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Part II

Nuclear Regulatory Commission

10 CFR Part 20, et al.

Radiological Criteria for License Termination; Final Rule

Radiological Criteria for License Termination: Uranium Recovery
Facilities; Proposed Rule

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 40, 50, 51, 70 and 72

RIN 3150-AD65

Radiological Criteria for License Termination

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its
regulations regarding decommissioning of licensed facilities to provide

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F. Other Procedural and Technical Issues

F.1 State and NRC Compatibility

F.1.1 Comments. Some commenters stated that States should have the authority to demand stricter radiation protection standards than the Federal Government. Some commenters recommended that States not be allowed to set less strict conditions. Other commenters stated that radiological criteria should be an area of strict compatibility and States should not be permitted to impose more stringent standards. Specific comments raised included questions as to which standard would apply if there was a conflict, whether a State would need NRC approval to require more strict standards, application of ALARA provisions, who should pay for costs if more strict State standards are applied, exemptions, and grandfathering provisions similar to those in Section IV.F.2.

F.1.2 Response. The proposed rule did not propose a compatibility determination because the Commission was in the process of developing a compatibility policy. Instead, comments were requested on compatibility and the comments received were divided on this issue.

The current compatibility policy categorizes rules into four "divisions." Division 1 rules are those that Agreement States must adopt, essentially verbatim, into their regulations. These rules include provisions that form the basic language of radiation protection and include technical definitions and basic radiation protection standards such as public dose limits, occupational exposure limits and effluent release limits. Division 2 rules address basic principles of radiation safety and regulatory functions. Although Agreement States must address these principles in their regulations, the use of language identical to that in NRC rules is not necessary if the underlying principles are the same. Also, the Agreement States

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may adopt requirements more stringent than NRC rules.

Because the dose criterion in the rule is not a "standard" in the sense of the public dose limits of 10 CFR part 20 but is a constraint within the public dose limit that provides a sufficient and ample margin of safety below the limit, it is reasonable that the rule would be a Division 2 level of compatibility under the current policy. This means the Agreement States would be required to adopt the regulation but would have significant flexibility in language, and would be allowed to adopt more stringent requirements.

The Commission has not yet approved a new final policy on compatibility that revises the current policy, although it is currently considering the implementing procedures for this policy (SECY-96-213 dated October 3, 1996). Until the new policy becomes effective, NRC will continue to apply the current Agreement State compatibility policy.

F.2. Grandfathering Sites With Previously Approved Plans (Proposed Rule 20.1401(b))