

1 10A NCAC 15 .1653 is proposed for amendment as follows:

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3 **10A NCAC 15 .1653 RADIOLOGICAL REQUIREMENTS FOR LICENSE TERMINATION**

4 (a) Licensees shall comply with the provisions of 10 CFR Part 20, Subpart E, to meet the requirements for license
5 termination and decommissioning.

6 (b) The agency shall not publish a notice in the Federal Register of the receipt of a license termination plan or
7 decommissioning plan as required by 10 CFR 20.1405(b), but shall make other notices and solicit comments from
8 interested parties as required by 10 CFR 20.1405.

9 (c) Notwithstanding Rule .0117 of this Chapter, the regulations cited in this Rule from 10 CFR Chapter I (2015) are
10 hereby incorporated by reference, excluding subsequent amendments and editions. Copies of these regulations are
11 available free of charge at [http://www.ecfr.gov/cgi-bin/text-](http://www.ecfr.gov/cgi-bin/text-idx?SID=2beece594411a03e50b2468ae31f89b&pitd=20160101&tpl=ecfrbrowse/Title10/10tab_02.tpl)
12 idx?SID=2beece594411a03e50b2468ae31f89b&pitd=20160101&tpl=ecfrbrowse/Title10/10tab_02.tpl.

13 ~~(a) General provisions and scope:~~

14 ~~(1) The requirements in this Rule apply to the decommissioning of facilities licensed under the rules of~~
15 ~~this Chapter. For low-level radioactive waste disposal facilities licensed under Section .1200 of this~~
16 ~~Chapter, the requirements apply only to ancillary surface facilities that support radioactive waste~~
17 ~~disposal facilities.~~

18 ~~(2) The requirements in this Rule do not apply to sites which:~~

19 ~~(A) have been decommissioned prior to the effective date of this Rule in accordance with~~
20 ~~criteria approved by the agency; or~~

21 ~~(B) have previously submitted and received agency approval for a license termination plan or~~
22 ~~for a decommissioning plan.~~

23 ~~(3) After a site has been decommissioned and the license terminated in accordance with the~~
24 ~~requirements set forth in this Rule, the agency may require additional cleanup only if, based on new~~
25 ~~information, the agency determines that the requirements of this Rule were not met and residual~~
26 ~~radioactivity remaining at the site could result in a significant threat to the public health and safety.~~

27 ~~(4) When calculating Total Effective Dose Equivalent (TEDE) to the average member of the critical~~
28 ~~group, the licensee shall determine the peak annual TEDE expected within the first 1,000 years after~~
29 ~~decommissioning.~~

30 ~~(b) Radiological criteria for unrestricted use of a site shall be considered acceptable for unrestricted use if the residual~~
31 ~~radioactivity that is distinguishable from background radioactivity results in a TEDE to an average member of the~~
32 ~~critical group that does not exceed 25 millirem (0.25 millisievert) per year, including that from groundwater sources~~
33 ~~of drinking water, and the residual radioactivity has been reduced to levels that are as low as reasonably achievable~~
34 ~~(ALARA). Determination of the levels, which are ALARA, may take into account consideration of detriments, such~~
35 ~~as deaths from transportation accidents, expected to potentially result from decontamination and waste disposal.~~

36 ~~(c) A site shall be considered acceptable for license termination under restricted conditions if:~~

- 1 ~~(1) — the licensee can demonstrate that further reductions in residual radioactivity necessary to comply~~
2 ~~with the provisions of Paragraph (b) of this Rule would result in net public or environmental harm~~
3 ~~or were not being made because the residual levels associated with restricted conditions are~~
4 ~~ALARA. Determination of the levels which are ALARA may take into account consideration of~~
5 ~~detriments, such as traffic accidents, expected to result from decontamination and waste disposal;~~
6 ~~(2) — the licensee has made provisions for legally enforceable institutional controls that provide~~
7 ~~reasonable assurance that the TEDE from residual radioactivity distinguishable from background~~
8 ~~radioactivity, to the average member of the critical group, will not exceed 25 millirem (0.25~~
9 ~~millisievert) per year;~~
10 ~~(3) — the licensee has provided sufficient financial assurance to enable an independent third party,~~
11 ~~including a governmental custodian of a site, to assume and carry out responsibilities for any~~
12 ~~necessary control and maintenance of the site. Acceptable financial assurance mechanisms to meet~~
13 ~~the requirements of Subparagraph (c)(3) of this Rule are described in Rule .0354 of this Chapter.~~
14 ~~(4) — the licensee has submitted to the agency a decommissioning plan or license termination plan, as~~
15 ~~described in Rule .0339 of this Chapter, indicating the licensee's intent to decommission in~~
16 ~~accordance with the requirements of this Chapter, and specifying that the licensee intends to~~
17 ~~decommission by restricting use of the site;~~
18 ~~(5) — the licensee has documented in the license termination plan or decommissioning plan how the advice~~
19 ~~of individuals and institutions in the community who may be affected by the decommissioning has~~
20 ~~been sought and incorporated, as appropriate, following analysis of that advice:~~
21 ~~(A) — licensees proposing to decommission by restricting use of the site shall have sought advice~~
22 ~~from such affected parties regarding the following matters concerning the proposed~~
23 ~~decommissioning:~~
24 ~~(i) — whether provisions for institutional controls proposed by the licensee will provide~~
25 ~~reasonable assurance that the TEDE from residual radioactivity distinguishable~~
26 ~~from background radioactivity to the average member of the critical group will~~
27 ~~not exceed 25 millirem (0.25 millisievert) TEDE per year, will be enforceable and~~
28 ~~will not impose undue burdens on the community or other affected parties; and~~
29 ~~(ii) — whether the licensee has provided sufficient financial assurance to enable an~~
30 ~~independent third party, including a governmental custodian of a site, to assume~~
31 ~~and carry out responsibilities for any necessary control and maintenance of the~~
32 ~~site.~~
33 ~~(B) — the licensee has provided for:~~
34 ~~(i) — participation by representatives of a broad cross section of community interests~~
35 ~~who may be affected by the decommissioning;~~
36 ~~(ii) — an opportunity for a comprehensive, collective discussion of the issues by the~~
37 ~~participants represented; and~~

