



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 3, 2020

ALL AGREEMENT STATES

NOTIFICATION OF ISSUANCE OF A PROPOSED INTERPRETATIVE RULE: "TRANSFER OF VERY LOW-LEVEL WASTE TO EXEMPT PERSONS FOR DISPOSAL" (STC-20-027)

Purpose: To inform all Agreement States that the U.S. Nuclear Regulatory Commission (NRC) staff has issued a proposed interpretative rule, "Transfer of Very Low-Level Waste to Exempt Persons for Disposal," for review and public comment. In recognition of the impacts of the current COVID-19 pandemic across the nation, the NRC will be extending the current public comment period from April 20, 2020, to July 20, 2020, to allow more time for members of the public to develop and submit their comments.

Background: The NRC's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 20, Subpart K, "Waste Disposal," govern the disposal of licensed material by NRC licensees. Section 20.2001 provides the general requirements for disposal, and paragraph (a) requires that a licensee only dispose of licensed material using the methods listed in that paragraph. The authorized method of disposal listed in paragraph (a)(1) is "transfer to an authorized recipient." Parts 30, 40, and 70 of 10 CFR contain provisions that authorize the transfer of material to exempt persons; specific provisions provide that "[e]xcept as otherwise provided in his license...any licensee may transfer [byproduct, source, or special nuclear] material: [t]o any person exempt from the licensing requirements of the Act and regulations in this part, to the extent permitted under such exemption; [or] [t]o any person in an Agreement State, subject to the jurisdiction of that State, who has been exempted from the licensing requirements and regulations of that State, to the extent permitted under such exemption."

The proposed interpretive rule would modify the current NRC guidance, which states that § 20.2001 only allows the transfer of licensed material for disposal to licensed persons. The proposed interpretive rule would allow the transfer of licensed material to persons who hold specific exemptions, issued pursuant to §§ 30.11, 40.14, or 70.17, or the compatible Agreement State requirements, if those exemptions are for the purpose of disposal.

Discussion: This interpretive rule would apply to NRC licensees that would transfer licensed material to persons who hold specific exemptions for disposal. The NRC recognizes that Agreement States' regulatory approvals might be exemptions or be in another form. Where Agreement States have exercised their authority to authorize persons who do not hold a license to receive and dispose of licensed material, this interpretive rule contemplates the transfer of licensed material to those persons for disposal.

Consistent with longstanding NRC guidance on disposal by land burial outside of facilities licensed under 10 CFR Part 61, the NRC would consider requests for specific exemptions for the disposal of very low-level waste (VLLW) by land burial. Therefore, the NRC's intent is that this interpretive rule would in effect only provide for the transfer of VLLW to persons who hold specific exemptions for disposal of VLLW by land burial. The NRC expects that this interpretive rule would provide an efficient means by which the NRC may issue specific exemptions for disposal, and by which licensees may transfer appropriate material to these exempt facilities.

The NRC staff issued additional information regarding this proposed interpretive rule via a notice in the *Federal Register* (85 FR 13076) on March 6, 2020, which is available at: <https://www.federalregister.gov/documents/2020/03/06/2020-04506/transfer-of-very-low-level-waste-to-exempt-persons-for-disposal>. This *Federal Register* notice can also be accessed on www.regulations.gov by searching for Docket ID# NRC-2020-0065. As explained in the notice, the NRC staff is interested in receiving comments on the proposed interpretive rule from a broad range of stakeholders, including professional organizations, licensees, Agreement States, and members of the public. The staff conducted a public webinar on March 30, 2020, to obtain feedback on the proposed interpretive rule, and plans to host an additional public meeting during the extended comment period for the same purpose.

More information on VLLW can also be found on the NRC's public Web site at: <https://www.nrc.gov/waste/llw-disposal/very-llw.html>.

If you have any questions regarding this correspondence, please contact me at (301) 415-3340. or the individual named below:

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