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SSINS No.: 6835
IN 86-90

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF INSPECTION AND ENFORCEMENT
WASHINGTON, D.C. 20555

November 3, 1986

IE INFORMATION NOTICE NO. 86-90: REQUESTS TO DISPOSE OF VERY LOW-LEVEL
RADIOACTIVE WASTE PURSUANT TO 10 CFR 20.302

Addressees:

All nuclear power reactor facilities holding an operating license or a construction permit and research and test reactors.

Purpose:

This notice is to inform nuclear reactor licensees of the authority of Agreement States in reviewing and approving disposals of waste that in the past might have been reviewed by the NRC pursuant to 10 CFR 20.302(a). In those cases where the reactor facility was in an Agreement State, the NRC did not have a legal basis for performing the reviews and granting approvals.

It is suggested that recipients review the information provided for applicability to their facilities. However, information contained in this notice does not constitute NRC requirements; therefore, no specific action or written response is required.

Discussion:

In February 1983, the NRC issued IE Information Notice 83-05, "Obtaining Approval for Disposing of Very Low-Level Radioactive Waste - 10 CFR Section 20.302." The purpose of this information notice was to call attention to the little-used section of NRC regulations, 10 CFR 20.302(a), that provides a method for obtaining approval of proposed procedures for disposing of radioactive material in a manner not otherwise authorized in the regulations. The notice identified NRR as the NRC Office to receive and process utility applications. Neither the Notice nor 10 CFR 20.302(a) addresses NRC versus Agreement State jurisdiction. As a matter of practice, reactor licensees who requested such approvals from the NRC for radioactive waste disposal in Agreement States were advised that they also must obtain the approval of the Agreement State. However, in a recent legal opinion regarding regulatory jurisdiction, the NRC's Executive Legal Director made it clear that in Agreement States NRC approval is not necessary for disposal within or outside of the exclusion area of low-level radioactive waste from a reactor facility. Such approval is within the jurisdiction of the Agreement State. For disposal of very low-level radioactive waste in States that are not Agreement States, only NRC approval is required.


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In Agreement States, regulation of the handling and storage (including waste treatment) at the reactor site of low-level waste resulting from the reactor operation is reserved to the NRC pursuant to 10 CFR 150.15(a)(1). For this purpose, the reactor site includes the exclusion area since it represents specifically the area of greatest and most immediate public health and safety concern in the operation of the reactor.

Therefore, applications for disposal by reactors in Agreement States should be submitted to the Agreement State. Applications for disposal pursuant to 10 CFR 20.302 by reactors in Non-Agreement States should be submitted to the NRC Office of Nuclear Reactor Regulation.

This may change at some point in the future since NRC staff is presently drafting a change to 10 CFR 150.15 that would clearly establish the NRC as having sole authority over all low-level radioactive waste activities, including disposal, within the exclusion area at NRC-licensed reactors and at certain fuel cycle facilities.

No specific action is required by this information notice. If you have any questions about this matter, please contact one of the individuals listed below or this office.


Edward L. Jordan, Director
Division of Emergency Preparedness
and Engineering Response
Office of Inspection and Enforcement

Technical Contacts: Faith N. Brenneman, NRR
(301) 492-7856

John D. Buchanan, IE
(301) 492-9657

Legal Contact: Robert L. Fonner, ELD
(301) 492-8692

Attachment: List of Recently Issued IE Information Notices

Attachment 1
IN 86-90
November 3, 1986

LIST OF RECENTLY ISSUED
IE INFORMATION NOTICES

Information Notice No.	Subject	Date of Issue	Issued to
86-89	Uncontrolled Rod Withdrawal Because Of A Single Failure	10/16/86	All BWR facilities holding an OL or CP
86-05 Sup. 1	Main Steam Safety Valve Test Failures And Ring Setting Adjustments	10/16/86	All power reactor facilities holding an OL or CP
86-25 Sup. 1	Traceability And Material Control of Material And Equipment, Particularly Fasteners	10/15/86	All power reactor facilities holding an OL or CP
86-88	Compensatory Measures For Prolonged Periods Of Security System Failures	10/15/86	All power reactor facilities holding an OL or CP; fuel fabrication and processing facilities
86-87	Loss Of Offsite Power Upon An Automatic Bus Transfer	10/10/86	All power reactor facilities holding an OL or CP
86-86	Clarification Of Requirements For Fabrication And Export Of Certain Previously Approved Type B Packages	10/10/86	All registered users of NRC certified packages
86-85	Enforcement Actions Against Medical Licensees For Willfull Failure To Report Misadministrations	10/3/86	All NRC medical licensees
86-84	Rupture Of A Nominal 40-Millicurie Iodine-125 Brachytherapy Seed Causing Significant Spread Of Radioactive Contamination	9/30/86	All NRC medical institution licensees
86-83	Underground Pathways Into Protected Areas, Vital Areas, Material Access Areas, And Controlled Access Areas	9/19/86	All power reactor facilities holding an OL or CP; fuel fabrication and processing facilities

OL = Operating License
CP = Construction Permit