

ENERGYSOLUTIONS

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Cindy Bladey, Chief
Rules, Announcements, and Directives Branch
Office of Administration
Mail Stop TWB-05-B01M
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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RULES AND DIRECTIVES
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Subject: Comments on the Draft Policy Statement on Volume Reduction and Low-Level Radioactive Waste Management, NRC-2011-0183, 76 FR 50500, August 15, 2011

Dear Ms. Bladey:

EnergySolutions hereby submits the following comments on the Draft Policy Statement on Volume Reduction and Low-Level Radioactive Waste Management, published in the *Federal Register* on August 15, 2011.

The updated policy statement rightly emphasizes that disposal of LLW is the preferred long-term management approach. Further, the updated policy statement appropriately recognizes the role of waste processing technologies in LLW management. Unfortunately, the Policy Statement places misguided emphasis on the use of the Commission's alternate disposal provisions. Waste minimization, storage and/or decay, processing, and disposal are the key elements in considering the strategy for a licensee. We fully agree with the concepts embodied in the draft policy statement, but we take issue with the presentation of waste management options listed in the draft policy statement.

It is improper for the Commission to adopt a policy that explicitly promotes the disposal of licensed radioactive material in unlicensed sites. While the use of the alternative disposal approach of 10 CFR 20.2002 has merit in certain situations, its inclusion and high visibility in this policy statement is inappropriate. This constitutes regulation by exemption, a practice not generally held in favor by the Commission, and suggests that this is a preferred approach to be regularly adopted.

Disposal of LLW at unlicensed sites requires an exemption, and should be the exception, not the rule. It should be authorized only in limited cases. Otherwise the Commission runs the risk that the exception becomes the rule. This is particularly true in the case of off-site disposals. While any one disposal action may meet the broad requirements of 10 CFR 20.2002 and thus is protective of human health and safety, there is no assurance that multiple disposal actions at the same site do. The NRC's internal guidance¹ for analyzing 20.2002

¹ Review, Approval, and Documentation of Low-Activity Waste Disposal in Accordance with 10 CFR 20.2002 and 10 CFR 40.13(a), Draft for Interim Use, Revision 0, EPPAD 3.5, August 2009.

SUNSI Review Complete

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requests does not even require consideration of the cumulative impacts of repeated disposals in the same off- site location.

Therefore, we propose that the reference to the alternate disposal provisions of 10 CFR 20.2002 be deleted from the policy statement. If the Commission feels that the reference to the use of 10 CFR 20.2002 should be kept in the policy statement for completeness, it should be included merely as a footnote, stating: "The staff may also authorize in limited circumstances disposal at an unlicensed site under 10 CFR 20.2002." To do otherwise places undue emphasis on this exemption process.

If the Commission wishes to provide a mechanism for the disposal of low activity waste with the same or higher prominence as disposal at a licensed disposal site, it should be addressed in a rulemaking. *EnergySolutions* would support an NRC rulemaking initiative to develop a licensing process regarding such sites so that they can be properly regulated under the *Atomic Energy Act*, thus assuring public health and safety. Anything less is regulation by exemption.

We would also propose that the policy statement be revised to remove the NRC encouragement that licensees "...should consider ... cost..." in waste management. While we agree that cost is an important consideration, NRC should focus on health, safety, security, and the environment. It is up to the licensee to decide how best to consider cost in weighing its waste management options.

Thank you for this opportunity to comment. Questions regarding these comments may be directed to me at (240) 565-6148 or temagette@energysolutions.com.

Sincerely,



Thomas E. Magette, P.E.
Senior Vice President
Nuclear Regulatory Strategy