Federal Register* notice are attached.

*EMG*

**ATTACHMENT 1**

**Draft *Federal Register* Notice**

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 20, and 50

RIN 3150 - AG56

Releasing Part of a Power Reactor Site or Facility for Unrestricted Use  
Before the NRC Approves the License Termination Plan

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to standardize the process for allowing a power reactor licensee to release part of its facility or site for unrestricted use before NRC approves the license termination plan (LTP). This type of release is termed a "partial site release." The proposed rule would identify the criteria and regulatory framework that a licensee would use to request NRC approval for a partial site release and provide additional assurance that residual radioactivity would meet the radiological criteria for license termination, even if parts of the site were released before a licensee submits its LTP to the NRC. Also the proposed rule would clarify that the radiological criteria for unrestricted use apply to a partial site release.

**DATES:** The comment period expires on **[75 days after publication in the Federal Register]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You also may provide comments via the NRC's interactive rulemaking Website (<http://ruleforum.llnl.gov>). This site provides the capability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Website, contact Ms. Carol Gallagher, (301) 415-5905, e-mail: [cag@nrc.gov](mailto:cag@nrc.gov).

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site (the Electronic Reading Room), [www.nrc.gov](http://www.nrc.gov).

FOR FURTHER INFORMATION CONTACT: Mr. W. Mike Ripley, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; telephone: 301-415-1112; or by Internet electronic mail to [wmr@nrc.gov](mailto:wmr@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Compliance with the decommissioning and license termination rules of 10 CFR Parts 20, and 50 ensure<sup>s</sup> adequate protection to the public and the environment from any radioactivity remaining in the facility and site when the reactor license is terminated. The NRC staff makes

The NRC staff has obtained preliminary input from stakeholders at several public workshops. The suggested approach to handling requests for partial site release for unrestricted use was presented to the attendees for comment. Utility and nuclear industry representatives indicated that licensees need a method to allow them to release parts of a site before NRC approves the LTP. Utility representatives stated that formal NRC action would be desirable to provide finality and legal closure after part of a reactor site or facility is released. Although there were no negative comments received from representatives of public interest groups attending the workshops, a number of questions were raised on the implementation of the proposed rule. These questions have been addressed below, or added to the Issues for Public Comment section in order to solicit further public comment. Depending on the comments received on this proposed rule, the NRC may hold additional workshops or other public meetings before issuance of the final rule in order to solicit further stakeholder input.

#### Discussion of Proposed Rule

The strategy for developing the proposed rule is to narrow its applicability to power reactor licensees to be responsive to current industry needs while also protecting the health and safety of the public. A separate rulemaking would be needed to address the wide variety of materials sites, many of which are technically more complex from a decommissioning perspective than reactor sites, to provide a uniform and consistent agency approach to partial site release. The proposed rule would require NRC approval for a partial site release at a reactor site before NRC approval of the licensee's LTP.

The approval process by which the property is released depends on the potential for residual radioactivity from plant operations remaining in the area to be released. First, for proposed release areas classified as *non-impacted* and, therefore, having no reasonable

X potential for residual radioactivity, the licensee would be allowed to submit a letter request for approval of the release containing specific information for NRC approval. In these cases, as there is no reasonable potential for residual radioactivity, NRC would approve the release of the property by letter upon determining that the licensee has otherwise met the criteria of the proposed rule and no change to a license or technical specifications description of the site is necessary. Guidance for demonstrating that a proposed release area is *non-impacted* is contained in NUREG-1575, Revision 1, "Multi-agency Radiation Survey and Site Investigation Manual (MARSSIM)." NRC would generally not perform radiological surveys and sampling of a non-impacted area. However, should NRC <sup>determine</sup> ~~deem~~ surveys and sampling <sup>were</sup> ~~as being~~ needed, such would be done as part of NRC's inspection process. Second, for areas classified as impacted and, therefore, having some potential for residual radioactivity, the licensee would submit the required information in the form of a license amendment for NRC approval. The proposed amendment also would include the licensee's demonstration of compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402. Regulatory guidance for performing this demonstration is contained in NUREG-1727, "NMSS Decommissioning Standard Review Plan." In both cases, public participation requirements and additional record keeping would be addressed.

This approval approach is a departure from that presented to the Commission in the NRC staff's rulemaking plan (SECY-00-0023, February 2, 2000). At that time, it was thought that if a licensee could demonstrate that the radioactivity associated with any residual material remaining after remediation of impacted areas was no longer distinguishable from the background radioactivity, the approval could be treated in the same manner as a non-impacted area, and the release area could be approved by letter as opposed to a license amendment. However, the ability to distinguish residual radioactivity from background depends on the detection of non-background radionuclides or a statistical dose increment above background,

therefore, there is no reasonable potential for residual radioactivity in the area to be released. The release would be approved if all the proposed criteria are met.

