

May 29, 2008

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

FROM: Scott C. Flanders, Deputy Director */RA/*  
Environmental Protection  
and Performance Assessment Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: NOTICE OF AVAILABILITY OF REGULATORY ISSUE  
SUMMARY 2008-12 - CONSIDERATIONS FOR EXTENDED  
INTERIM STORAGE OF LOW-LEVEL RADIOACTIVE WASTE BY  
FUEL CYCLE AND MATERIALS LICENSEES

Enclosed please find one signed original, four copies, and an electronic version on a 3.5-inch diskette of the subject Federal Register Notice for transmittal to the Office of the Federal Register for publication.

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Enclosures:

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CONTACT: James Shaffner, FSME/DWMEP  
(301) 415-5496

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**NUCLEAR REGULATORY COMMISSION**

**NOTICE OF AVAILABILITY OF REGULATORY ISSUE SUMMARY 2008-12  
CONSIDERATIONS FOR EXTENDED INTERIM STORAGE OF LOW-LEVEL RADIOACTIVE  
WASTE BY FUEL CYCLE AND MATERIALS LICENSEES**

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC)

**ACTION:** The NRC staff has issued Regulatory Issue Summary (RIS) 2008-12; Considerations for Extended Interim Storage of Low-Level Radioactive Waste by Fuel Cycle and Materials Licensees. The RIS is intended to update and replace information provided in Information Notice 90-09, "Extended Interim Storage of Low-Level Radioactive Waste by Fuel Cycle and Materials Licensees," February 5, 1990. The RIS is dated May 9, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Shaffner, Project Manager, Low-Level Waste Branch, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection (DWMEP), U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (301) 415-5496; fax number (301) 415-5397; email [james.shaffner@nrc.gov](mailto:james.shaffner@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

In its annual report (SECY 06-193, "Annual Review of the Need for Rulemaking and/or Regulatory Guidance on Low-Level Radioactive Waste Storage," September 6, 2006) to

the Commission on the need for rulemaking or guidance related to extended interim storage of Low-Level Radioactive Waste (LLRW), the NRC staff reported its intention to review and revise, as necessary, guidance to NRC licensees faced with the prospect of mandatory extended interim storage of low-level radioactive waste. Staff stated that the emphasis of the effort would be directed toward the needs of fuel cycle and radioactive materials licenses that may be required to store waste classified as Class B or C waste, in accordance with 10 CFR Part 61, "Licensing Land Disposal of Radioactive Waste," after June 30, 2008, because of the limitation of access to the Barnwell Low-Level Radioactive Waste Disposal Facility. In its follow-up report on the topic, SECY 07-083, dated October 22, 2007, staff outlined the process and timeline for accomplishment of the guidance update. The emphasis on fuel cycle and radioactive materials licensees was based on the understanding that 10 CFR Part 50 licensees (production and utilization facilities) were more likely to have pre-existing technical, physical, and financial infrastructure to adequately manage any required extended interim storage of LLRW.

## **II Background**

The limitation of disposal access at the Barnwell disposal facility to States that comprise the Atlantic LLRW Compact (South Carolina, Connecticut, and New Jersey) as of July 1, 2008 is likely to require many radioactive materials licensees outside of that compact that generate Class B and C LLRW to store such waste. In anticipation of this circumstance, NRC staff reviewed and updated information related to extended interim storage of LLRW by fuel cycle and radioactive materials licensees. In SECY-07-083, staff determined that the most efficient and transparent means to accomplish this was to revise IN 90-09. However, in consultation with other NRC offices it was later determined that the most appropriate form of generic communication for imparting the information was a RIS. Although the RIS does not impose any

additional regulatory requirements on NRC licensees, staff considered that it also may be of some interest to Agreement State radiation control programs and their licensees.

### **III Need for the Revision**

NRC staff considered the need for the revision of IN 90-09 based on changes in regulatory circumstances that have occurred since 1990. These include, but are not limited to, the changing nature of and access to permanent disposal capacity, emerging technologies related to the processing, treatment and handling of radioactive waste, and changed security considerations based on the circumstances of September 11, 2001.

The updated information in the form of RIS 2008-12 is responsive to both licensees who will be able to store LLRW in accordance with terms and conditions of existing licenses as well as those whose circumstances may have changed such that a license amendment is required.

The RIS includes a number of major considerations related to extended interim storage. These include reaffirmations of two considerations, related to storage time limit and suitable waste forms for storage, formerly addressed but never finalized by NRC staff in SECY 94-198, "Review of Existing Guidance Concerning Extended Storage of Low-Level Radioactive Waste" (August 1, 1994).

The RIS includes four enclosures to inform its contents and facilitate its use. The enclosures include licensing considerations, updated State and compact contacts, additional references, and recently issued generic communications.

### **IV Intended Use**

RIS 2008-12 provides updated information related to extended interim storage of LLRW by fuel cycle and materials licensees. It imposes no additional regulatory requirements. The RIS is

intended to replace the IN 90-09 dated February 5, 1990. Further, any references to IN 90-09 contained in other NRC guidance or technical references should now be interpreted to refer to RIS 2008-12.

## **V Agencies and Persons Consulted**

The RIS was developed in accordance with the requirements of NRC Inspection Manual Chapter 0730, "Generic Communications Regarding Materials and Fuel Cycle Issues." In the process of preparing RIS 2008-12, FSME staff consulted with other NRC Headquarters offices, NRC regional offices, State officials in both Agreement States and non-Agreement States and territories, the Organization of Agreement States, the Conference of Radiation Control Program Directors and several licensees licensed by either NRC or Agreement State Radiation Control Programs.

## **VI Further Information**

Documents related to this action are available electronically in the NRC's Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The package which contains RIS 2008-12 and four enclosures can be found in ADAMS at accession number ML073330609. If you do not have access to ADAMS, or if there are problems accessing documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference Staff at 1-800-397-4209, 301-415-4737, or email [pdrc@nrc.gov](mailto:pdrc@nrc.gov). These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 29<sup>th</sup> day of May, 2008.

FOR THE NUCLEAR REGULATORY COMMISSION

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