

the licensed facility is adequately protected and that operations can be conducted with an acceptable degree of safety with respect to offsite activities as they are identified. The NRC would review any necessary changes to the nuclear plant license or changes to the plant licensing basis that evolve from the licensee's evaluation. To the extent that the future use of the property to be released is known, these reviews and evaluations would be performed as part of the licensee's overall assessment of the viability of obtaining NRC approval for a partial site release.

The NRC recognizes that a non-licensed third party may elect to locate potentially hazardous facilities, or engage in hazardous activities, on property adjacent to a licensed site, including property released for unrestricted use. Although the NRC has no authority to regulate activities that are outside the scope of the NRC's jurisdiction of non-licensed third parties or to prevent third parties from constructing facilities or engaging in such activities which present a potential hazard to the licensee's plant, the NRC does have authority to take action against the licensee. Assuming that the potential hazard is such that the NRC would not have allowed the siting of the plant if the conditions were known, then under section 186 of the Atomic Energy Act, the NRC could revoke the license to prevent the hazard. Since the license can be revoked, lesser actions can be taken as well—such as suspending the license, issuing an order, or issuing a demand for information, depending on the circumstances.

19. Rule Language Comments

Comment: One reactor licensee and the NEI commented that the language contained in § 50.75(g)(4) is not consistent with existing § 50.75(g) which states "Information the Commission considers important to decommissioning consist of * * * (4) Licensees shall maintain property records containing the following information: * * *" The term "Licensees shall maintain" should be deleted.

Response: The NRC agrees with the commenters and the final wording in § 50.75(g) reflects the comment.

Comment: One reactor licensee and the NEI commented on the wording in § 50.75(g)(4)(iv) of the proposed rule, stating that the word "disposition" should be changed to "release and final disposition" the first time it appears, and change "disposition" to "release" the second time it appears.

Response: The NRC agrees with the commenters and the final wording in § 50.75(g) reflects the comment.

Comment: One reactor licensee and the NEI commented on the wording in § 50.82(a)(9)(ii)(H) of the proposed rule, stating that the term "released for use" should be changed to "released for unrestricted use."

Response: The comment is not incorporated. The intent of the wording in § 50.82(a)(9)(ii)(H) is that the LTP identify previously released parts of the facility or site whether they were released for restricted or unrestricted use.

Comment: One reactor licensee and the NEI commented that §§ 50.83(c) and 50.83(e) should include references to the satisfaction of the public meeting requirements specified in § 50.83(f).

Response: The NRC believes that including references to the public meeting requirement in §§ 50.83(c) and 50.83(e) is redundant and unnecessary. The requirement to hold a public meeting described in § 50.83(f) applies, as stated, to either an approval request for a partial site release or a license amendment application and, therefore applies to the submittals described in §§ 50.83(c) and 50.83(e).

Comment: One reactor licensee and the NEI commented that for a release of impacted areas under the proposed partial release rule, 10 CFR 50.59 will not apply because a license amendment would be required. Therefore, the wording in § 50.83 should be modified to delete the reference to complete a 10 CFR 50.59 evaluation for these release requests.

Response: The NRC agrees with the commenters. § 50.83(b) has been modified in the final rule to only require a § 50.59 evaluation for the case when a written release request is submitted.

Section-by-Section Analysis

This final rule amends the NRC's requirements in 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings," 10 CFR part 20, "Standards for Radiation Protection," and 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities," as follows:

1. 10 CFR 2.1201

This final rule amends 10 CFR 2.1201 by adding a new paragraph (a)(4) which permits the use of informal hearing procedures for amendments associated with partial site releases at nuclear power reactors. This change is needed in order to provide an opportunity for a hearing on a license amendment request for a partial site release. The

staff believes that informal hearings are appropriate in this situation since the issues would be similar to the materials licensing issues that are currently subject to subpart L under § 2.1201(a)(1). It should be noted that the rule does not provide for license amendments to authorize partial site releases when there is no reasonable potential for residual radioactivity in the area to be released. Because there are no license amendments in these cases, there are no corresponding opportunities for hearings. However, the NRC will notice receipt of a licensee's proposal for a partial site release and make it available for public comment. The NRC will also hold a public meeting in the vicinity of the site to discuss the licensee's release approval request or license amendment application, as applicable.

2. 10 CFR 20.1401

Paragraphs 20.1401(a) and (c) have been revised to expand the scope of radiological criteria for license termination to include the release of part of a facility or site for unrestricted use in accordance with § 50.83. In 10 CFR part 20, the NRC provides standards for protection against radiation. These modifications are necessary because the NRC's regulations did not address cases when part of a facility or site is to be released for unrestricted use. The expansion in scope pursuant to §§ 20.1401 is related to the radiation dose limits to individual members of the public and to radiological criteria for license termination which are specified in 10 CFR part 20, subparts D and E, respectively.

With respect to 10 CFR part 20, subpart D, the requirements specified set the annual dose limit for an individual member of the public at 1.0 mSv/yr (100 mrem/yr). However, there are a number of more stringent dose standards applicable to power reactor licensees that must also be considered. These standards include the EPA environmental radiation standards incorporated in § 20.1301(d), the subpart D compliance standards in § 20.1302(b), the radiological effluent release objectives to maintain effluents ALARA in Appendix I to 10 CFR part 50, and any dose standards that may be established by special license conditions.

A licensee performing a partial site release must continue to comply with the public dose limits and standards as they pertain to the area remaining under the license. In addition, the licensee must comply with the public dose limits for effluents entering the released