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# PUBLIC SUBMISSION

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**Docket:** NRC-2020-0065

Transfer of Very Low-Level Waste to Exempt Persons for Disposal

**Comment On:** NRC-2020-0065-0001

Transfer of Very Low-Level Waste to Exempt Persons for Disposal

**Document:** NRC-2020-0065-DRAFT-0148

Comment on FR Doc # 2020-04506

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## Submitter Information

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## General Comment

See attached file(s)

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## Attachments

NRC 20.2001 Interpretative Rule WA comments July 19 2020



STATE OF WASHINGTON

DEPARTMENT OF HEALTH  
OFFICE OF RADIATION PROTECTION

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July 19, 2020

Office of Administration  
Mail Stop: TWFN-7-A60M  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

**Subject: Request for Comments on the Transfer of Very Low-Level Waste to Exempt Persons for Disposal– 85 FR 13076; Docket ID NRC–2020–0065**

Dear Sir/Madam:

Washington State reviewed the above document and offers the following comments for your consideration:

1. This interpretive rule would authorize the transfer of licensed material to persons who hold specific exemptions for disposal without a case-by-case review and approval of the transfers. Do you think that case-by-case review and approval of these transfers is necessary?

*The Federal Register Notice provides minimal information on how this interpretive rule would be implemented, in particular, the regulatory framework of implementation, how the 25 mrem/yr annual dose limit would be calculated, and what the monitoring/closure requirements would be.*

*Case-by-case reviews ensure that the regulatory agency, NRC or Agreement State, is assessing the generator's waste stream and source term in conjunction with the source term already present at the RCRA waste disposal facility.*

*If the RCRA facility is exempt, by definition, the NRC or Agreement State would not be regulating the facility, thus leaving this responsibility to another entity, such as the U.S. Environmental Protection Agency (EPA)-authorized State under RCRA Subtitle C, an EPA-approved State municipal solid waste landfill permit program under RCRA Subtitle D, or EPA. It is not clear in what permit/license the conditions of the exemption would reside. It is not clear which regulatory agency would oversee the RCRA disposal facility to ensure the conditions of the exemption are being met, including ensuring the source*

*term tracking is accurate and within the approved limits, radiological/environmental monitoring conditions are met, closure requirements are met, etc. Regulatory oversight should also include inspections of the disposal facility and review of documentation to ensure compliance with the conditions of the exemption. These are tasks that require special knowledge and understanding of radiation and radioactive waste disposal considerations that standard RCRA D solid waste or RCRA C hazardous waste regulators may not be familiar with. If the terms of the exemption are not being adhered to by the RCRA disposal facility, it is unclear what the citation and corrective action process would be since the disposal facility would be exempt from the NRC and Agreement State regulations.*

*In the case-by-case scenario the generator, who is the requestor, can pay for the request through the established codified fee code systems. Since “exempt persons” is not a current license fee category, is unclear how fees for the complicated applications and oversight identified in the proposed interpretation would be determined and recovered.*

2. Transboundary transfer of VLLW [Very Low-Level Radioactive Waste] associated with the approved disposal actions is an important consideration. What issues associated with transboundary transfer of VLLW should be considered with this interpretive rule?

*Currently the Compact System controls the movement of radioactive waste across state lines. Regardless of the terms used to identify this material, its movement must adhere to the authority the various Compacts.*

*The allowance of RCRA disposal facilities to hold specific exemptions will have adverse economic consequences for the Low-Level Radioactive Waste (LLRW) regulatory program in the state of Washington. The 10 CFR 61 regulations are thorough and the costs and time associated with becoming and overseeing a commercial low-level (Part 61) radioactive waste site are extensive. The state of Washington relies on our Part 61 site receiving the whole profile of low-level radioactive waste for economic viability. Washington’s LLRW program is funded on a per cubic foot waste received basis. Since the state of Washington’s 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 volume from a diversion to a VLLW site will reduce state program funding. In a common year, Class A waste makes up a great majority of the volume (> 80%) 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. If volumes were reduced 50%, significant program impacts would occur.*

*It is also not clear if the RCRA waste site is granted exemption, may the RCRA waste site accept overseas waste?*

3. 10 CFR 20.2006 states that “[a]ny licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility must document the information required on NRC’s Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with appendix G to 10 CFR part 20.” Should the exempt persons authorized to dispose of certain VLLW that would be considered § 20.2001 “authorized recipients” under this proposed interpretive rule be required to use Uniform Waste Manifests (consistent with § 20.2006) for waste transferred to the exempted disposal facility?

*Yes, since VLLW is radioactive waste, the generator should be required to utilize the NRC’s Uniform Low-Level Radioactive Waste Manifest to disclose the source term within the waste disposal shipment(s) to the RCRA facility for source term tracking purposes. Since RCRA facilities have their own waste acceptance criteria and manifesting systems, it is unclear how the NRC’s Uniform Manifest would integrate into the RCRA facility’s current manifesting system.*

4. Are there any other criteria that the NRC should consider when it reviews a request for a specific exemption for the purpose of disposal?

*The performance criteria found in 10 CFR Part 61 and associated guidance documents should be followed when reviewing a request for the disposal of licensed LLW. The NRC should consider how the performance assessment should be conducted (is there an all controls fail assessment?); what closure and institution controls should be in place; how the facility will track total site source term; environmental monitoring requirements; how dose for workers and the public will be monitored; inspection frequency expectations; are there waste form limitations (e.g. will bulk liquid disposal be acceptable, will non-containerized dispersible waste be accepted).*

*The NRC should perform an assessment of the volume capacity of the existing RCRA C and D facilities to better understand the impact that this proposed interpretation would have on existing RCRA disposal site capacity. Also, the financial burden to both the NRC Agreement States that would be reviewing these complicated applications, and State RCRA Subtitle C and Subtitle D programs that would most likely take the burden of overseeing adherence to these exemptions must be assessed.*

5. The regulation in § 20.2001 is currently identified as a compatibility C regulation for purposes of Agreement State compatibility. In light of this proposed interpretive rule, does the compatibility designation raise issues that the NRC should consider?

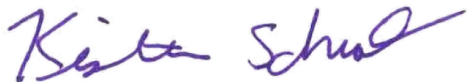
*Compatibility Category C is appropriate. Compatibility Category C allows states the control to determine if and how these regulations will be implemented, as well as the flexibility to be more stringent as appropriate. The addition of a new waste stream to an existing RCRA facility would most likely require the development of a program and staff, and thus require a license fee. The NRC should assess the costs associated with the rule making that will be required for both Agreement State Radiation programs and State RCRA Subtitle C and Subtitle D programs.*

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*Also, does the NRC intend on reviewing the states oversight of these disposal facilities during their IMPEP reviews? If so, will these facilities be Common or Non-Common Performance Indicators? For states that do not currently have Non-Common Performance Indicator facilities, this facility type could require additional technical staff; states that currently do have LLRW Non-Common Performance Indicator facilities most likely already house the technical expertise to licensee/permit and oversee these facilities.*

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in purple ink that reads "Kristen Schwab". The signature is fluid and cursive, with the first name "Kristen" and last name "Schwab" clearly legible.

Kristen Schwab, Supervisor  
Waste Management Section  
Office of Radiation Protection  
Washington Department of Health

cc: Earl Fordham, Northwest Interstate Compact