

# PUBLIC SUBMISSION

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Very Low-Level Radioactive Waste Scoping Study

**Comment On:** NRC-2018-0026-0001  
Very Low-Level Radioactive Waste Scoping Study

**Document:** NRC-2018-0026-DRAFT-0031  
Comment on FR Doc # 2018-03083

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## Submitter Information

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## General Comment

The Northwest Interstate Compact for Low-Level Radioactive Waste Management appreciates the ability to comment on this subject. Comments are in response to the questions listed in the Federal Register. The uploaded file contains the NWIC comments for your consideration.

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## Attachments

NWIC VLLW Comments\_Final

**SUNSI Review Complete**  
**Template = ADM-013**  
**E-RIDS=ADM-03**  
**ADD= Kellee Jamerson**

**COMMENT (#31)**  
**PUBICATION DATE:**  
**2/14/2018**  
**CITATION # 83 FR 6619**

# Northwest Interstate Compact

On Low-Level Radioactive Waste Management

P.O. Box 47827, Olympia, Washington 98504-7827, (509) 946-0234. Earl Fordham, Executive Director

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May 15, 2018

May Ma  
Office of Administration  
Mail Stop OWFN-2-A13  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Re: Request for Comments on the Very Low-Level Radioactive Waste Scoping Study as Published at 83 *Federal Register* p. 6,619  
Docket ID NRC-2018-0026**

Dear May Ma,

The Northwest Interstate Compact reviewed the above document and offers the following comments for your consideration:

1. The United States does not have a formal regulatory definition of VLLW. What should the NRC consider in developing its own regulatory definition for VLLW? Is there another definition of VLLW that should be considered? Provide a basis for your response.  
*To maintain consistency, the VLLW definition should fit into the already established Part 61 waste classification system. The actual total activity any RCRA (or state equivalent) permitted or specifically licensed VLLW disposal facility accepts should be limited, or capped, based on a site-specific dose assessment to ensure that the projected dose remains within the NRC's goal of "a few millirem per year".*
2. The existing regulatory framework within 10 CFR 61.55 divides low-level radioactive waste into four categories: Class A, Class B, Class C, and Greater Than Class C. Should the NRC revise the waste classification system to establish a new category for VLLW? What criteria should NRC consider in establishing the boundary between Class A and VLLW categories?  
*To maintain consistency with the already established Part 61 waste classification system, VLLW could be limited to 10% of the Class A limit. The actual total activity any RCRA (or state equivalent) permitted or specifically licensed VLLW disposal facility accepts should be limited, or capped, based on a site-specific dose assessment to ensure that the projected resulting dose stays within the NRC's goal of a "few millirem per year".*
3. The NRC's alternative disposal request guidance entitled, "Review, Approval, and Documentation of Low-Activity Waste Disposals in Accordance with 10 CFR 20.2002 and 10 CFR 40.13(a)," which is undergoing a revision, allows for alternative disposal methods that are different from those already defined in the regulations and is most often used for

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burial of waste in hazardous or solid waste landfills permitted under the Resource Conservation and Recovery Act (RCRA). Should the NRC expand the existing guidance to include VLLW disposal or consider the development of a new guidance for VLLW disposal? Why or why not?

*Given the potential for the disposal of VLLW to move beyond an already permitted RCRA disposal facility, to new disposal facilities specifically licensed to accept VLLW, either new guidance should be developed as to how these facilities will be licensed, or the current guidance should be expanded to specifically address the licensing of these VLLW disposal facilities.*

4. If the NRC were to create a new waste category for VLLW in 10 CFR Part 61, what potential compatibility issues related to the approval of VLLW disposal by NRC Agreement States need to be considered and addressed? How might defining VLLW affect NRC Agreement State regulatory programs in terms of additional responsibilities or resources?

*N/A*

5. Following the Low-Level Radioactive Waste Policy Amendments Act of 1985, states formed regional compacts for the disposal of low-level radioactive waste. If the NRC were to create a new waste category for VLLW, does it fall within regional compact authority to control VLLW management and disposal? How might defining VLLW affect regional compacts in terms of additional responsibilities or resources?

