

1. Includes releasing part of a facility or site within the scope of the radiological criteria for license termination.

2. Includes 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 rule makes the following change to 10 CFR part 2:

1. Provides for informal hearings in accordance with subpart L for amendments associated with partial site releases.

Comments on the Proposed Rule

This analysis presents a summary of the comments received on the proposed rule, the NRC's response to the comments, and changes made to the final rule as a result of these comments.

The NRC received 11 comment letters. Three were from States (Connecticut, Illinois, and Washington), seven from the industry including six power reactor licensees and the Nuclear Energy Institute (NEI), and one from the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) Workgroup.

The Commission sought input from stakeholders on seven specific issues associated with partial site release. The stakeholder input and the NRC responses to these issues follow.

1. Support for the Proposed Rule

Comment: None of the commenters were opposed to the idea of a process for releasing part of a site or facility. Six of the 11 commenters provided specific comments in general support of the concept of the proposed rule. The NEI, representing the industry, stated that recent industry experience with decommissioning power reactors indicates that this rule will provide real value to the reactor licensee and the host community. In addition, operating reactor facilities and their host communities will have the option to use property that does not directly support plant operations. Industry supports this needed regulatory action.

Response: The NRC is not making any changes to the final rule that the NRC believes would negate the general support for this rulemaking.

2. Partial Releases Following NRC Approval of the LTP

Comment: One reactor licensee and the NEI disagreed with the statement in the proposed rule that, once an LTP has been approved, there is no longer any need for a separate regulatory mechanism for partial releases. They

noted that a significant length of time may pass between approval of the LTP and license termination, and that licensees should retain the opportunity to pursue a partial site release, even after the LTP has been approved, without having to revise the LTP by amendment with its potential for a hearing process.

Response: The purpose of the statement in the proposed rule that there is no longer any need for a separate regulatory mechanism for partial site releases once the LTP is approved was to clarify the difference between the partial site release process and the LTP change process. This rule only applies to partial site releases that take place prior to approval of a licensee's LTP. After the LTP has been approved, partial site releases (as subsequent revisions to the LTP), would require NRC approval by license amendment unless the LTP itself contained a sufficient change process or described staged releases of the property prior to license termination. Therefore, no changes to the final rule have been made in response to this comment.

3. Site Boundary Definition

Comment: Two reactor licensees and the NEI commented that the definition of Site Boundary in 10 CFR 20.1003 must be changed and clarifications added to the Statements of Consideration on the uses of "site" and "site boundary." The definition of site boundary in § 20.1003 is "that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee." In general, the commenters stated that licensees may own, lease or control property, including property contiguous with their existing site, which is not associated with licensed activities and which should not be subject to the radiological release criteria of Part 20. The NEI commented that, in practical terms, the LTR should apply to all properties directly associated with the use of licensed materials.

Additionally, one reactor licensee commented that, in such cases when the licensee owns, leases, or controls property that is contiguous to the facility but is not for the purpose of receiving, possessing, or using licensed materials, the rule should permit the licensee to make changes to the site boundary under 10 CFR 50.59. Also, when such property is acquired, it should not be required to be incorporated into the site boundary.

Response: The Commission disagrees with the commenter's suggestion that the definition of "site boundary" in 10 CFR 20.1003 must be changed but

agrees that clarification of this issue is needed. "Site boundary," as defined in 10 CFR 20.1003 is not the area to be considered in demonstrating compliance with the radiological release criteria for all licensees. As one commenter accurately pointed out, the definition of site boundary was incorporated into 10 CFR part 20 to support the concept of a controlled area. The terms "site" and "site boundary" are used in a number of contexts by licensees and in the Commission's regulations. In the context of 10 CFR part 50, the term site boundary is typically applied for emergency planning purposes to define the point when offsite dose consequences are to be estimated for purposes of defining emergency action classes and making protective action measure recommendations. The site boundary is also often referred to in reactor plant technical specifications for the purpose of defining the point when effluents must meet the dose and concentration limits of part 20.

Because the radiological release criteria provided in 10 CFR part 20, subpart E, does not use the term "site boundary", the NRC does not believe the "site boundary" definition in § 20.1003 requires amending in order to describe the site area which must be considered in demonstrating compliance with the release criteria. Rather, for the purpose of partial site release, the focus is on the current and historic licensed site, meaning the site area as described in the original NRC license application, plus any acquisition of property outside the originally licensed site boundary added for the purpose of receiving, possessing, or using licensed material at any time during the term of the license.

This clarification will apply to the majority of release situations, including those at multi-unit sites. One commenter pointed out, however, that the clarification may complicate terminating the license in the case in which a part of the originally licensed site became part of the licensed site for another licensee at some time in the past, and the originally licensed site is no longer clearly delineated. The partial site release rule is not amended to address these unique license termination issues. A determination of what property must be considered in demonstrating compliance with the release criteria in these circumstances will necessarily be addressed on a case-by-case basis.

Sales or other dispositions of property from within the licensed site area by a power reactor licensee prior to NRC approval of the LTP requires NRC