

## TERMS

**§ 266.210 What definitions apply to this subpart?**

This subpart uses the following special definitions:

*Agreement State* means a state that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

*Certified delivery* means certified mail with return receipt requested, or equivalent courier service, or other means, that provides the sender with a receipt confirming delivery.

*Director* refers to the definition in 40 CFR 270.2.

*Eligible Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)* is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR part 61 or NRC Agreement State equivalent regulations.

*Exempted waste* means a waste that meets the eligibility criteria in 266.225 and meets all of the conditions in § 266.230, or meets the eligibility criteria in 40 CFR 266.310 and complies with all the conditions in § 266.315. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in 40 CFR 261.3.

*Hazardous Waste* means any material which is defined to be hazardous waste in accordance with 40 CFR 261.3, "Definition of Hazardous Waste."

*Land Disposal Restriction (LDR) Treatment Standards* means treatment standards, under 40 CFR part 268, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

*License* means a license issued by the Nuclear Regulatory Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under

authority of the Atomic Energy Act of 1954, as amended.

*Low-Level Mixed Waste (LLMW)* is a waste that contains both low-level radioactive waste and RCRA hazardous waste.

*Low-Level Radioactive Waste (LLW)* is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act. (See also NRC definition of "waste" at 10 CFR 61.2)

*Mixed Waste* means a waste that contains both RCRA hazardous waste and source, special nuclear, or byproduct material subject to the Atomic Energy Act of 1954, as amended.

*Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM)* means radioactive materials that:

(1) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or

(2) Are produced by an accelerator. NARM is regulated by the States under State law, or by DOE (as authorized by the AEA) under DOE orders.

*NRC* means the U. S. Nuclear Regulatory Commission.

*We or us* within this subpart, means the Director as defined in 40 CFR 270.2.

*You* means a generator, treater, or other handler of low-level mixed waste or eligible NARM.

## STORAGE AND TREATMENT CONDITIONAL EXEMPTION AND ELIGIBILITY

**§ 266.220 What does a storage and treatment conditional exemption do?**

The storage and treatment conditional exemption exempts your low-level mixed waste from the regulatory definition of hazardous waste in 40 CFR 261.3 if your waste meets the eligibility criteria in § 266.225 and you meet the conditions in § 266.230.

**§ 266.225 What wastes are eligible for the storage and treatment conditional exemption?**

Low-level mixed waste (LLMW), defined in § 266.210, is eligible for this conditional exemption if it is generated

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and managed by you under a single NRC or NRC Agreement State license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible this exemption.)

### **§ 266.230 What conditions must you meet for your LLMW to qualify for and maintain a storage and treatment exemption?**

(a) For your LLMW to qualify for the exemption you must notify us in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored on your facility. The dated notification must include your name, address, RCRA identification number, NRC or NRC Agreement State license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this subpart. Your notification must be signed by your authorized representative who certifies that the information in the notification is true, accurate, and complete. You must notify us of your claim either within 90 days of the effective date of this rule in your State, or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

(b) To qualify for and maintain an exemption for your LLMW you must:

(1) Store your LLMW waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping);

(2) Store your LLMW in tanks or containers in compliance with chemical compatibility requirements of a tank or container in 40 CFR 264.177, or 264.199 or 40 CFR 265.177, or 265.199;

(3) Certify that facility personnel who manage stored conditionally exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the per-

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sonnel training standards found in 40 CFR 265.16(a)(3);

(4) Conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with subpart N of this part; and

(5) Maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment.

### TREATMENT

### **§ 266.235 What waste treatment does the storage and treatment conditional exemption allow?**

You may treat your low-level mixed waste at your facility within a tank or container in accordance with the terms of your NRC or NRC Agreement State license. Treatment that cannot be done in a tank or container without a RCRA permit (such as incineration) is not allowed under this exemption.

### LOSS OF CONDITIONAL EXEMPTION

### **§ 266.240 How could you lose the conditional exemption for your LLMW and what action must you take?**

(a) Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of the conditions specified in § 266.230. When your LLMW loses the exemption, you must immediately manage that waste which failed the condition as RCRA hazardous waste, and the storage unit storing the LLMW immediately becomes subject to RCRA hazardous waste container and/or tank storage requirements.

(1) If you fail to meet any of the conditions specified in § 266.230 you must report to us and the NRC, or the oversight agency in the NRC Agreement State, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by