*Yes, if the NRC proceeds with the suggested designation of VLLW as a new waste category within 10 CFR 61 (e.g. the bottom 10% of the Class A limits in 10 CFR 61.55), VLLW would still be Part 61 material and susceptible to Northwest Interstate Compact (NWIC) control. Additional resources and responsibilities may result if a separate VLLW disposal facility is sited. Before any such facility is authorized for construction or use, the Compact would need to specifically authorize it (basis: decision in EnergySolutions, LLC v. State of Utah (Case 09-4122) filed by the U.S. Court of Appeals for the Tenth Circuit filed on November 9, 2010 that prevented out-of-compact (Italian) waste from coming to Energy Solutions). Additionally, if the VLLW disposal facility is a RCRA facility, the NWIC would need to establish a regulatory relationship with the RCRA disposal facility. The initial onset of implementing a VLLW disposal site, RCRA (or state equivalent) or specifically licensed VLLW disposal site, will require legal and staffing support to ensure the authorities of the Compact are implemented correctly.*

*Also, forming this new waste category such that it falls within the compact's authority ensures member states maintain import control and not be required to accept VLLW from the entire country.*

6. Environmental Protection Agency imposed waste analysis requirements for facilities that generate, treat, store, and dispose of hazardous wastes are defined in 40 CFR Parts 264 through 270. How would NRC incorporate and apply waste analysis requirements for VLLW at RCRA Subtitle C and D facilities? Should the NRC impose concentration limits and/or treatment standards for VLLW disposal?

*N/A*

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7. Are there any unintended consequences associated with developing a VLLW waste category?

*If the intent of the VLLW waste category is to reduce disposal costs by diverting this waste stream from disposal at a Part 61 LLW facility, the establishment of the VLLW category has economic consequences. Since the state of Washington LLRW disposal site (US Ecology) is rate-regulated (e.g., each package costs \$13,010, each shipment \$18,810, and each cubic foot costs \$198.30) to achieve a state-mandated revenue amount, any reduction in the number of packages, shipments and volume from a diversion to a VLLW site will have impacts. In a common year, Class A waste makes up a great majority of the volume (> 80%), shipments and packages received at the disposal facility operated by US Ecology. Of the Class A waste received, much of it is less than 10% of the Class A limit in 10 CFR 61.55.*

*If the VLLW category is established near/at 10% of the Class A limit, disposal prices at US Ecology could double. The enabling legislation for the NWIC does not authorize the Compact to prohibit the exportation of waste from its 8 member states. Without a prohibition against exporting, NWIC members would likely find it cost effective to export qualifying waste to the VLLW site in a neighboring state, thereby leaving the other LLRW disposal site users to pay much higher prices to achieve the state-mandated revenue requirement for the site operator.*

*Currently there is only one nuclear power plant within the NWIC, and this plant is not slated for decommissioning. The NWIC's US Ecology disposal site will not experience capacity issues due to increased waste volumes from decommissioning power plants. Based upon current projections, the disposal site will not be full when it closes in 2056, and will have sufficient capacity to meet the future needs of generators that use it.*

8. What analytical methods/tools should be used to assess the risk of disposing of VLLW at licensed LLW disposal facilities or RCRA Subtitle C and D facilities? (i.e., generic or site specific)

*N/A*

9. How should economic factors be considered in the VLLW Scoping Study?

*Economic factors should include financial components as well as the viability impacts to current Part 61 disposal facilities due to the reduced waste volumes.*

*The establishment of VLLW category has economic consequences for the NWIC. Since the state of Washington LLRW disposal site (US Ecology) is rate-regulated (e.g., each package costs \$13,010, each shipment \$18,810, and each cubic foot costs \$198.30) to achieve a state-mandated revenue amount, any reduction in the number of packages, shipments and volume from a diversion to a VLLW site will have impacts. In a common year, Class A waste makes up a great majority of the volume (> 80%), shipments and packages received at the disposal facility operated by US Ecology, and of the Class A waste, much of it is less than 10% of the Class A limit in 10 CFR 61.55.*

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*Currently there is only one nuclear power plant within the NWIC, and this plant is not slated for decommissioning. The NWIC's US Ecology site will not be experiencing capacity concerns due to increased waste volumes from decommissioning power plants. Based upon current projections, the disposal site will not be full when it closes in 2056, and will have sufficient capacity to meet the future needs of generators that use it.*

Thank you,



Earl Fordham, Executive Director  
Northwest Interstate Compact