

submitted a petition for rulemaking requesting that the NRC amend its regulations to allow licensees to use an alternative to the double-ended guillotine break of the largest pipe in the reactor coolant system in emergency core cooling system (ECCS) evaluation models (ADAMS Accession No. ML082460625). The NRC docketed the petition as PRM–50–75, and on April 8, 2002, published a notice of docketing in the **Federal Register** and requested public comment (67 FR 16654). The comment period closed on June 24, 2002, and the NRC received 18 comment letters (ADAMS Accession No. ML022390515).

After evaluating the merits of the petition and the public comments, the NRC determined that the issues raised in PRM–50–75 would be considered in the ongoing “Risk-Informed Redefinition of Large Break Loss-of-Coolant Accident (LOCA) Emergency Core Cooling System (ECCS) Requirements” rulemaking. On November 6, 2008, the NRC published a document in the **Federal Register** (73 FR 66000) stating that the NRC would address the substantive comments filed in PRM–50–75 as part of that rulemaking.

## II. Discussion

### A. Discontinuation of the Rulemaking

On December 10, 2010, the NRC staff provided the Commission SECY–10–0161, “Final Rule: Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements (10 CFR 50.46a)(RIN 3150–AH29).” Subsequent to the accident at Fukushima Dai-ichi Nuclear Plant in March of 2011, the NRC staff requested Commission approval to withdraw the draft final rule during its evaluation of Fukushima Near-Term Task Force Recommendation 1 regarding the development of a new risk-informed regulatory framework from SECY–11–0093, “Near-Term Report and Recommendations for Agency Actions Following The Events in Japan,” and the recent publication of NUREG–2150, “A Proposed Risk Management Regulatory Framework.” The staff stated that:

Although the staff believes that the draft final 10 CFR 50.46a rule is an appropriate and well-founded approach to risk-inform the NRC’s emergency core cooling requirements, the staff requests that SECY–10–0161 be withdrawn from Commission consideration so that it may be resubmitted later after the staff has completed its regulatory framework evaluation. When the staff establishes its recommended approach, it will re-evaluate the draft final 10 CFR 50.46a rule to ensure its compatibility with the recommended regulatory framework.

Based on the outcome of the compatibility evaluation and the completion of any necessary changes, the staff will re-submit the draft final 10 CFR 50.46a rule with or shortly after providing its regulatory framework recommendation to the Commission.<sup>1</sup>

In SECY–16–0009, “Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities” (ADAMS Accession No. ML16028A189) dated January 31, 2016, the NRC staff requested Commission approval of work to be shed, deprioritized, or performed with fewer resources. One of the items to be discontinued was the risk-informed loss-of-coolant accident rulemaking (Item 1 of Enclosure 1 to SECY–16–0009).

This rule would have provided a voluntary alternative to current regulatory requirements. However, at a public meeting to discuss the Risk Management Regulatory Framework paper (ADAMS Accession No. ML15026A328), certain industry representatives indicated that the nuclear industry would not be interested in implementing the final rule. The NRC staff’s regulatory analysis for the draft final rule (ADAMS Accession No. ML103230250) also discussed comments submitted by the Boiling Water Reactor Owners Group, which conveyed the view that it would be difficult to evaluate the cost-benefit of the rule due to uncertainties about the cost of adopting the rule.

The Commission approved the discontinuation of the rulemaking in the staff requirements memorandum (SRM) to SECY–16–0009. On October 6, 2016, the NRC published a notice in the **Federal Register** informing the public of its decision to discontinue the 10 CFR 50.46a ECCS rulemaking. The NRC stated that it had “decided not to proceed with this rulemaking activity because there is minimal adverse impact on our mission, principles, or values and the industry has indicated that there may not be much interest in implementing the final rule” (81 FR 69447).

### B. Denial of PRM–50–75

Under 10 CFR 2.803(i)(2), after closing the docket for a PRM under § 2.803(h)(2)(ii) by addressing it in an ongoing rulemaking, if the NRC decides not to complete the rulemaking, the PRM is documented as denied. In SRM–SECY–16–0009, the Commission approved discontinuation of the risk-informed LOCA requirements

rulemaking, which was the rulemaking identified to address PRM–50–75. Therefore, the NRC is denying PRM–50–75 without prejudice.

## III. Conclusion

The NRC previously discontinued the risk-informed LOCA requirements rulemaking and is therefore denying without prejudice PRM–50–75 for the reasons discussed in this document.

Dated: December 8, 2020.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Chapter I

[NRC–2020–0065]

### Transfer of Very Low-Level Waste To Exempt Persons for Disposal

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed interpretive rule; withdrawal.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is withdrawing a proposed interpretation of its low-level radioactive waste disposal regulations that would permit licensees to dispose of waste by transfer to persons who hold specific exemptions for the purpose of disposal by burial. The proposal is being withdrawn based on the NRC staff’s assessment that the proposed changes may not benefit the regulatory framework for the disposal of low-level radioactive waste.

