

preapproval under the partial site release rule. Acquisitions, as well as subsequent dispositions, of property located outside of the licensed site area can be made pursuant to 10 CFR 50.59 and NRC pre-approval of these transactions is not required as long as a licensing action is not otherwise required as a result of any regulations impacted as a result of the acquisition or disposition. Depending on the specific site circumstances, acquired property may become part of the several site boundaries established by licensees such as the exclusion area, emergency planning zone, effluent release compliance boundary, restricted area, controlled area, etc., and are therefore subject to applicable regulatory requirements.

In clarifying the area subject to the radiological release criteria, the recordkeeping requirements in 10 CFR 50.75(g) have been revised to require that licensees maintain records of the current and historic licensed site area as well as records associated with partial releases from the licensed site made prior to license termination. By maintaining these records, potential dose contributions from residual radioactivity in the entire area, including any areas previously released, can be assessed in demonstrating compliance with the radiological release criteria when performing a partial site release and when terminating the license. In order to prevent confusion with the site boundary definition in § 20.1003, the term "site boundary" has been changed to "licensed site" in the recordkeeping requirements added to 10 CFR 50.75(g) in the final rule.

#### 4. Dose Contribution of Residual Material to the Environmental Protection Agency's (EPA) Environmental Radiation Standard

*Comment:* One reactor licensee and the NEI commented that the language in the section-by-section analysis of the proposed rule clarifying the relationship between radiation exposure limits associated with 10 CFR part 20 subpart D, subpart E, and the EPA's limits specified in 40 CFR part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations," establishes a new policy position as written and constitutes a backfit if incorporated into the final rule. The commenters believe that the exposures due to residual radioactivity associated with a terminated 10 CFR part 50 license are outside the scope of EPA's limits under 40 CFR part 190 and that it is not necessary to reduce the 10 CFR part 20, subpart E, standard to account for additional exposures that

originate from the operation of nearby uranium fuel cycle facilities. The commenters stated that if this interpretation were to hold it would have significant impact not only on licensees considering partial site release but also on licensees currently proceeding to terminate their part 50 licenses with an onsite ISFSI.

Additionally, a commenter stated that the existence of other sources of exposure to the critical group is already accounted for in the construction of the 0.25 mSv/yr (25 mrem/yr) radiological release criteria for unrestricted use in 10 CFR part 20, subpart E. The commenter also stated that, after a portion of the site is released, it no longer meets the definition of "uranium fuel cycle operation," and therefore takes exception to the statements in the proposed rule that the dose caused by residual material associated with a partial site release is to be considered in combination with the other public doses from fuel cycle facilities.

*Response:* The NRC disagrees with the commenters' assertion that the section-by-section discussion clarifying the relationship between 10 CFR part 20, subparts D and E, and EPA's requirements in 40 CFR part 190 constitutes a new policy position and, therefore, requires a backfit analysis. As discussed in the Background section of these Statements of Consideration, the purpose of the LTR was 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 license, 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. This partial site release rule is consistent with the intent of the LTR and establishes no new policies or standards. The dose contributions associated with previously released areas meet the radiological release requirements of 10 CFR part 20, subpart E, at the time the license is terminated. Draft NUREG-1757, Volume II, "Consolidated NMSS Decommissioning Guidance: Characterization, Survey, and Determination of Radiological Criteria," when finalized, will provide guidance to licensees on how to identify and account for these potential dose contributors. The discussion in the section-by-section analysis represents the NRC's views on the application of existing requirements in 10 CFR part 20 to the new circumstance of partial site

releases. However, power reactor licensees should appreciate that they are subject to 40 CFR part 190 requirements and that site boundaries may need to be reconsidered as a result of a partial site release for purposes of compliance with 40 CFR part 190. In addition, the NRC is reminding licensees that for the purposes of 40 CFR part 190, they must consider all doses from the operating uranium fuel cycle and that doses from portions of sites released may have come from radioactive material released time from an operating uranium fuel cycle facility. This partial site release rule does not amend or reinterpret 40 CFR part 190 or 10 CFR 20.1301(d), which requires certain licensees, including power reactor licensees, to comply with 40 CFR part 190. The NRC staff is developing guidance to implement 10 CFR 20.1301(d) for partial site releases, which will be incorporated into NUREG-1757, Volume II. Except for the information collection requirements in 10 CFR 50.75(g), which are not backfits, the requirements in this final rulemaking arise from the voluntary action of the licensee to seek partial site release and thus do not impose a backfit as defined in 10 CFR 50.109(a). Therefore, the NRC finds that the proposed rule discussion of the relationship between 10 CFR part 20, subparts D and E, and EPA's requirements in 40 CFR part 190 does not constitute a backfit, and that a backfit analysis is not required.

Additionally, the NRC believes that its interpretation of the applicability of EPA's regulations in 40 CFR part 190 is correct and consistent with past NRC regulatory concepts. Neither commenter demonstrated that the NRC's discussion was inconsistent with NRC regulatory concepts as articulated in the past, or inconsistent with past NRC practice with respect to license terminations in general. A review of the Statements of Consideration for the final 40 CFR part 190 rule did not disclose any discussion that supports the commenters' contention (*see* 42 FR 2850, January 13, 1977). On the contrary, the NRC believes that its discussion is entirely consistent with the underlying objective of the EPA requirements in 40 CFR part 190, viz., that the dose to the relevant receptor be based upon the contribution of all radioactive materials/sources attributable to the nuclear fuel cycle operations, regardless of the licensing status of the radioactive materials or the land on which they are located.

The NRC also disagrees that a partially released area no longer meets the definition for "uranium fuel cycle operation," and therefore, the dose contribution attributable to residual