

From: Thomas O'Brien
To: GWIA:HREYNOLD@[tnrcc.state.tx.us]
Date: 4/18/01 1:19PM
Subject: Re: §20.1403(d), Public Coordination Timing

STP Action 1-28

Hygie-

The timeliness in decommissioning of materials facilities is addressed in 10 CFR 40.42(d) which establishes specific requirements for: (1) timely decommissioning of the entire site at the end of all licensed activity at the site, thereby allowing license termination and release of the site in accordance with NRC requirements (i.e., "end-of-license" decommissioning); and (2) timely decommissioning of separate buildings and outdoor areas where licensed activities have ceased while licensed activities continue to be conducted at other site locations (i.e., "end-of-use" decommissioning). Please note, however, that the regulations allow licensees to file for an exemption if they feel they will exceed the 24-month inactivity period.

In the "end-of-use" decommissioning, the license can be amended to exclude the separate buildings and/or outdoor areas where licensed activities have ceased as authorized places of use when the radiological criteria for decommissioning have been met. This does not preclude licensed activities continuing to be conducted at other site locations under the same license. Once a separate building or area is decommissioned, it does not need to be released from the licensee's control. The licensee may continue to own and use it, but would be prohibited from using it for radiological purposes. Furthermore, the licensee could release the decommissioned site, building, and/or outdoor area for unrestricted use (e.g., use for administrative purposes or sell it to a non-licensee).

In "end of license" decommissioning, all operations cease completely in preparation for license termination. It is the Commission's intent that the entire site (i.e., building(s), and/or outdoor areas, including those that previously underwent "end-of-use" decommissioning) must meet the radiological criteria for decommissioning and this shall be demonstrated in the decommissioning plan for the license termination.

If you have any questions, please call me at 301-415-2308

Tom O'Brien

>>> "Hygie Reynolds" <HREYNOLD@tnrcc.state.tx.us> 12/28/00 12:06PM >>>

Tom, In my last reply, I should have also mentioned that I have recently reviewed NRC's rulemaking, Timeliness in Decommissioning of Materials Facilities (59 Fed. Reg. 36026, published July 15, 1994, effective August 14, 1994). Its preamble seems to indicate that separate buildings and outdoor areas must be decommissioned where licensed activities have ceased while licensed activities continue to be conducted at other site locations. Decommissioning should begin within 24 months of these separate buildings and outdoor areas becoming inactive. This would appear to indicate that it may not be the licensee's option to wait to decommission the entire site at one time, even on an old facility. Comments? Hygie

>>> "Thomas O'Brien" <TJO@nrc.gov> 12/27/00 01:54PM >>>

Hygie-

Sorry about the delay in getting back to you. To better respond to your question, would need to know:

1. If the renewal is requesting the release of any of the sites or use locations specified in the license.
2. Does the Decommissioning Funding Plan account for the accumulating waste?

Thanks-

Tom O'Brien, Health Physicist
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>>> "Hygie Reynolds" <hreynold@tnrcc.state.tx.us> 12/14 10:47 AM >>>

Tom, We are currently reviewing a license renewal application from an old licensee, where they indicate that they will be going for restricted release when they decommission and terminate the license. They have been disposing of a depleted uranium catalyst on-site for quite some time. They have some previously closed cells and an active cell where they are currently disposing of catalyst. They will probably not be ceasing operations and requesting license termination for quite some time, possibly more than 100 years or several hundred years from now.

Under §20.1403(d), should this licensee be coordinating its decommissioning planning with individuals and institutions in the community now, at this license renewal, or after it has notified us that it intends to cease operations and it is doing its detailed decommissioning planning?

A quick reply would be appreciated if you can provide it. Thanks, Hygie, (512) 239-6825

From: Thomas O'Brien
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Hygie-

Regulations that pertain to the expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas are in §40.42. Regulations that pertain to license termination under restricted conditions are under §20.1403(d) and require that the licensee coordinate its decommissioning planning with individuals and institutions in the community when it intends to cease operations and has submitted a decommissioning plan.

NRC Administrative Letter 96-05, Revision 1 (dated July 14, 1998), which addresses compliance with the "Timeliness in Decommissioning of Material Facilities" rule, states that on-site disposals are required to comply with the requirements of this rule. In that letter, sections 1.0(2) and 5.2 specifically address the issue of inactive burial grounds (i.e., on-site disposals). Our practice, in cases similar to yours, is to use the license renewal process as an opportunity to have the licensee demonstrate how the requirements of Subpart E of 10 CFR 20 will be met.

I have attached a copy of the Administrative letter and NRC Information Notice 96-47, which the letter references, for your information. Please note that I also discussed the above with another TNRCC staff member, Steve Edder, when he called on March 2, 2001 to check on the status of our response.

If you have any questions, please call me at 301-415-2308

Tom O'Brien

>>> "Hygie Reynolds" <hreynold@tnrcc.state.tx.us> 12/14/00 10:47AM >>>

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