

15. Question From the "Issues for Public Comment" Section of the Proposed Rule: Should the License Amendment Process Be Required for All Partial Site Release Approvals, Regardless of Whether the Site Has Been Classified as Non-Impacted?

Comment: The NEI commented that requiring the license amendment process for NRC approval of partial site releases of non-impacted lands is not justified. The comment states, however, that some licensees have expressed a desire to have the option to use the license amendment approach even for non-impacted lands and recommends that this approach be offered as an option.

Response: The NRC agrees that requiring its approval for the release of a non-impacted area should not require a license amendment when an amendment is not otherwise required as a result of any regulations, license conditions, or technical specifications impacted as a result of the change.

16. Question From the "Issues for Public Comment" Section of the Proposed Rule: Does the Proposed Rule Make it Adequately Clear That When Performing Partial Site Releases and When Releasing the Entire Site at License Termination, Licensees Must Consider Potential Dose Contributions From Previous Partial Releases in Demonstrating Compliance With the Radiological Release Criteria?

Comment: The NEI stated that the rule makes this issue adequately clear and also stated that the guidance promised in the proposed rule for assessing potential dose contributions will help identify how consideration of potential dose contributions can best be accomplished. The comment further stated that the guidance is needed before the final rule is issued to ensure that the partial site release process and the ultimate license termination can be accomplished practically as envisioned.

Response: The NRC agrees that the rule makes this issue adequately clear. The NRC recognizes that licensees seeking partial site releases will require guidance as to how to account for dose contributions from previous releases. In order to provide this guidance, on September 26, 2002, the NRC published a notice of availability of draft NUREG-1757, Volume II, "Consolidated NMSS Decommissioning Guidance: Characterization, Survey, and Determination of Radiological Criteria," in the **Federal Register** for public comment and expects to publish it as a final document upon resolution of the public comments.

Comment: A State commenter questioned how the partial site release rule addresses issues when, following release, contamination is found in an area classified and released as non-impacted, or where contamination is found to be in excess of the criteria established in the LTP, or, in the above conditions, when the property was transferred to another entity.

Additionally, the commenter questioned what rights a potential purchaser would have against the licensee if contamination is found following the release.

Response: Although the partial release removes the property from the license and activities conducted on the property are no longer under NRC jurisdiction, the rule amends 10 CFR 20.1401(c) to bring partial site releases within the scope of the criteria by which the Commission may require additional cleanup on the basis of new information received following the release. As stated in 10 CFR 20.1401(c), additional cleanup would only be required if the new information reveals that the radiological release requirements of 10 CFR part 20, subpart E, were not met and there continues to be a significant threat to public health and safety from residual radioactivity. The rule does not address any other matters of a commercial nature which may be associated with released property, including issues related to contamination found on released property, the magnitude of which falls short of the additional cleanup criteria in 10 CFR 20.1401(c).

17. Question From the "Issues for Public Comment" Section of the Proposed Rule: Is There a Reason To Limit the Size or Number of Partial Site Releases?

Comment: The NEI and a reactor licensee stated that there is no reason to limit the size or number of partial site releases. They stated that as long as the final license termination addresses the entire site, the intent of the license termination rule is met.

Response: The NRC agrees that there is no reason to limit the size or number of partial site releases. Partial releases performed prior to license termination require a demonstration of compliance with the radiological release criteria at 10 CFR part 20, subpart E, as well as a demonstration of compliance with other regulatory requirements that may be impacted as a result of changing site boundaries. Additionally, the dose contributions from residual radioactivity in previously released impacted areas are considered with respect to the release criteria when performing subsequent partial releases

and when releasing the entire site at license termination.

18. Question From the "Issues for Public Comment" Section of the Proposed Rule: Are There Other Potential Impacts on Continued Operation or Decommissioning Activities as a Result of Partial Site Releases That Should Specifically Be Considered in the Rule?

Comment: A State commenter stated that the impact of future operation or use of the area released under a partial site release must be considered with regard to potential threats to the storage of spent nuclear fuel or operation of the nuclear power plant prior to allowing control of the released area to be transferred to a non-licensee. The commenter referred to a situation in which a licensee proposes a partial site release with the intent to sell the released property for development of a gas fired electrical generating plant in close proximity to spent fuel stored on the remainder of the site. If no safety analysis is performed in advance of the release, future threats to the nuclear fuel will not be addressed. The commenter states that placing requirements on an existing licensee only after threats are identified as a result of future activities on a released area is not an acceptable mechanism for protecting public health and safety.

Response: The NRC believes that consideration of the potential hazards associated with the future or end use of property proposed for partial site release should not be incorporated into the partial site release rule. Future use of property as an approval criteria based on expectations existing at the time of the release request holds little practical value because the actual future use of property released for unrestricted use cannot be anticipated and could, in any event, change following the release.

As part of its application for a construction permit and operating license for a power reactor facility, the licensee is required to perform an analysis of the effects the reactor facility will have on the environment, including the effects from nearby industrial facilities and transportation under the siting criteria at 10 CFR part 100. The partial site release rulemaking specifically requires licensees requesting a partial site release to evaluate their continued compliance with these siting criteria.

Additionally, the licensee must continue to ensure that its bases and conclusions as presented in the Final Safety Analysis Report which form part of the basis for its operating license remain valid under 10 CFR 50.71. Therefore, the licensee must ensure that