- Require a license amendment that contains the licensee's demonstration of compliance with the radiological criteria for unrestricted use (0.25 mSv/yr [25 mrem/yr] and ALARA) for releases of property in which the area is classified as impacted and, therefore, a reasonable potential for residual radioactivity in the area to be released exists.
  
- Revise the LTP requirements to account for property that was released before a licensee received approval of its LTP.
  
- Require the NRC to hold a public meeting to inform the public of the partial site release request and receive public comments before acting on the request.
  
- Require additional record keeping of the acquisition and disposition of property included in the site.
  
- Add supporting definitions of key terms.

The partial site release proposed rule would make the following changes to 10 CFR

Part 20:

- Include releasing part of a facility or site for unrestricted use within the scope of the radiological criteria for license termination.

- Include releasing part of a facility or site for unrestricted use within the scope of the criteria by which the NRC may require additional cleanup on receiving new information following the release.

The partial site release rulemaking would make the following change to 10 CFR Part 2:

- Provide for informal hearings in accordance with Subpart L for amendments associated with partial site releases.

#### Section-by-Section Analysis

#### 10 CFR Part 2, Subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings"

Informal hearing procedures are specified in 10 CFR Part 2, Subpart L.

X → Section 2.1201(a)(1) applies to materials licenses under Parts 30, 40, and 70, and would apply to the partial release of materials sites. Section 2.1201(a)(3) applies to requests for a hearing for amendments to a Part 50 license for licensees that have certified permanent cessation of operations and permanent removal of fuel from the reactor and permanently removed fuel from the Part 50 facility. It applies to decommissioning reactors that have either removed spent fuel from the site, or have placed it in an independent spent fuel storage installation licensed under Part 72. e

[as stated on p.5, a separate rulemaking will be required for partial release of materials sites, so it is not helpful to mention partial release of materials sites here]

reactor

The NRC believes that conditions in a part of a ~~facility~~<sup>reactor</sup> or site released for unrestricted use are equivalent to the conditions specified in § 2.1201(a)(3). The proposed amendment underlying the hearing request would principally address the transfer of land, and not ~~plant~~<sup>reactor</sup> operations. ~~This approach is similar to the treatment of materials licensing issues that are currently subject to Subpart L under § 2.1201(a)(1).~~  
*The issues would also be*

An amendment to 10 CFR Part 2, Subpart L, is required to permit use of these informal hearing procedures for amendments associated with partial site releases at nuclear power reactors. It should be noted that the proposed rule does not provide for license amendments to authorize partial site releases where there is no reasonable potential for residual radioactivity in the area to be released. As there are no license amendments in these cases, there are no corresponding opportunities for hearings. However, public meetings will be noticed in these cases to obtain comments before NRC action on the release.

10 CFR Part 20, "Standards for Protection Against Radiation"

In 10 CFR Part 20, the NRC provides standards for protection against radiation. These standards are applicable to reactor licensees as long as they hold a license. The subparts relevant to the partial site release issue are Subpart D ("Radiation Dose Limits for Individual Members of the Public") and Subpart E ("Radiological Criteria for License Termination").

10 CFR Part 20, Subpart D, "Radiation Dose Limits for Individual Members of the Public"

The radiation dose limits specified in 10 CFR Part 20, Subpart D, set the annual limit for an individual member of the public at 1.0 mSv/yr (100 mrem/yr). However, there are a number of more stringent dose standards applicable to power reactor licensees that must also be

considered. These standards include the Environmental Protection Agency (EPA) environmental radiation standard incorporated in § 20.1301(d), the Subpart D compliance standards in § 20.1302(b), the radiological effluent release objectives to maintain effluents ALARA in Appendix I to 10 CFR Part 50, and any dose standards which may be established by special license conditions.

A licensee performing a partial site release must continue to comply with the public dose limits and standards as they pertain to the area remaining under the license. In addition, the licensee must comply with the public dose limits for effluents, etc., entering the released portion of the site. As a practical matter, a licensee must demonstrate that moving its site boundary closer to the operating facility would not result in a dose to a member of the public that exceeds these criteria. If residual radioactivity exists in the area to be released for unrestricted use, the dose caused by the release must be considered along with that from the licensee's facility, as well as, for the case of the EPA's standard incorporated in § 20.1301(d), that from any other uranium fuel cycle operation in the area, for example a facility licensed under 10 CFR Part 72, to determine compliance with the above standards. As a consequence, a partial site release for unrestricted use that contains residual radioactivity may have to meet a standard lower than the radiological criteria of 10 CFR Part 20, Subpart E, discussed below because the combined dose from the partial site release and the dose from these other sources must meet the public dose limits and standards described above.

