

# LOW-LEVEL RADIOACTIVE WASTE FORUM, INC.

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## Comment Period Opens re Guidance Document for Alternative Disposal Requests

On October 19, 2017, the U.S. Nuclear Regulatory Commission (NRC) published a notice in the *Federal Register* requesting comment on the draft revision to its guidance document for alternative disposal requests entitled, “Guidance for the Reviews of Proposed Disposal Procedures and Transfers of Radioactive Material Under 10 CFR 20.2002 and 10 CFR 40.13(a).” (See 82 *Federal Register* 48,727 dated October 19, 2017.)

*The Federal Register notice regarding the draft revision to the NRC guidance document for alternative disposal requests is available at <https://www.gpo.gov/fdsys/pkg/FR-2017-10-19/pdf/2017-22694.pdf>.*

### Purpose

The purpose of the referenced document and associated procedure is to provide guidance for NRC staff and describe the process for documenting, reviewing, and approving (on a case-by-case basis) requests received from licensees, license applicants and other entities for alternative disposal of licensed material. The staff may authorize these requests under the provisions of Title 10 of the Code of Federal Regulations (10 CFR) 20.2002 and 10 CFR 40.13(a).

### Scope

The procedure covers the steps that NRC staff need to take in order to review, document, and approve a request for alternative disposal of licensed material, including:

- entering documents into the NRC public document system, which is known as the Agency-Wide Documents Access and Management System (ADAMS);
- establishing an Enterprise Project Identifier (EPID) and/or Cost Activity Code (CAC) for monitoring time charged to the project;
- conducting a technical review of the disposal request, including performing dose assessments;
- preparing a Safety Evaluation Report (SER) or Technical Evaluation Report (TER);

- preparing an Environmental Assessment (EA);
- coordinating with state regulatory agencies and disposal site operators;
- implementing a Communications Plan, where applicable, including conducting public meetings; and,
- implementing the approaches included within the All Agreement States Letter.

The NRC's Office of Federal and State Materials and Environmental Management Programs (FSME) Division of Waste Management and Environmental Protection (DWMEP) staff prepared the original version of the guidance document (ADAMS Accession No. ML092460058, dated August 31, 2009) for use. Following the merger of FSME and the Office of Nuclear Material Safety and Safeguards (NMSS), the corresponding division is the NMSS Division of Decommissioning, Uranium Recovery and Waste Programs (DUWP).

This document is being revised in order to update the guidance as well as provide more clarity, consistency, and transparency to the process. Within the NRC, the NMSS Performance Assessment Branch staff within NMSS DUWP is often requested to perform these technical reviews. Accordingly, the guidance has been prepared for use primarily by NMSS DUWP staff. However, since disposal requests are also received by the Regions, the Office of Nuclear Reactor Regulation (NRR) and Agreement States, the procedure has been developed to support those reviews as well.

Although § 20.2002 and § 40.13(a) reviews are similar in most respects, there are a few differences that are described in the document. Where there are differences between the procedures for handling the different types of requests, a sub-section for each type of request is provided. Otherwise, they will be referred to collectively as ADRs.

The procedure does not cover all releases of solid materials from a licensee's control, only those that are submitted for NRC approval under 10 CFR 20.2002 and 10 CFR 40.13(a). The NRC's procedures for release of solid materials are described in NUREG-1757, Volume 1, Rev. 2, Section 15.11.

### **Obtaining Information**

Interested stakeholders may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0198.

- NRC's Agencywide Documents Access and Management System (ADAMS): Publicly-available documents may be obtained online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>.
- NRC's Public Documents Room (PDR): Copies of public documents may be obtained and purchased at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### **Submitting Comments**

Comments are due by December 18, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

Interested stakeholders may submit comments by any of the following methods:

- Federal Rulemaking Web Site: Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0198.
- Mail comments to: May Ma, Office of Administration, Mail Stop: OWFN-2-A13, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Docket ID NRC-2017-0198 should be referenced when submitting comments.

