

IN RESPONSE, PLEASE
REFER TO: M030307

March 7, 2003

MEMORANDUM FOR: William D. Travers
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 10:30 A.M.,
FRIDAY, MARCH 7, 2003, COMMISSIONERS' CONFERENCE
ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND
(OPEN TO PUBLIC ATTENDANCE)

I. SECY-02-0221 - Final Rule to Standardize the Process for Allowing a Licensee to Release Part of its Reactor Facility or Site for Unrestricted Use Before NRC Has Approved its License Termination Plan

The Commission¹ approved a final rule amending 10 CFR Parts 2, 20, and 50 to standardize the process for allowing a power reactor licensee to release part of its facility or site for unrestricted use before the NRC approves the license termination plan. The rule also clarifies that the radiological criteria for unrestricted use in 10 CFR Part 20 apply to a partial site release.

Following incorporation of the attached changes, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO)

(SECY Suspense:

4/25/03)

Attachment:
As stated

¹ Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Diaz was not present when this item was affirmed. Accordingly the formal vote of the Commission was 4-0 in favor of the decision. Commissioner Diaz, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote.

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
EDO
OGC
CFO
OCAA
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

Changes to the Federal Register Notice in SECY-02-0221

1. On page 2, last paragraph, line 2, replace “to” with “of”.
2. On page 3, 2nd full paragraph, revise lines 2 and 3 to read ‘ ... site for unrestricted use ~~or require a licensee to obtain NRC approval of a partial site release.~~’ Revise line 4 to read ‘ ... requirement to meet **guidance as to** the release criteria’
3. On page 3, last paragraph, revise line 4 to read ‘ ... license termination, **this rule provides that** the LTP must’
4. On page 4, last paragraph, revise lines 1 and 2 to read ‘~~The strategy for developing t~~ **This rulemaking is applicable** ~~was to narrow its applicability to power reactor licensees in order to be responsive to current industry needs,~~ while also’
5. On page 5, 1st full paragraph, revise line 5 to read ‘ ... these cases, **because as**’
Revise line 13 to read ‘ ... adequately justified. **If should** NRC **should** determine that’
Revise line 14 to read ‘ ... are needed, such **surveys and sampling** would be’
6. On page 10, item 1. comment, revise lines 6 and 7 to read ‘ ... option to ~~effectively~~ use property, ~~which~~ **that** does not directly’
7. On page 12, last paragraph, revise lines 4 and 5 to read ‘ ... criteria. Rather, **for purposes of partial site release, the focus is on** ~~it is clarified that the relevant site area to be considered in demonstrating compliance with 10 CFR 20, Subpart E, is the~~’
8. On page 14, item 4. comment, revise line 3 to read ‘ ... with 10 CFR **Part 20**’ Revise line 7 to read ‘ ... outside the scope of **the EPA’s limits under**’ Revise line 8 to read ‘ ... 40 CFR **Part 190**’ In line 11, replace “to” with “on” in both places.
9. On page 14, last paragraph, revise line 3 to read ‘ ... use in 10 CFR **Part 20**,’
10. On page 15, 1st full paragraph, line 5, insert a comma after “Consideration”. In line 11, insert a period after “standards” and correct the spelling of “previously”. In line 16, replace the comma with a period.
11. On page 16, revise line 1 from the top to read ‘ ... material released ~~at the time~~ from an operating’ Revise line 2 to read ‘ ... reinterpret 40 **CFR Part**’ In line 3, insert a comma after “(d)”. Revise line 7 to read ‘ ... final rulemaking **arise from the voluntary action of the licensee to seek partial site release** ~~are voluntary~~ and **thus** do not’
12. On page 17, revise line 2 from the top to read ‘ ... released, it is **no** longer’ Revise line 5 to read ‘ ... within the scope of **the EPA’s regulations at 40 CFR**’ Revise line 10 to read ‘ ... if the EPA regulations **s** had’ Revise line 11 to read ‘ ... component, i.e., **they were** ~~it was~~ intended to’ Revise line 12 to read ‘ ... regulations **s** contains no temporal limitation and simply states that the’ Revise line 16 to read ‘ ... ~~their~~ **the total**

contribution must be'

13. On pages 18 - 20, determine whether item 5. constitutes a criterion or criteria.
14. On page 23, 1st full paragraph, revise line 3 to read ' ... criterion of 10 CFR **Part 20**,'
Revise line 9 to read ' ... authority or **a court** of'
15. On page 24, 1st full paragraph, revise lines 2 and 3 to read ' ... Commission **has approved the development of a proposed rule to address the** ~~is currently re-examining its approach for~~ control of solid'
16. On page 24, item 8. comment, revise line 1 to read ' ... commented that, **after** ~~once~~ the Commission'
17. On page 24, item 8. response, paragraph 1, revise line 6 to read ' ... stating that **these provisions are** ~~this criteria is an important in~~ addition providing for'
18. On page 25, revise line 1 from the top to read ' ... July 21, 1997] ~~points out that,'~~
19. On page 28, 1st full paragraph, revise line 6 to read ' ... HSA, but may **yield information** ~~be~~ as inadequate' Revise line 17 to read ' ... need to present **the this information obtained** in its proper'
20. On page 29, revise line 1 from the top to read 'Sections ~~40~~ CFR 50.83(c)(2) and ~~40~~ CFR 50.83(d)(2) of the'
21. On page 29, 1st full paragraph, revise line 2 to read ' ... areas. ~~H~~**however**, licensees'
Revise line 4 to read ' ... with **whether** the ~~adequacy~~ of HSAs and the site characterization process **are adequate bases to conclude** ~~in concluding that there~~'
22. On page 30, 1st full paragraph, verify that the next to last sentence is consistent #2 on page 8.
23. On page 34, paragraph 2, revise lines 2 and 3 to read ' ... policy statement **articulates the NRC's** ~~provides a revised policy concerning that the NRC will follow in~~ opening meetings'
24. On page 35, item 15. response, revise line 3 to read ' ... any regulations, **license conditions, or technical specifications** impacted as'
25. On page 36, 1st full paragraph, line 6, underline "Federal Register".
26. On page 36, last paragraph, revise line 6 to read ' ... of 10 CFR **Part 20**,'
27. On page 38, last paragraph, revise line 2 to read ' ... Analysis Report, **which** ~~that~~ form part of'
28. On page 39, revise line 2 from the top to read ' ... of the viability of **obtaining** ~~requesting~~ NRC'

29. On page 39, 1st full paragraph, revise line 4 to read ' ... ~~the~~ activities **that are outside the scope of the NRC's jurisdiction** of non-licensed ...' Revise line 5 to read ' ... engaging in **such** activities which ...' Revise lines 9 and 10 to read ' ... well - such as **suspending the license**, issuing an order, ~~or suspension~~, or **issuing** a demand for ...'
30. On page 40, 4th full paragraph, revise line 3 to read ' ... specified in **Section 50.83(f)**.'
31. On page 41, paragraph 2, delete the period after the section number to be consistent with the remainder of this section.
32. On page 42, last paragraph, revise line 7 to read ' ... as well as, **in** ~~for~~ the'
33. On page 43, line 1 from the top, use of the word "lower" is not clear.
34. On pages 45, 48 & 49, delete the period after the citations.
35. On page 50, line 5 from the top, clarification is needed on when sampling would be done.