



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, ENGINEERING AND SUPPORT CENTER, HUNTSVILLE  
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July 15, 2020

Ms. Marlayna Doell,  
Office of Nuclear Material Safety and Safeguards,  
U.S. Nuclear Regulatory Commission,  
Washington, DC 20555-0001

Dear Ms. Doell,

The US Army Corps of Engineers is submitting comments on the US Nuclear Regulatory Commission (NRC) proposed interpretive rule "Transfer of Very Low-Level Waste to Exempt Persons for Disposal". This is in response to the request for comments which appeared in the Federal Register 13076 Vol. 85, No. 45 Friday, March 6, 2020.

The NRC requests input on five specific areas (VII. Specific Requests for Comment) and the Corps has addressed each of these areas. Further, the Corps is submitting additional comments for NRC consideration based on our broad and lengthy experience as a generator of significant quantities of Very Low-Level Waste. All of the Corps' comments were prepared by our Radiation Safety Support Team and are provided in the attached enclosure.

Thank you for providing us the opportunity to comment on this important issue.

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**JOHN D NEBELSICK**  
Director, Environmental and Munitions  
Center of Expertise

Enclosure

US Army Corps of Engineers

(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 the transfers. Do you think that case-by-case review and approval of these transfers is necessary?

No, provided that the exemption (authorization to receive and dispose) is based on a performance assessment of the envisioned waste to be disposed, and that all subsequent consignments of waste remain within the bounds of that assessment.

Although authorized by the framework of this rulemaking, the final approval for authorization to receive and dispose the waste would reside with the State in which the disposal facility resides.

(2) Transboundary transfer of VLLW associated with the approved disposal actions is an important consideration. What issues associated with transboundary transfer of LLW should be considered with this interpretive rule?

This Commenter understands that the term "transboundary" to be in reference to the relationship of the USNRC with each individual Agreement or Non-Agreement State.

In this context, although authorized by the framework of this rulemaking, the final approval for authorization to receive and dispose the waste would reside with the individual Agreement or Non-Agreement State in which the disposal facility resides.

(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?

This Commenter does not foresee undue burden with the use of the Uniform Waste Manifest for VLLW. It is envisioned that the manifest may serve to provide a portion of the information that would be required for authorization to dispose each consignment.

(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?

Since the NRC currently performs a NEPA Environmental Assessment (EA) for a specific 10 CFR 20.2002 exemption, will a specific exemption require a facility

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2. Section III of the Proposed Interpretive Rule states, in part: "Pursuant to § 20.2001(a)(1), licensees may dispose of licensed material by transfer, in accordance with §§ 30.41(b)(3)-(b)(4), 40.51(b)(3)-(b)(4), and 70.42(b)(3)-(b)(4), to persons who hold specific exemptions issued pursuant to §§ 30.11, 40.14, and 70.17 for the purpose of disposal."

Comment: It is unclear if this change would impose additional constraints upon the disposal of waste already included among those that are least hazardous. This includes wastes meeting the criteria in 10 CFR 30.15 for certain byproduct material and unimportant quantities of source material defined in 10 CFR 40.51(b)(3) and (4) to persons exempt under 10 CFR 40.13(a).

Recommend: A complete discussion and clear definition of any changes or additional requirements to be placed upon the generator for disposing waste that meets the criteria in 10 CFR 30.15 for certain byproduct material and unimportant quantities of source material defined in 10 CFR 40.51(b)(3) and (4) to persons exempt under 10 CFR 40.13(a) be included in the interpretive rule. If there are no changes or additional requirements this should be clearly stated.

3. Section V, Specific Exemptions for Disposal states, in part: "The NRC would consider approval of such an exemption if the cumulative dose were to be maintained below 25 millirem per year."

Comment: It is unclear what is meant by cumulative dose and if the requirement to account for cumulative exposure constrains the amount of VLLW that could be consigned to disposal during a period of disposal as a result of the concentration.

Recommendation: Cumulative dose should be defined and additional information regarding the method to account for the annual exposure resulting from disposal should be discussed. We also request additional detail be added regarding the method to quantify the cumulative exposure on an annual basis, when it is likely that additional VLLW waste will be consigned to burial over a period that may span several years.