10 CFR Part 20, Subpart E, "Radiological Criteria for License Termination"

The scope of Subpart E applies to decommissioning reactor facilities. However, as currently written, it does not specifically apply to operating reactors. The reactor remains

“operating” until a licensee submits the certifications of permanent cessation of operations specified in § 50.82(a)(1), when it <sup>begins</sup> ~~becomes~~ “decommissioning.” X

Radiological criteria for license termination contained in 10 CFR Part 20, Subpart E, limit radiation exposure to the “average member of the critical group.” The limit applicable to release for unrestricted use is 0.25 mSv/yr (25 mrem/yr) total effective dose equivalent (TEDE), with additional reductions consistent with the ALARA principle. The determination of ALARA in these cases explicitly requires balancing reduction in radiation risk with the increase from other health and safety risks resulting from the work done to decontaminate a site, such as adverse health impacts from transportation accidents that might occur if larger amounts of waste soil are shipped for disposal. The standard applies to doses resulting from “residual radioactivity distinguishable from background radiation” and includes dose from groundwater sources of drinking water. The standard for unrestricted use in 10 CFR Part 20, Subpart E, does not include dose from effluents or direct radiation from continuing operations. However, as noted in the above section on public dose limits, the dose from these sources must be considered when demonstrating compliance with the radiological release criteria.

Section 20.1401(c) limits additional cleanup following the NRC’s termination of the license. Additional cleanup would only be required if new information reveals that the requirements of Subpart E were not met and a significant threat to public health and safety remains from residual radioactivity. Similarly, the proposed rule would include the portions of the site released for unrestricted use within the scope of the criteria by which the Commission may require additional cleanup on the basis of new information received following the release.

The proposed rulemaking is intended to apply Subpart E to power reactor licensees, both operating and decommissioning, that have not received approval of the LTP. Because an LTP is required for license termination under restricted conditions (§ 20.1403(d)) or alternate

criteria (§ 20.1404(a)(4)), only the "unrestricted use" option would be available to licensees for a partial site release before receiving approval of the LTP.

The proposed rule would not require an analysis to demonstrate that the area to be released meets the criteria of § 20.1402 for cases in which the licensee is able to demonstrate that there is no reasonable potential for residual radioactivity in the area to be released. In these cases, compliance with § 20.1402 is demonstrated by providing documentation of an evaluation of the site to identify areas of potential or known sources of radioactive material that concludes that the area is non-impacted and there is, therefore, no reasonable potential for residual radioactivity. Acceptable guidance describing the performance of this demonstration is contained in NUREG-1575, Revision 1.

For areas classified as impacted, the proposed rule would require a license amendment that includes a demonstration of compliance with § 20.1402 for the area that is released for unrestricted use. Guidance for performing this classification is contained in NUREG-1727. This guidance can be used to support a license amendment request for partial site release.

An amendment to Part 20, Subpart E, that revises § 20.1401(a)(4) and § 20.1401(c) would add the release of part of a facility or site for unrestricted use to the provisions and scope of 10 CFR Part 20, Subpart E.

#### 10 CFR 50.2, "Definitions"

The NRC issued technical guidance after the decommissioning rules of § 50.82 were amended in 1996. Those documents included NUREG-1575 which defined terms (historical site assessment, impacted, and non-impacted) that are critical to implementing the amended regulations. In order for a licensee to adequately demonstrate compliance with the radiological criteria for license termination in 10 CFR Part 20, Subpart E, the licensee must evaluate its site

final survey and associated documentation provided by a licensee demonstrate that the site is suitable for release at the time the license is terminated. These sections codify the NRC's views that (1) certain information is required to evaluate the adequacy of a licensee's compliance with the radiological criteria for license termination in 10 CFR Part 20, Subpart E, and (2) the license termination criteria are applicable to the entire site. However, because the LTP is not required until 2 years before the anticipated date of license termination, a licensee may perform a partial site release before it submits the necessary information. The information required when the LTP is submitted refers to the "site." It is not clear that a licensee could be required to include the areas released because they no longer are part of the "site." The NRC is concerned that a licensee could adopt partial site release as a piecemeal approach to relinquish responsibility for a part of its site without going through the license termination process and <sup>without</sup> ensuring that the release criteria of 10 CFR Part 20, Subpart E, are met. ✕

A new paragraph, § 50.82(a)(9)(ii)(H), would include the identification of parts of the site released for unrestricted use before approval of the LTP with the information listed in the LTP.

