

June 30, 2006

MEMORANDUM TO: Michael T. Lesar, Chief
Rules and Directives Branch
Division of Administrative Services
Office of Administration

FROM: Scott Flanders, Deputy Director /RA/
Environmental and Performance
Assessment Directorate
Division of Waste Management
and Environmental Protection
Office of Nuclear Material Safety
and Safeguards

SUBJECT: REQUEST FOR COMMENTS ON THE NUCLEAR REGULATORY
COMMISSION'S LOW LEVEL RADIOACTIVE WASTE PROGRAM

Enclosed, please find an original signed copy of a *Federal Register* notice concerning actions being undertaken by the U.S. Nuclear Regulatory Commission (NRC) staff to develop a strategic assessment of the NRC's low level waste (LLW) program. The NRC staff is soliciting public comment on what changes, if any, should be made to the current LLW program regulatory framework as well as specific actions that the staff might undertake to facilitate such changes. Four copies of the notice and a diskette containing an electronic version of the notice are also attached. Please transmit the *Federal Register* notice to the Office of Federal Register for publication.

ADM/DAS/RDB has been given owner's rights to the Notice in the Agencywide Document Access Management System (ADAMS) (ML061150364). Publicly available NRC documents referenced in the Notice have been finalized in ADAMS and profiled for public release. ADAMS accession numbers for all such documents are provided in the text under Further Information.

Enclosures:

1. One original and four copies
2. Diskette

CONTACT: Ryan Whited, NMSS/DWMEP
(301) 415-7257

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NUCLEAR REGULATORY COMMISSION

**Request for Comments on the Nuclear Regulatory Commission's
Low Level Radioactive Waste Program**

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Request for Comments on the Nuclear Regulatory Commission's Low Level
Radioactive Waste Program

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is conducting a strategic assessment of its low level radioactive waste (LLW) regulatory program. The objective of this assessment is to identify and prioritize activities that the staff can undertake to ensure a stable, reliable and adaptable regulatory framework for effective LLW management, while also considering future needs and changes that may occur in the nation's commercial LLW management system.

DATES: The public comment period begins with publication of this notice and continues for 30 days. Written comments should be submitted as described in the ADDRESSES section of this notice. Comments submitted by mail should be postmarked by that date to ensure consideration. Comments received or postmarked after that date will be considered to the extent practical.

ADDRESSES: Members of the public are invited and encouraged to submit comments to the Chief, Rules and Directives Branch, Mail Stop T6-D59, U.S. Nuclear Regulatory Commission,

Washington, DC 20555-0001. Comments will also be accepted by e-mail at NRCREP@nrc.gov or by fax to (301) 415-5397, Attention: Ryan Whited.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Whited, Chief, Low Level Waste Section, Environmental and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, MD, 20852. Telephone: (301) 415-7257; fax number: (301) 415-5370; e-mail: arw2@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC last initiated a strategic assessment of its LLW regulatory program in August 1995. As part of that effort, in September 1996, the NRC staff released an “Issues Paper” that identified several options the agency could pursue regarding the overall scope and magnitude of its LLW regulatory program. [The Issues Paper is available in the NRC’s Agencywide Document Management System (ADAMS) under accession number ML061700297]. In response to that issues paper, and after taking into consideration public comments as well as the fact that the new disposal facilities that had been anticipated following the 1985 amendment of the Low-Level Radioactive Waste Policy Act of 1980 (LLRWPA) were not forthcoming, the Commission decided to simply “maintain” the agency’s LLW program at its then-current level. Due to a number of developments in the national system for LLW disposal as well as changes in the regulatory environment over the past 10 years, the NRC’s LLW program now faces new challenges, influences and issues. Among these is the fact that several governmental and national technical organizations, as well as major stakeholder and industry groups, states and

Congress, have raised questions or expressed opinions regarding the current status of regulation and disposal of radioactive waste in the U.S. Though many of these groups want action to be taken on issues of concern to them, they do not necessarily hold the same views regarding what actions are needed or what issues require the most attention. Meanwhile, a number of new technical issues, involving security matters as well as protection of public health and the environment, have emerged.

