

**From:** Dennis Sollenberger  
**To:** Doug Walker  
**Date:** 12/16/04 1:41PM  
**Subject:** Request for Clarification on Disposal of AEA material in RCRA cells

Resent with corrected file attached.

Doug:

I am responding to your June 24, 2004 email to me in which you requested clarification regarding the United States Nuclear Regulatory Commission's (NRC) position on Atomic Energy Act (AEA) materials that may be disposed of at Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste disposal facilities. You specifically requested this clarification in light of US Ecology Idaho's (USEI) request for a modification to their RCRA permit.

I would like to clarify that the May 6, 2004 meeting between NRC staff and USEI staff was a last minute "drop-in" meeting that was scheduled one day before the meeting occurred and at the request of USEI. USEI requested the opportunity to inform the NRC staff of its operations since its operations are all licensed by Agreement States or not licensed under the AEA. In that meeting, USEI explained the operations at their Idaho facility as well as their other operations. In those discussions, the NRC staff asked USEI if they intended to limit the material by excluding exempt special nuclear material and exempted materials from reactors. Their answer was that they would like to keep their options open. This discussion led USEI to request the permit modification mentioned in your June 24, 2004 email.

The response to your other questions are addressed in the attached letter which is being sent to Ms. Hardesty, Director, Idaho Department of Environmental Quality. I would request that you assist us by informing your counterparts in the Waste Management and Remediation Division so that they can proceed on the permit modification.

The use of 10 CFR 50.12 for exempting materials at reactor sites that could be disposed of at a RCRA Subtitle C facility is not the proper exemption provision. The materials at Part 50 (reactor) sites would be exempted through the exemptions in 10 CFR 30.11, 40.14, and/or 70.17 depending on the radioactivity present.

If you have additional questions, please give me a call at 301-415-2819 or email me.

Dennis Sollenberger  
Senior Health Physicist  
Office of State and Tribal Programs

**Mail Envelope Properties**

(41C1D6DB.DAD : 22 : 51795)

**Subject:** Request for Clarification on Disposal of AEA material in RCRA cells  
**Creation Date:** 12/16/04 1:41PM  
**From:** Dennis Sollenberger

**Created By:** DMS4@nrc.gov

**Recipients**

deq.state.id.us  
dwalker (Doug Walker)

**Post Office**

**Route**

deq.state.id.us

**Files**

MESSAGE  
walkerIDEQPL.wpd

**Size**

3004  
14915

**Date & Time**

12/16/04 01:41PM  
12/16/04 01:40PM

**Options**

**Expiration Date:** None  
**Priority:** Standard  
**Reply Requested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard

**From:** "Doug Walker" <dwalker@deq.state.id.us>  
**To:** <dms4@nrc.gov>  
**Date:** 6/24/04 12:12PM  
**Subject:** Dennis,

Dennis,

US Ecology has requested a modification to the RCRA permit based on their recent visit to NRC headquarters. The proposed changes would be to add 10 CFR 50.12 and 70.17 to the list of exemptions for accepting radioactive materials that are regulated by the NRC. As I review these parts to the regulations, they appear to be consistent with the specific exemption process of parts 30 and 40 that NRC would apply to the provision of 20.2002.

USEI provided some supporting text for the permit modification request, and referenced the NRC meeting as the basis for justifying the changes.

"Recently, USEI met informally with NRC headquarters staff to review the modification. Since Table 4 specifically references the Part 30 and 40 licensee exemption section but is silent on Part 50 and 70 licensee, several NRC staff felt the language could appear unclear on its applicability to material from the latter licensees, and approval of disposal procedure (as provided under 20.2002) was not specifically referenced along with exemptions and authorizations. To resolve any future confusion and to achieve the modification's original intent, the last row of Table 4 should be revised to list 70.17 and 50.12 in addition to the Part 30 and 40 exemption references, and to list disposal approval along with exemptions and authorizations."

I appreciate the fact that USE has taken the time to meet with the NRC to evaluate the exemption process. The state was not included in these discussion that occurred, therefore I would request that NRC provide a letter of interruption on this issue? I feel strongly that we (state) should have the supporting documentation before we proceed with approving this request.

I would appreciate your perspective and any information that you can provide.

Thanks,

Doug W. Walker  
Sr. Health Physicist  
INEEL Oversight and Radiation Control  
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208-528-2600 (phone)  
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**CC:** "PETE JOHANSEN" <PJOHANSE@deq.state.id.us>, "Bill Maier" <wam@nrc.gov>

**Mail Envelope Properties**

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**Subject:** Dennis,  
**Creation Date:** 6/24/04 12:11PM  
**From:** "Doug Walker" <dwalker@deq.state.id.us>

**Created By:** dwalker@deq.state.id.us

**Recipients**

nrc.gov  
twf1\_po.TWFN\_DO  
DMS4 (Dennis Sollenberger)

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WAM CC (William Maier)

deq.state.id.us  
PJOHANSE CC (PETE JOHANSEN)

**Post Office**

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**Route**

nrc.gov  
nrc.gov  
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**Files**

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**Size**

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