An amendment to § 50.82(a)(11)(ii) would require that the final radiation survey and associated LTP documentation, demonstrating that the site is suitable for release in accordance with the criteria in 10 CFR Part 20, Subpart E, include any parts released for use before approval of the LTP. Although no further surveys of previously released areas are anticipated, the dose assessment in the LTP must account for possible dose contributions associated with previous releases in order to ensure that the entire area meets the radiological release requirements of 10 CFR Part 20, Subpart E (0.25 mSv/yr [25 mrem/yr] reduced to ALARA) at the time the license is terminated. The proposed requirement that records of property line changes and the radiological conditions of partial site releases be maintained by licensees would ensure that these potential dose contributions can be adequately considered at the time of any subsequent partial releases and at the time of license termination. Specific guidance to

assist licensees in identifying and accounting for these potential dose contributions is currently being developed.

10 CFR 50.83, "Release of Part of a Facility or Site for Unrestricted Use"

The proposed rule would add a new § 50.83, separate from the current decommissioning and license termination rules, that identifies the criteria and regulatory framework for power reactor licensees that seek to release part of a facility or site for unrestricted use at any time before receiving approval of an LTP.

The proposed rule would require NRC approval for a partial site release. The approval process by which the property is released would depend on the potential for residual radioactivity from plant operations remaining in the area to be released. First, for proposed release areas classified as *non-impacted* and, therefore, having no reasonable potential for residual radioactivity, the licensee would be allowed to submit a letter request for approval of the release containing specific information for NRC approval. Because there is no reasonable potential for residual radioactivity in these cases, NRC would approve the release of the property by letter after determining that the licensee has met the criteria of the proposed rule. Guidance for demonstrating that a proposed release area is *non-impacted* is contained in NUREG-1575, Revision 1. NRC would generally not perform radiological surveys and sampling of a non-impacted area. However, should NRC <sup>determine</sup> ~~deem~~ surveys and sampling <sup>were</sup> ~~as being~~ needed, such would be done as part of NRC's inspection process. Second, for areas classified as impacted and, therefore, <sup>that</sup> ~~do~~ have some potential for residual radioactivity, the licensee would submit the required information in the form of a license amendment for NRC approval. The proposed amendment also would include the licensee's demonstration of compliance with the

radiological criteria for unrestricted use specified in 10 CFR 20.1402. Regulatory guidance for performing this demonstration is contained in NUREG-1727.

Licensees may find it beneficial to review their survey plans and design with the NRC staff before performing the surveys. As warranted, NRC will conduct parallel and/or confirmatory radiation surveys and sampling to ensure that the licensee's conclusions are adequate.

The proposed rule is intended to apply 10 CFR Part 20, Subpart E, to reactor licensees that have not received approval of the LTP. Because an LTP is required for license termination under restricted conditions (§ 20.1403(d)) or alternate criteria (§ 20.1404(a)(4)), only the "unrestricted use" option would be available to licensees for a partial site release before receiving approval of the LTP.

The proposed rule also would require a licensee to evaluate the effect of releasing the property to ensure that it would continue to comply with all other applicable <sup>statutory and</sup> regulatory requirements that may be impacted by the release of property and changes to the site boundary. This would include, for example, regulations in 10 CFR Parts 20, 50, 72, and 100. In those instances involving license amendments, licensees also would be required to provide a supplement to the existing environmental report to address the planned release. This requirement is similar to the requirement of 10 CFR 50.82(a)9(ii)G. X

The proposed rule provides for public participation. The NRC will notice receipt of a licensee's proposal for a partial site release, regardless of the amount of residual radioactivity involved, and make it available for public comment. The NRC also will hold a public meeting in the vicinity of the site to discuss the licensee's release approval request or license amendment application, as applicable.

### Issues for Public Comment

The NRC encourages comments concerning the content, level of detail specified, and the implementation of the proposed amendments. Suggestions or alternatives other than those described in this document and estimates of cost for implementation are encouraged. The NRC is particularly interested in receiving comments on the following issues related to this proposed rule:

1. Are there rulemaking alternatives to this proposed rule that were not considered in the regulatory analysis for this proposed rule?
2. Are the proposed definitions in § 50.2 clear?
3. Is public involvement adequately considered?
4. Should the license amendment process be required for all partial site release approvals, regardless of whether the site has been classified as non-impacted?
5. Does the proposed rule make it adequately clear that licensees <sup>must</sup> 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 ~~must be considered when~~ <sup>in</sup> demonstrating compliance with the radiological release criteria?
6. Is there reason to limit the size or number of partial site releases?
7. Are there other potential impacts on continued operation or decommissioning activities as a result of partial site releases that should specifically be considered in the rule?