As a result, the NRC staff is conducting a new strategic assessment of the agency's LLW regulatory program. The objective of this assessment is to identify and prioritize activities that the staff can undertake to ensure a stable, reliable and adaptable regulatory framework for effective LLW management, while also considering future needs and changes that may occur in the nation's commercial LLW management system. As part of this assessment, the NRC staff is soliciting public comment on what changes, if any, should be made to the current LLW program regulatory framework as well as specific actions that the staff might undertake to facilitate such changes. The staff is requesting that persons consider and address the following nine questions as they develop and provide their remarks:

Regarding the Current LLW Disposal Regulatory System:

1. What are your key safety and cost drivers and/or concerns relative to LLW disposal?
2. What vulnerabilities or impediments, if any, are there in the current regulatory approach toward LLW disposal in the U.S., in terms of their effects on:
 - a. Regulatory system reliability, predictability, and adaptability
 - b. Regulatory burden (including cost), and
 - c. Safety, security, and protection of the environment?

Potential Alternative Futures

3. Assuming the existing legislative and regulatory framework remains unchanged, what would you expect the future to look like with regard to the types and volumes of LLW streams and the availability of disposal options for Class A, B, C, and greater-than-class-C (GTCC) LLW five years from now? Twenty years from now? What would more optimistic and pessimistic disposal scenarios look like compared to your “expected future”?
4. How might potential future disposal scenarios affect LLW storage and disposal in the U.S., in terms of:
 - a. Regulatory system reliability, predictability, and adaptability
 - b. Regulatory burden (including cost), and
 - c. Safety, security and protection of the environment?

Can the future be altered?

5. What actions could be taken by NRC and other federal and state authorities, as well as by private industry and national scientific and technical organizations, to optimize management of LLW and improve the future outlook? Which of the following investments are most likely to yield benefits:
 - a. Changes in regulations
 - b. Changes in regulatory guidance
 - c. Changes in industry practices
 - d. Other (name)
6. Are there actions (regulatory and/or industry initiated) that can/should be taken in regard to specific issues such as:
 - a. Storage, disposal, tracking and security of GTCC waste (particularly sealed sources)

- b. Availability and cost of disposal of Class B and C LLW
 - c. Disposal options for depleted uranium
 - d. Extended storage of LLW
 - e. Disposal options for low-activity waste (LAW) / very low level waste (VLLW)
 - f. On-site disposal of LLW
 - g. Other (name)
7. What unintended consequences might result from the postulated changes identified in response to questions 5 and 6?

Interagency Communication and Cooperation

8. Based on your observations of what works well and not-so-well, domestically and/or internationally, with regard to the management of radioactive and/or hazardous waste, what actions can the NRC and other federal regulatory agencies take to improve their communication with affected and interested stakeholders?
9. What specific actions can NRC take to improve coordination with other federal agencies so as to obtain a more consistent treatment of radioactive wastes that possess similar or equivalent levels of biological hazard?

On May 23 and 24, 2006, the NRC's Advisory Committee on Nuclear Waste (ACNW) sponsored a public fact-finding meeting with industry representatives and stakeholders at NRC headquarters in Rockville, MD, to: (a) provide input to the ACNW regarding areas where NRC's regulations for near-surface disposal of LLW in 10 CFR Part 61 might be more risk-informed; and (b) provide information for NRC staff to consider in its strategic assessment of the LLW regulatory program. The transcript of the ACNW meeting is publicly available on the NRC's

public web site at <http://www.nrc.gov/reading-rm/doc-collections/acnw/tr2006/>. The NRC staff intends to utilize the information gathered from the ACNW meeting as well as this solicitation to develop a strategic assessment of the NRC's regulatory program for low-level radioactive waste.

II. Further Information

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland this 29th day of June, 2006.

For the Nuclear Regulatory Commission

/RA/

Scott Flanders, Deputy Director
Environmental and Performance
Assessment Directorate
Division of Waste Management
and Environmental Protection
Office of Nuclear Materials Safety
and Safeguards