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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-0171

Comment on FR Doc # 2020-04506

## Submitter Information

**Name:** Caroline Moores

## General Comment

Submitted on behalf of the Idaho Department of Environmental Quality.

## Attachments

Idaho Department of Environmental Quality Comments on NRC-2020-0065



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

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Brad Little, Governor  
John H. Tippetts, Director

July 20, 2020

Jennifer Golder, Director,  
Office of Administration  
Mail Stop: TWFN-7-A60M  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Subject: State of Idaho Comments on Nuclear Regulatory Commission Proposed Rule Interpretation Transfer of Very Low-Level Waste to Exempt Persons for Disposal (Docket ID NRC-2020-0065).

Dear Director Golder,

The Idaho Department of Environmental Quality (DEQ) provides the following comments on the Nuclear Regulatory Commission's (NRC) interpretation of the low-level radioactive waste disposal regulations. The comments address the March 6, 2020 Federal Register proposed interpretative rule "Transfer of Very Low-Level Waste to Exempt Persons for Disposal."

Idaho has some questions and concerns regarding NRC's proposed rule interpretation. It appears that NRC is making an important policy decision, and instead of amending existing regulations or proposing new regulations, NRC is reinterpreting existing guidance. Given the potential impact of this rule interpretation, it may be more appropriate to engage in formal rulemaking.

The term "Very Low Level Waste" is not defined in statute or regulation. NRC acknowledges in the proposed rule interpretation under Section IV: "The term VLLW is not defined by statute or in the NRC's regulations. The lowest portion of Class A waste has been referred to as VLLW." This description is vague and could apply to a variety of radioactive wastes regulated by NRC, with the exception of spent nuclear fuel. It is not clear from the interpretation what wastes NRC considers to be VLLW. DEQ recommends that the NRC define the term "Very Low Level Waste."

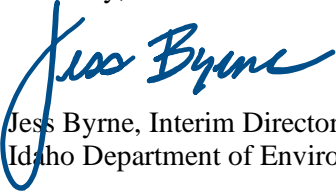
NRC is opting to use a performance-based standard to evaluate specific facilities for exemption. To apply for the exemption, a facility must be able to demonstrate it can maintain a cumulative dose threshold to members of the public below 25 millirem. However, it is unclear what the technical considerations, risk assessment, and review will entail under the proposed interpretive rule. Although NRC has stated it will be similar as what exists under Section 20.2002, NRC has not provided any details or further information. Further, it is unclear if these risk assessments will be available for review and public comment prior to their approval.

The proposed interpretation does not require case-by-case approval for each transfer of licensed material to the exempt facility. Once a facility has received a specific exemption from NRC it may continue to accept transfers of VLLW for land disposal unless or until it meets the 25 millirem threshold. However, NRC has not proposed a monitoring or enforcement mechanism after approving an exemption. Idaho is concerned that NRC is effectively transferring the responsibility of oversight to the states. Non-agreement states like Idaho will not have the authority to approve or reject exemptions but will likely be burdened with oversight after an exemption is approved.

Similarly, NRC is proposing to allow disposal of VLLW at facilities subject to state law or federal laws typically implemented by the state, such as the Resource Conservation and Recovery Act. It is unclear from the proposal if those laws are currently sufficient to manage the non-preempted aspects of facilities accepting VLLW in operations, closure, and post-closure. It is further unclear how state laws regulating the facility will be applied cohesively with federal oversight of the management and disposal of VLLW.

Based on the items identified herein, the State of Idaho is unable to fully evaluate the proposal as outlined in the Federal Register. Prior to a decision to move forward with the proposed interpretation to allow transfer of VLLW to exempt persons for disposal, the State formally requests that NRC provide the information described above, followed by collaborative dialogue to address all State of Idaho concerns.

Sincerely,



Jess Byrne, Interim Director  
Idaho Department of Environmental Quality