X

fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in 10 CFR 2.810.

### Backfit Analysis

The NRC has determined that the backfit rule does not apply to this proposed rule; therefore, a backfit analysis is not required for this proposed rule because it does not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

The proposed rule would clarify the application of the license termination rule (LTR) [61 FR 39301; July 29, 1996, as amended at 62 FR 39091; July 21, 1997] for partial site release and the relationship between partial site release and decommissioning of a site under 10 CFR 50.82. A backfit analysis was not required for the LTR because it did not involve reactor operations, and it was not required for 10 CFR 50.82 because that rule was imposed to ensure adequate protection of the public health and safety. Because a backfit analysis was not required for either the LTR or for 10 CFR 50.82, it does not appear that it would be needed for this rulemaking action.

*radiological criteria for* X

Additionally, the purpose of the LTR and 10 CFR 50.82 is to ensure that the residual radioactivity from the licensed activity is within the criteria of the LTR. The LTR requires that any previously approved onsite disposals be reconsidered in determining releases under the LTR. As to previously approved offsite releases, Section F.2.3. of the Statement of Considerations for the final LTR describes a limited grandfathering of previously approved partial site releases. The NRC stated that guidance would be issued on how licensees should address previously released portions of licensed sites. Consequently, while a previously approved partial site release meeting the LTR criteria would not need to be reconsidered, absent new information in accordance with 10 CFR 20.1401(c), it was not the intent of the rule

that interaction from the previously released residual radiation be excluded from consideration in the release decision for the remaining portions of the site. To read the LTR as not requiring the radiation interactions from the previously released site to be considered in making release determinations on the remaining site would permit a licensee to release a site that would otherwise not meet the LTR criteria by releasing the site by segments, each one below the criteria of the LTR. Such an approach would defeat the intent of the LTR to consider all the residual radioactivity from the licensed activity in meeting the LTR criteria. This rulemaking would clarify the intent of the LTR and not establish new policies or standards.

Accordingly, the proposed rule's provisions do not constitute a backfit and a backfit analysis need not be performed. However, the staff has prepared a regulatory analysis that identifies the benefits and costs of the proposed rule and evaluates other options for addressing the identified issues. As such, the regulatory analysis constitutes a "disciplined approach" for evaluating the merits of the proposed rule and is consistent with the underlying intent of the backfit rule.

#### 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.

2. In § 2.1201, paragraph (a)(4) is added to read as follows:

§ 2.1201 Scope of subpart.

(a) \* \* \*

(4) The amendment of a Part 50 license to release part of a power reactor facility or site for unrestricted use in accordance with § 50.83. Subpart L hearings for the partial site release plan, if conducted, must be complete before the property is released for use.

\* \* \* \* \*

## PART 20 - STANDARDS FOR PROTECTION AGAINST RADIATION

3. The authority citation for Part 20 continues to read as follows:

AUTHORITY: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

4. In § 20.1401, paragraphs (a) and (c) are revised to read as follows:

§ 20.1401 General provisions and scope.

(a) The criteria in this subpart apply to the decommissioning of facilities licensed under Parts 30, 40, 50, 60, 61, 70, and 72 of this chapter, and release of part of a facility or site for

*Staff:*  
May need to update to reflect final AT 63, which will be promulgated  
later this year + supersede AT 60. Conforming changes as also needed,  
e.g. p. 32

X

X unrestricted use in accordance with § 50.83 of this chapter, as well as other facilities subject to the Commission's jurisdiction under the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended. For high-level and low-level waste disposal facilities (10 CFR Parts 60 and 61), the criteria apply only to ancillary surface facilities that support radioactive waste disposal activities. The criteria do not apply to uranium and thorium recovery facilities already subject to Appendix A to 10 CFR Part 40 or to uranium solution extraction facilities.

\* \* \* \* \*

(c) After a site has been decommissioned and the license terminated in accordance with the criteria in this subpart, or after part of a facility or site has been released for unrestricted use in accordance with § 50.83 of this chapter and in accordance with the criteria in this subpart, the Commission will require additional cleanup only if based on new information, it determines that the criteria of this subpart were not met and residual radioactivity remaining at the site could result in significant threat to public health and safety.

\* \* \* \* \*

## PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

5. 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, 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, 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, as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 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 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).

6. Section 50.2 is revised by adding "Historical site assessment," "Impacted areas," and "Non-impacted areas" in alphabetical order to read as follows:

§ 50.2 Definitions.