- 1 (iii) ~~— a publicly available summary of the results of all such discussions, and the extent~~
2 ~~of agreement and disagreement among the participants on the issues.~~
- 3 (6) ~~— residual radioactivity at the site has been reduced so that if the institutional controls were no longer~~
4 ~~in effect, there is reasonable assurance that the TEDE from residual radioactivity distinguishable~~
5 ~~from background radioactivity to the average member of the critical group is as low as reasonably~~
6 ~~achievable and would not exceed either:~~
- 7 (A) ~~— 100 millirem (1 millisievert) per year; or~~
8 (B) ~~— 500 millirem (5 millisievert) per year provided the licensee:~~
- 9 (i) ~~— demonstrates that further reductions in residual radioactivity necessary to comply~~
10 ~~with the 100 millirem per year (1 millisievert per year) value described in Part~~
11 ~~(c)(6)(A) of this Rule, are not technically achievable, would be prohibitively~~
12 ~~expensive, or would result in net public or environmental harm;~~
- 13 (ii) ~~— makes provisions for durable institutional controls; or~~
14 (iii) ~~— provides sufficient financial assurance to enable a responsible government entity~~
15 ~~or independent third party, including a governmental custodian of a site, both to~~
16 ~~carry out periodic rechecks of the site no less frequently than every five years to~~
17 ~~assure that the institutional controls remain in place as necessary to meet the~~
18 ~~requirements of Subparagraph (c)(2) of this Rule and to assume and carry out~~
19 ~~responsibilities for any necessary control and maintenance of those controls.~~
- 20 (d) ~~Alternate criteria for license termination:~~
- 21 (1) ~~— The agency may terminate a license using alternate criteria greater than the dose requirements of~~
22 ~~Paragraph (b), Subparagraph (c)(2), and Subpart (c)(5)(A)(i) of this Rule, if the licensee:~~
- 23 (A) ~~— provides assurance that public health and safety would continue to be protected, and that it~~
24 ~~is unlikely that the dose from all man-made sources combined, other than medical, would~~
25 ~~be more than 100 millirem TEDE per year (1 millisievert per year) limit described in Rule~~
26 ~~.1611 of this Section, by submitting an analysis of possible sources of exposure;~~
- 27 (B) ~~— has employed, to the extent practical, restrictions on site use according to the provisions of~~
28 ~~Paragraph (c) of this Rule in minimizing exposures at the site;~~
- 29 (C) ~~— reduces doses to ALARA levels, taking into consideration detriments such as traffic~~
30 ~~accidents expected to potentially result from decontamination and waste disposal;~~
- 31 (D) ~~— has submitted a decommissioning plan or license termination plan to the agency indicating~~
32 ~~the licensee's intent to decommission in accordance with the requirements of this Chapter,~~
33 ~~and specifying that the licensee proposes to decommission by use of alternate criteria;~~
- 34 (E) ~~— has documented in the decommissioning plan or license termination plan how the advice~~
35 ~~of individuals and institutions in the community who may be affected by the~~
36 ~~decommissioning has been sought and addressed; and~~
- 37 (F) ~~— in seeking such advice, the licensee has provided for:~~

- 1 (i) ~~participation by representatives of a broad cross section of community interests~~
2 ~~who may be affected by the decommissioning;~~
3 (ii) ~~an opportunity for a comprehensive, collective discussion of the issues by the~~
4 ~~participants represented; and~~
5 (iii) ~~a publicly available summary of the results of such discussions, including a~~
6 ~~description of the extent of agreement and disagreement among the participants~~
7 ~~on the issues.~~

8 ~~(2) The use of alternate criteria to terminate a license requires the consideration of any comments~~
9 ~~provided by any other interested state agencies and any public comments submitted pursuant to~~
10 ~~Paragraph (e) of this Rule.~~

11 ~~(e) Upon the receipt of a license termination plan or decommissioning plan from the licensee, or a proposal by the~~
12 ~~licensee for release of a site pursuant to Paragraphs (c) and (d) of this Rule, or whenever the agency deems such notice~~
13 ~~to be in the public interest, the agency shall notify and solicit comments from:~~

14 ~~(1) local governments in the vicinity of the site, appropriate state agencies, the U.S. Environmental~~
15 ~~Protection Agency, and any Indian Nation or other indigenous people that have treaty or statutory~~
16 ~~rights that could be affected by the decommissioning; and~~

17 ~~(2) publish a notice in a forum, such as local newspapers, letters to state or local organizations or other~~
18 ~~appropriate forum that is readily accessible to individuals in the vicinity of the site, and solicit~~
19 ~~comments from affected parties.~~

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21 *History Note: Authority G.S. 104E-7(a)(2); 104E-10(b);*
22 *Eff. April 1, 1999;*
23 *Transferred and Recodified from 15A NCAC 11 .1653 Eff. February 1, 2015; 2015;*
24 *Amended Eff. March 1, 2017.*