

NUREG-1575, "Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM)." However, the NRC would generally not perform radiological surveys and sampling of a non-impacted area. The NRC will determine whether the licensee's classification of any release areas as non-impacted is adequately justified. If the NRC should determine that confirmatory surveys and sampling are needed, such surveys and sampling would be performed as part of the NRC's inspection process.

Second, for areas classified as impacted and, therefore, having some reasonable potential for residual radioactivity, the licensee will submit the required information in the form of a license amendment for NRC approval. The license amendment application will also include the licensee's demonstration of compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402. In both cases, public participation requirements and additional recordkeeping are addressed.

In contrast to the license termination process, the 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 rule preserves the license amendment approach for those cases when the potential exists for residual radioactivity and requires that the area meets the radiological criteria for unrestricted use. Second, for cases when 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 the public health and safety. The rule with its clearly defined criteria would be sufficient for the NRC to confirm a licensee's compliance with the partial site release rule. The NRC's oversight role in these cases is to ensure that the licensee meets the relevant criteria.

The rule amends 10 CFR part 2 to provide an opportunity for a Subpart L hearing if the release involves an amendment. The hearing, if conducted, must be completed before the property is released for use. However, for cases where 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 by the rule. A review of a licensee's proposed partial site release

in such cases is essentially a compliance review to determine if the release would otherwise meet the defined criteria of the regulation. Assuming the partial site release does not result in a change to an existing license, the approval of the partial site release under these circumstances does not require a license amendment (*see* Cleveland Electric Illuminating, *et al.* (Perry Nuclear Power Plant, Unit 1), CLI-96-13, 44 NRC 315, 328 (1996)). In these cases, the opportunity to comment on the licensee's proposal for a partial site release and the required public meeting held before the release approval is granted will serve as forums for public comment on the proposed release.

In some cases, a reactor or site-specific Independent Spent Fuel Storage Installation (ISFSI) license may contain license conditions or technical specifications that define the licensed site in detail, such as a site map. In these cases, if the partial site release would change the licensed site as described, a reactor licensee would be required to submit a license amendment application for the release regardless of the potential for residual radioactivity in the area to be released. However, under current regulations, a licensee could amend its license to remove the licensed site definition without reference to a partial site release and then proceed to perform the release, without obtaining NRC approval. The rule requires NRC approval for a partial release from the licensed site regardless of the amount of detail defining the site in the operating license.

The rule provides for public participation. The NRC will notice receipt of a licensee's proposal for a partial site release regardless of the potential for residual radioactivity and make it available for public comment. Notwithstanding the opportunity for a hearing if a license amendment is involved, the NRC also will hold a public meeting in the vicinity of the site to discuss the licensee's request for letter approval or license amendment application, as applicable, and obtain comments before approving the release. The NRC has issued a policy statement, "Policy on Enhancing Public Participation in NRC Meetings" (67 FR 36920; May 28, 2002). This policy statement provides a revised policy that the NRC will follow in opening meetings to public observation and participation. The revised policy is discussed in the Comments on the Proposed Rule.

Some commenters have expressed concern that a licensee could use a series of partial site releases to avoid applying the criteria of the license

termination rule. Members of the public are concerned that the lack of a specific regulation for partial site releases could result in inconsistent application of safety standards and insufficient regulatory oversight of licensee actions. They also note that the public participation requirements of the license termination rule do not specifically apply to a partial site release. The rule addresses these concerns.

The rule does not permit a partial site release under restricted conditions prior to NRC approval of the LTP, nor has any reactor licensee expressed interest in releasing property for restricted use. Any partial release for restricted use would be handled on a case-by-case basis through application of an exemption process.

The partial site release rule makes the following changes to 10 CFR part 50:

1. Adds a new section, separate from the license termination process of § 50.82, to address the release of part of a reactor facility or site for unrestricted use before the LTP is approved.

2. Prohibits release for restricted use prior to LTP approval.

3. Specifies criteria for the licensee to fulfill to obtain NRC approval of a partial site release.

4. Allows a written request for release approval and does not require a license amendment for releases of property if the licensee demonstrates that the area is non-impacted and, therefore, there is no reasonable potential for residual radioactivity in the area to be released. The release would be approved upon NRC determination that the licensee has met the criteria of the rule.

5. Requires 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 when the area is classified as impacted and, therefore, some reasonable potential for residual radioactivity in the area to be released exists.

6. Revises the LTP requirements to account for previously released property in demonstrating compliance with the radiological release criteria.

7. Requires 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.

8. Incorporates into the recordkeeping important to decommissioning the records of property subject to the release criteria.

9. Adds supporting definitions of key terms.

The partial site release rule makes the following changes to 10 CFR part 20: