

March 7, 2003

COMMISSION VOTING RECORD

DECISION ITEM:       SECY-02-0221

TITLE:                 FINAL 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 final rule as noted in an Affirmation Session and recorded in the Staff Requirements Memorandum (SRM) of March 7, 2003.

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

*/RA by J. Samuel Walker Acting For/*

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Annette L. Vietti-Cook  
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

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

VOTING SUMMARY - SECY-02-0221

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. MESERVE	X				X	1/30/03
COMR. DICUS	X					2/7/03
COMR. DIAZ	X					1/8/03
COMR. McGAFFIGAN	X				X	2/24/03
COMR. MERRIFIELD	X				X	1/23/03

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and some provided additional comments. Subsequently, the Commission approved the final rule as noted in an Affirmation Session and reflected in the SRM issued on March 7, 2003.

## Commissioner Comments on SECY-02-0221

### Chairman Meserve

This rulemaking provides the process by which a power reactor licensee may seek the release of part of a site for unrestricted use before approval of its license termination plan. The rulemaking ensures that any such release provides full protection of public safety and should further the public interest by making land available for productive use.

I approve the publication of the rulemaking notice, subject to the attached modifications of the Federal Register notice. Most of the changes are minor, but perhaps one should be explained. The existing text at page 12 states that “the relevant site area to be considered in demonstrating compliance with 10 C.F.R. 20, Subpart E, is the current and historic licensed site . . . .” This language would impose a new constraint on Subpart E, as it would exclude consideration of the effects of contamination outside the licensed area in demonstrating compliance with the dose limits on the licensed site and, perhaps even more serious, might raise questions about the NRC’s authority to require cleanup outside the licensed area. I propose simple edits that avoid the issue.

### Commissioner McGaffigan

See attached edits and comments on Federal Register Notice and Letters.

### Commissioner Merrifield

I approve that staff’s request to publish in the Federal Register the final rule to standardize the process for allowing a partial site release. I support the added flexibility this rule allows licensees by providing the option to request the release of portions of a site or facility prior to license termination. As I have stated in my vote on the draft proposed rule, “as long as the health and safety can be adequately protected, reducing the scope of property encumbered by reactor licenses make sense to permit excess land to be used in more economically prosperous ways.” I believe that this will ultimately afford the surrounding communities an opportunity to initiate redevelopment projects well in advance of license termination and thus lessen the economic impacts associated with a plant closure.

The staff should revise the draft Congressional letters pertaining to the final rule to reflect the recent leadership changes.