\* \* \* \* \*

Historical site assessment means the identification of potential, likely, or known sources of radioactive material and radioactive contamination based on existing or derived information for the purpose of classifying a facility or site, or parts thereof, as impacted or non-impacted.

*reasonable*

X Impacted areas mean the areas with some potential for residual radioactivity in excess of natural background or fallout levels.

\* \* \* \* \*

Non-impacted areas mean the areas with no reasonable potential for residual radioactivity in excess of natural background or fallout levels.

\* \* \* \* \*

7. In § 50.8, paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval

\* \* \* \* \*

(b) The approved information collection requirements contained in this part appear in §§50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.36b, 50.44, 50.46, 50.47, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.62, 50.63, 50.64, 50.65, 50.66, 50.68, 50.71, 50.72, 50.74, 50.75, 50.80, 50.82, 50.83, 50.90, 50.91, 50.120, and Appendices A, B, E, G, H, I, J, K, M, N, O, Q, R, and S to this part.

\*

\* \* \* \* \*

8. In § 50.75, paragraph (g)(4) is added to read as follows:

§ 50.75 Reporting and record keeping for decommissioning planning.

\* \* \* \* \*

(g) \* \* \*

(4) Within 1 year of the effective date of this regulation, the licensee shall maintain property records containing the following information:

(i) Records of the site boundary, as originally licensed, which must include a site map;

(ii) Records of any acquisition or use of property outside the originally licensed site boundary for the purpose of receiving, possessing, or using licensed materials;

(iii) The licensed activities carried out on the acquired or used property; and

(iv) Records of the disposition of any property recorded in paragraphs (g)(4)(i) or (g)(4)(ii) of this section, the historical site assessment performed for the disposition, radiation surveys performed to support release of the property, submittals to the NRC made in accordance with § 50.83, and the methods employed to ensure that the property met the radiological criteria of 10 CFR Part 20, Subpart E, at the time the property was released.

9. In § 50.82, paragraph (a)(9)(ii)(H) is added and paragraph (a)(11)(ii) is revised to read as follows:

§ 50.82 Termination of license. \*

\* \* \* \* \*

(a) \* \* \*

(9) \* \* \*

(ii) \* \* \*

(H) Identification of parts, if any, of the facility or site that were released for use before approval of the license termination plan.

\* \* \* \* \*

(11) \* \* \*

(ii) The final radiation survey and associated documentation demonstrate that the facility and site, including any parts released for use before approval of the license termination plan, are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E.

\* \* \* \* \*

10. A new § 50.83 is added to read as follows:

§ 50.83 Release of part of a power reactor facility or site for unrestricted use.

*prior written*

(a) *NRC approval is required to release part of a facility or site for unrestricted use at any*  
*Section 50.75 specifies recordkeeping requirements associated with partial release.*  
time before receiving approval of a license termination plan. Nuclear power reactor licensees

seeking NRC approval shall - -

(1) Evaluate the effect of releasing the property to ensure that - -

(i) The dose to individual members of the public from the portion of the facility or site remaining under the license does not exceed the limits of 10 CFR Part 20, Subpart D;

(ii) There is no reduction in the effectiveness of emergency planning or physical security;

(iii) Effluent releases remain within license conditions;

(iv) The environmental monitoring program and offsite dose calculation manual are revised to account for the changes;

(v) The siting criteria of 10 CFR Part 100 continue to be met; and

*statutory and*  
(vi) All other applicable regulatory requirements continue to be met. X

(2) Perform a historical site assessment of the part of the facility or site to be released;

and

(3) Perform surveys adequate to demonstrate compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402 for impacted areas.

*release of*  
(b) For non-impacted areas, the licensee may submit a written request for NRC approval of the release if a license amendment is not otherwise required. The request submittal must include - - X

(1) The results of the evaluations performed in accordance with § 50.59 and paragraphs (a)(1) and (a)(2) of this section;

(2) A description of the part of the facility or site to be released;

(3) The schedule for release of the property; and

(4) A discussion that provides the reasons for concluding that the environmental impacts associated with the licensee's proposed release of the property will be bounded by appropriate previously issued environmental impact statements.

(c) After receiving an approval request from the licensee for the release of a non-impacted area, the NRC shall - -

*has adequately submitted the other of*  
(1) Determine whether the licensee's ~~proposed release of the property meets all other~~ *releasing the property as required by (a)(1);*  
~~applicable regulatory requirements,~~ X

(2) Determine whether the licensee's historical site assessment is adequate; and

(3) Upon determining that the licensee's submittal is adequate, inform the licensee in writing that the release is approved.