**DATES:** The proposed interpretive rule is withdrawn as of December 17, 2020.

**ADDRESSES:** Please refer to Docket ID NRC–2020–0065 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2020–0065. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly

<sup>1</sup> Email dated April 20, 2012 from G. Bowman requesting withdrawal of 10 CFR 50.46a final rule (ADAMS Accession No. ML121500380).

available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *Attention:* The PDR, where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Maurice Heath, telephone: 301–415–3137, email: [Maurice.Heath@nrc.gov](mailto:Maurice.Heath@nrc.gov) and Stephen Dembek, telephone: 301–415–2343, email: [Stephen.Dembek@nrc.gov](mailto:Stephen.Dembek@nrc.gov). Both are staff of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:** On March 6, 2020, the NRC issued a proposed interpretation of paragraph 20.2001(a)(1) of title 10 of the *Code of Federal Regulations* in the **Federal Register** (85 FR 13076). The proposed interpretation would have expanded, in guidance, the meaning of “authorized recipient” in § 20.2001, allowing for the disposal of very low-level radioactive waste (VLLW) at approved non-licensed disposal sites in accordance with technical and regulatory requirements established by the NRC or Agreement States for granting such an exemption.

This change would have had the effect of providing a regulatory approach that, in addition to that specified by § 20.2002, allowed the transfer and disposal of certain VLLW in hazardous and solid waste disposal facilities having explicit approval to dispose of VLLW. In cases where the waste disposal site had an approval (exemption) for disposing of VLLW, the use of § 20.2001 by the licensee would not have required additional, specific approval to transfer VLLW to that disposal site under certain circumstances.

The NRC sought comments on the proposed interpretive rule in order to engage stakeholders on the merits of the idea and collect feedback prior to making a decision on whether or not to move forward with the proposed interpretation. The comment period was

extended in response to requests related to the COVID–19 Public Health Emergency and closed on October 21, 2020 (85 FR 45809).

The NRC received approximately 200 individual comment submissions and approximately 15,000 form letter submissions. The vast majority of these comments opposed the proposed interpretive rule. The major comment themes included:

The NRC should complete the 2018 VLLW Scoping Study, address the comments already submitted, and publicize the results instead of pursuing the proposed interpretive rule.

The current regulations for the disposal of VLLW are sufficient and already allow for an alternate method of disposal on a case-by-case basis under the provisions of § 20.2002.

The NRC should pursue rulemaking to provide a definition of VLLW that can be used across the industry if a regulatory change is pursued. Changes to LLW regulations, including the definitions of authorized recipient and VLLW, should be pursued via the formal rulemaking process and not as an interpretation to an existing regulation. This approach would be more in keeping with the provisions of the Administrative Procedures Act.

The NRC and/or Agreement State should provide opportunities for public involvement during the exemption review process that evaluates a disposal facility request to become an authorized recipient for the disposal of VLLW.

The approval process should consider the need for an NRC or Agreement State environmental review related to the proposed VLLW disposal sites.

The NRC should provide an explanation of the implementation of the proposed interpretation. Specific comments questioned how implementation would be managed across various Agreement State programs, the methods for verifying that VLLW disposals were conducted as intended, and requested clarification of oversight responsibilities in the event that provisions of an exemption for disposal were challenged or found not to have been met.

Implementation of the proposed interpretive rule should consider potential impacts on existing state and LLW compact requirements, including additional burdens on state agencies that would be the primary regulatory body involved in the review, approval, and oversight of disposal sites wishing to obtain an exemption for VLLW disposal. Specific comments questioned how the proposed change could affect the LLW disposal agreements already in

place amongst various states involved in the LLW compact system.

In addition, the Organization of Agreement States Board and 10 individual Agreement States provided comments that did not support the NRC’s expanded definition of “authorized recipient.” Most Agreement State comments also cited the restrictions in individual states that would prevent them from implementing the expanded definition.

The NRC staff assesses that the potential main benefit of the proposed interpretive rule—the potential for fewer regulatory approvals related to disposal at an authorized disposal site—would not outweigh the costs of implementing the proposed interpretive rule, especially given the lack of Agreement State support and a limited number of potential users. Therefore, the NRC has decided to withdraw its proposed interpretation of “authorized recipient” related to the requirements in § 20.2001 based on the conclusion that the proposed changes would not benefit the current regulatory framework for the disposal of VLLW.

The information obtained through the public comments on this effort will be considered in other ongoing low-level waste program initiatives, including the staff’s Very Low-Level Waste Scoping Study. The scoping study is an ongoing action from SECY–16–0118, “Programmatic Assessment of Low-Level Radioactive Waste Regulatory Program” (ADAMS Package Accession No. ML15208A305). The staff will continue to monitor the external environment and seek innovations in the low-level waste regulatory program.

Dated: December 10, 2020.

For the Nuclear Regulatory Commission.

**Patricia K. Holahan,**

*Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.*

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