### **Background**

In 2007, following developments in the national program for low-level radioactive waste disposal, as well as changes in the regulatory environment, the NRC conducted a Strategic Assessment of the NRC's regulatory program for low-level radioactive waste. The results of this assessment were published in late 2007 in SECY-07-0180, "Strategic Assessment of Low-Level Radioactive Waste Regulatory Program" (ADAMS Accession No. ML071350299). The goal of the 2007 assessment was to identify and prioritize staff activities that: (1) ensure safe and secure low-level radioactive waste disposal; (2) improve the effectiveness, efficiency, and adaptability of the NRC's low-level radioactive waste regulatory program; and, (3) ensure regulatory stability and predictability, while allowing flexibility in disposal options.

One high priority task (Task 2) in the Strategic Assessment was to address the challenge of alternative disposal of very low-level radioactive waste, in accordance with 10 CFR § 20.2002 in non-traditional low-level radioactive waste facilities such as Resource Conservation and Recovery Act (RCRA) facilities, as well as the regulatory review and approval needed for such disposal. In response to stakeholder input regarding the 2007 assessment, the NRC determined that the process for authorizing these disposals needed more consistency and clarity. The NRC committed to addressing these concerns through the development of new regulatory guidance.

On August 31, 2009, the NRC issued interim staff procedure, “Review, Approval, and Documentation of Low-Activity Waste Disposals in Accordance with 10 CFR 20.2002 and 10 CFR 40.13(a)” (ADAMS Accession No. ML092460058). Prior to its issuance, there had been no single procedure covering safety and security reviews, the preparation of an environmental assessment, and coordination with internal and external stakeholders for alternative disposal requests. Accordingly, this document was developed and issued to provide consistency and guidance for NRC staff’s review of alternative disposal requests received from licensees, applicants and other entities for alternative disposal of licensed material. In addition, the NRC determined that this guidance would be finalized after it had been implemented and used for more alternative disposal requests.

In order to set the direction for the NRC’s low-level radioactive waste regulatory program in the next several years, including the alternative disposal request review process, the NRC decided to conduct a new evaluation of the NRC’s low-level radioactive waste program (referred to as a Programmatic Assessment). The results of this assessment were published in October 2016, in SECY-16-0118, “Programmatic Assessment of Low-Level Radioactive Waste Regulatory Program” (ADAMS Accession No. ML15243A192). The objectives of the 2016 assessment were similar to the objectives of the 2007 Strategic Assessment. Both assessments also have considered future needs and changes that may occur in the nation’s commercial low-level radioactive waste management system. One of the high priority tasks (Task 5) included within Enclosure 1 (ADAMS Accession No. ML15243A205) of the Programmatic Assessment was to address the challenge of alternative disposal of very low-level radioactive waste by finalizing the draft guidance document. Per the Programmatic Assessment, this final draft would be published for public comment and then issued as a final document.

Accordingly, the purpose of this draft revision to the guidance is to improve the alternative disposal process by providing more clarity, consistency and transparency to the process. In addition, this draft revision to the guidance also clarifies the meaning of disposal relative to 10 CFR 20.2002 authorizations to include recycling and reuse of materials. The draft revision to the guidance is available for public comment as ADAMS Accession No. ML16326A063. The NRC is interested in receiving comments related to the draft revision to the guidance from stakeholders, including professional organizations, licensees, Agreement States and members of the public. Comments will be considered to determine if additional changes to the draft revision to the guidance and the alternative disposal request process are needed.

During the comment period, the NRC will conduct a public meeting at the NRC’s headquarters that will explain the draft revision to the guidance and address questions. Information regarding the public meeting will be posted on the NRC’s public meeting website at least ten (10) calendar days before the meeting. The NRC’s public meeting website is located at <https://www.nrc.gov/public-involve.html>.

The NRC will also post the meeting notice on the federal rulemaking website at <http://www.regulations.gov> under Docket ID NRC-2017-0198. The NRC may post additional materials related to this document, including public comments, on the federal

rulemaking website. The federal rulemaking website allows interested stakeholders to receive alerts when changes or additions occur in a docket folder.

*For additional information, please contact Robert Lee Gladney, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, at (301) 415-1022 or [Robert.Gladney@nrc.gov](mailto:Robert.Gladney@nrc.gov).*

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**October 20, 2017**

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