*release of*  
(d) For impacted areas, the licensee shall submit an application for amendment of its license for the release of the property. The application must include - - X

(1) The information specified in paragraphs (b)(1) through (3) of this section;

(2) The methods used for and results obtained from the radiation surveys required to demonstrate compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402; and

(3) A supplement to the environmental report, pursuant to § 51.53, describing any new information or significant environmental change associated with the licensee's proposed release of the property.

(e) After receiving a license amendment application from the licensee for the release of an impacted area, the NRC shall - -

X (1) Determine whether the licensee's proposed release of the property meets all other applicable regulatory requirements, *has adequately evaluated the effect of releasing the property as required by (b)(1)*

(2) Determine whether the licensee's historical site assessment is adequate;

(3) Determine whether the licensee's radiation survey for an impacted area is adequate;

and

(4) Upon determining that the licensee's submittal is adequate, approve the licensee's amendment application.

(f) The NRC shall notice receipt of the release approval request or license amendment application and make the approval request or license amendment application available for public comment. Before acting on an approval request or license amendment application submitted in accordance with this section, the NRC shall conduct a public meeting in the vicinity of the licensee's facility for the purpose of obtaining public comments on the proposed release of a part of the facility or site. The NRC shall publish a document in the *Federal Register* and in a forum, such as local newspapers, which is readily accessible to individuals in the vicinity of

**ENCLOSURE TO ATTACHMENT 4**  
**NMSS RESPONSES TO QUESTIONS RAISED ON**  
**DOSE MODELING PARTIAL SITE RELEASE**

This enclosure is taken from a memorandum dated March 28, 2001, from John T. Greeves to John A. Zwolinski, "Partial Site Release Dose Modeling Considerations" (ADAMS Accession Number ML010920318) with some clarifications incorporated following issuance.

**COMMISSION QUESTIONS (SRM ON SECY-00-023, APRIL 26, 2000)**

**SRM-Q1.** Would the dose contribution from the released portion of the site need to be recalculated, particularly in cases where residual radioactivity has significantly decayed, thereby reducing the potential dose?

**SRM-R1.** The licensee would need to consider credible scenarios involving the use of the previously released area and portions of the area being decommissioned. The U.S. Nuclear Regulatory Commission (NRC) will request the licensee to calculate dose to the average member of the critical group as defined in 10 CFR Part 20, and not the maximally exposed individual. In most cases, dose contributions from the partial site that has been released previously on the remainder of the site will not need additional calculations, as the guidance being developed by Office of Nuclear Material Safety and Safeguards (NMSS) is focused upon reducing the need for recalculation of the dose contribution from the partial site release, by taking prospective looks at possible interactions and dose consequences.

The U.S. Nuclear Regulatory Commission (NRC) will request the licensee to consider scenarios that would result in calculating dose to the maximally exposed individual. In most cases, these would not require additional calculations, as the guidance being developed by Office of Nuclear Material Safety and Safeguards (NMSS) is focused upon reducing the need for recalculation of the dose contribution from the partial site release, by taking prospective looks at possible interactions and dose consequences. If the licensee wished to take credit for the decay of the residual radioactivity on the previously released portions of the site, justification of the revised dose commitment would need to be included in the license termination plan. This justification may, in a few cases, require additional modeling.

*Inconsistent w/ rest of R and Redundant*

**SRM-Q2.** What would happen in cases where subsequent owners of the released portion of the site engaged in activities (licensed or unlicensed) that result in a higher dose contribution from this portion of the site - would this dose "count against" the Part 20 allowable dose limit for unrestricted use?

**SRM-R2.** If the new owners perform activities at the released area that results in new information concerning the dose at the time the release was made, that was not considered or known when the partial site release was approved, the licensee and NRC would need to evaluate whether this new information results in the need for further dose calculations or whether it would impact the decommissioning plans for the remainder of the site. The licensee would not be responsible for any additional radioactive material brought onto or produced on the site by the new owners.

The philosophy behind unrestricted release is that NRC allows a licensee to release its site or portion of the site without any restrictions on its use. To remain cognizant of the potential dangers of a facility, the dose assessment uses the average member of the critical group and reasonable scenarios. In certain analyses, the staff may need to review a number of different

scenarios to provide reasonable assurance that the risk of a released site actually resulting in a real dose of greater than 0.25 mSv/y (25 mrem/y) is very small.

