



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

September 16, 2019

Ms. Ellen C. Ginsberg  
Vice President, General Counsel  
& Secretary  
Nuclear Energy Institute  
1201 F Street, NW, Suite 1100  
Washington, DC 20004

SUBJECT: RESPONSE TO YOUR FEBRUARY 28, 2019, LETTER, "COMMENTS ON REGULATORY ISSUE SUMMARY 2016-11, 'REQUESTS TO DISPOSE OF VERY LOW-LEVEL RADIOACTIVE WASTE PURSUANT TO 10 CFR 20.2002'"

Dear Ms. Ginsberg:

I am responding to your February 28, 2019, letter to Ho Nieh and Scott Moore, "Comments on Regulatory Issue Summary 2016-11, 'Requests to Dispose of Very Low-Level Radioactive Waste Pursuant to 10 CFR 20.2002'" (Agencywide Documents Access and Management System [ADAMS] Accession No. ML19086A320), where you requested that the U.S. Nuclear Regulatory Commission (NRC) rescind Regulatory Issue Summary (RIS) 2016-11.

We have reviewed the information you provided and the history of this issue and determined that RIS 2016-11 correctly stated that any licensee's request for approval to dispose of licensed material under Title 10 of the *Code of Regulations* (10 CFR) Section 20.2002, or the equivalent Agreement State regulations, must be submitted to the regulatory authority that issued the license for use of the radioactive material. In the case of 10 CFR Part 50 or 52 licensees, this requirement is based on the NRC's jurisdiction over the operation of nuclear power plants, which cannot be delegated to an Agreement State.

For Very Low-Level Waste (VLLW) at unlicensed facilities such as Resource Conservation Recovery Act disposal facilities that have received appropriate exemptions from VLLW disposal requirements, the NRC staff intends to avoid an unnecessarily complicated approval process. Therefore, as indicated during a public meeting on September 6, 2019, the staff plans to provide updated guidance describing a streamlined approach for reviewing 10 CFR 20.2002 requests, particularly in cases where an Agreement State may have already approved or exempted a facility that would receive the VLLW that is subject to the 20.2002 request. The NRC staff envisions an approach that appropriately considers the Agreement State's review and approval in the NRC staff's review. The staff will solicit stakeholder comments before issuing final guidance on this issue.

For any 10 CFR Part 50 or 52 licensees that have used Agreement State approvals in the past in lieu of an NRC 10 CFR 20.2002 approval, the NRC staff will consider enforcement discretion on a case-by-case basis, as appropriate.

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In addition to the streamlined approach to 10 CFR 20.2002 reviews for VLLW discussed above, the NRC staff plans to review the scope of acceptable disposal of VLLW under 10 CFR 20.2001. The staff will also seek public and stakeholder comments as part of this review before finalizing guidance.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's ADAMS. ADAMS is accessible from the NRC Web site at <https://www.nrc.gov/reading-rm/adams.html>

Thank you for submitting your comments. If you have any questions, please contact Stephen Dembek at [stephen.dembek@nrc.gov](mailto:stephen.dembek@nrc.gov) or 301-415-2342.

Sincerely,

*//RA//*

John W. Lubinski, Director  
Office of Nuclear Material Safety  
and Safeguards

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**DATE: September 16, 2019**

**ADAMS Accession No.: ML19224A774**

**\*via email**

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NAME	BHarris*	CGoode	JLubinski		
DATE	9/11/19	9/12/19	9/16/19		

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