In this regard, the partial site release guidance being developed by NMSS minimizes the risk that a partial site release will either result in doses exceeding the 0.25 mSv/y (25 mrem/y) limit by itself or in conjunction with likely scenarios involving interactive effects with the rest of the site. The decision to allow a licensee to release a portion of their site will involve developing dose analyses of the bounding scenario for the site. At the time of decommissioning the remainder of the site, if the actions on the previously released land are widely different than those assessed in the original licensing action and likely to result in an interaction that was not previously addressed, the interaction would need to be reassessed. The impact of the reassessment depends on the interactions possible between contaminated areas of the released portion and the remainder of the site. As stated in SRM-R1 above, the NMSS guidance is focused at taking the possible future interactions into account during the initial partial site release and use those analyses as bases in the license termination to reduce the need for recalculation.

SRM-Q3. Would the contribution from the groundwater pathway need to be recalculated, if years have elapsed between the partial site release and license termination?

SRM-R3. In a small number of cases, the contribution from the groundwater pathway might need to be reevaluated at the time of final license termination. In general, the level of reevaluation will depend on a number of factors: (1) robustness of the scenarios and modeling at time of the partial site release, (2) the degree of difference between the site data and what was assumed in the partial site release, and (3) the amount of decay. The biggest issue will likely be the site data assumed in the partial site release. Licensees with little characterization of the potential or current groundwater contamination at the site during partial site release could have a higher risk of needing to reevaluate the groundwater pathways, depending on the assumptions used in the initial analyses.

## **NRR QUESTIONS**

NRR-Q1. Identify scenarios and determine the extent to which interactive or synergistic dose effects could occur between parts of a site as they are released before license termination, and between parts of a site previously released and the remainder of the site as it exists when the license is terminated.

NRR-R1. The NMSS staff began looking at scenarios to determine whether we could identify specific scenarios that would result in interactions that would increase either the dose associated with the partial site release or the final license termination decision. It quickly became apparent that defining generic scenarios would be an inefficient use of resources because of all the possible variations with the different media, exposure scenarios, and size of both the partial site<sup>1</sup> and the main site.

---

<sup>1</sup> Partial site means the area the licensee is requesting to be released under this rulemaking.

NOTATION VOTE

RESPONSE SHEET

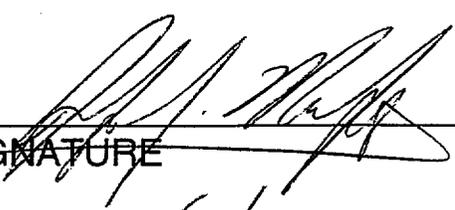
TO: Annette Vietti-Cook, Secretary  
FROM: COMMISSIONER MERRIFIELD  
SUBJECT: **SECY-01-0083 - PROPOSED RULE TO STANDARDIZE THE  
PROCESS FOR ALLOWING A LICENSEE TO RELEASE  
PART OF ITS REACTOR FACILITY OR SITE FOR  
UNRESTRICTED USE BEFORE NRC HAS APPROVED ITS  
LICENSE TERMINATION PLAN**

Approved  Disapproved  Abstain

Not Participating

COMMENTS:

*See attached comments.*

  
\_\_\_\_\_  
SIGNATURE

*6/22/09*  
\_\_\_\_\_  
DATE

Entered on "STARS" Yes  No

## Commissioner Merrifield's Comments on SECY-01-0083

I approve the publication of this rulemaking and I commend the staff for its effort to ensure that each partial release is protective of public health and safety. I support the ability of the reactor facilities to request approval to release portions of a site or facility once they meet the release criteria but before the operating license has been terminated. As a general matter, as long as health and safety can be adequately protected, reducing the scope of property encumbered by reactor licenses makes sense to permit excess land to be used in more economically prosperous ways. It will encourage early clean-up and permit communities that may ultimately face economic slowdown as a result of reactor facilities closing to initiate redevelopment projects using land that would otherwise have been encumbered until after license termination is complete. This action is consistent with the recent brownfield initiatives that have received bi-partisan support in the U.S. House and Senate and support from President Bush. While our primary mission is protection of public health and safety, as an agency we must also be mindful of how actions such as this can impact the communities surrounding the facilities we license. Additionally, I suggest the following changes to the rulemaking package and Federal Register notice.

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, iv 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 only apply 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) also proposes that the record keeping requirements become effective one year after the rule becomes effective. According to the staff, there has never been a partial site release at a power reactor facility which was performed outside of the License Termination Plan. If this is true, and if the above record keeping requirements only apply to facilities that have released a portion of their property, then there would be no reason a facility would need a year to establish the appropriate records. This section should be modified to make the record keeping requirements effective when the rule becomes effective if it applies only to partial site release facilities.



6/22/01