

April 8, 2014

MEMORANDUM TO: Gregory Suber, Chief
Low-Level Waste Branch
Environmental Protection
and Performance Assessment Directorate
Division of Waste Management
and Environmental Protection

FROM: Harry Felsher, Sr. Project Manager */RA/*
Low-Level Waste Branch
Environmental Protection
and Performance Assessment Directorate
Division of Waste Management
and Environmental Protection

SUBJECT: FEBRUARY 24, 2014, PUBLIC MEETING SUMMARY: MEETING
REGARDING FUTURE WASTE CONTROL SPECIALISTS, LLC
REQUEST FOR EXEMPTION FROM CERTAIN REGULATIONS
RELATIVE TO THE POSSESSION OF SPECIAL NUCLEAR
MATERIAL

On February 24, 2014, the U.S. Nuclear Regulatory Commission (NRC) and Waste Control Specialists, LLC (WCS) engaged in a public meeting for WCS to present its basis for a future request for exemption from certain NRC regulations related to the possession of Special Nuclear Material. This was a pre-application meeting, held both in person and via teleconference.

Docket No. 70-7005

Enclosure:
Meeting Summary

CONTACT: Harry Felsher, FSME/DWMEP
(301) 415-6559

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OFC	DWMEP:PM	DWMEP:LA	FSME:BC	NMSS:BC
NAME	HFelsher	TMoon	DWhite	MSampson
DATE	04/02/14	04/02/14	04/04/14 (by e-mail)	04/03/14 (by e-mail)
OFC	NMSS:BC	NMSS:BC	DWMEP:BC	DWMEP:PM
NAME	MFranovich	PHabighorst	GSuber	HFelsher
DATE	04/03/14 (by e-mail)	04/04/14 (by e-mail)	04/ 7 /14	04/ 8/14

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Public Meeting Summary: Future Waste Control Specialists, LLC Request for Exemption from Certain Regulations Relative to the Possession of Special Nuclear Material

Purpose:

The primary purpose for the public meeting was for Waste Control Specialists, LLC (WCS) to present the basis for the future request for exemption from certain U.S. Nuclear Regulatory Commission (NRC) regulations relative to the possession of Special Nuclear Material (SNM).

Background:

The State of Texas is an NRC Agreement State that has regulatory authority for Low-Level Waste (LLW) in the state. WCS has a State of Texas licensed LLW disposal site in Andrews, Texas issued by Texas Commission of Environmental Quality (TCEQ). The WCS site has one Texas radioactive materials license (RML R04100) covering all three facilities:

(1) Treatment/Storage/Processing facility (i.e., WCS uses the name Treatment, Storage, and Disposal Facility (TSDF)), (2) LLW-Commercial facility (i.e., WCS uses the name Texas Compact Waste Disposal Facility (CWF)), and (3) LLW-Federal facility (i.e., WCS uses the name Federal Waste Disposal Facility (FWF)).

NRC's October 26, 2009, Order exempts WCS from certain requirements of Title 10, *Code of Federal Regulations* Part 70 (Domestic Licensing of SNM) (10 CFR Part 70) for the Treatment/Storage/Processing facility only. Texas included the words from the NRC's 2009 SNM Order containing the SNM concentration control limits in License Condition 206.A of RML R04100. License Condition 5.A of RML R04100 contains the SNM mass control limits for both the LLW-Commercial and LLW-Federal facilities.

In an August 15, 2013, e-mail from TCEQ to NRC, TCEQ requested that NRC inform TCEQ whether Texas, as an NRC Agreement State, has the authority to expand the definition of "In transport" of SNM in RML R04100 License Condition 11.Q, or did such authority continue to reside with the NRC.

On November 12, 2013, the NRC held a teleconference with TCEQ and NRC staff to discuss the TCEQ request. The NRC staff responded that TCEQ would not have the authority to regulate the materials at the WCS site if the new definition of "In Transport" were to be put into place. By memorandum dated December 5, 2013 (NRC Agencywide Documents Access and Management System (ADAMS) Accession No. ML13337A209), the NRC staff documented the details of the staff's conclusions.

On December 19, 2013, the NRC held a teleconference with TCEQ and WCS to discuss the TCEQ request. WCS further explained the proposed new definition of "In transport" and the NRC staff determined that the previous NRC conclusion still stood. The NRC staff indicated that the only way to potentially make such a change would be for WCS to submit a request to NRC for exemption from the requirements of 10 CFR Part 70 for both the LLW-Commercial and LLW-Federal facilities. WCS indicated that such a request would be forthcoming. By memorandum dated January 17, 2014 (ADAMS Accession No. ML14017A093), the NRC staff documented the details of the staff's conclusions.

Enclosure

Meeting Summary:

After introductions and welcomes, WCS provided a high-level view of the presentation: “WCS Exemption Request for Special Nuclear Materials” dated February 24, 2014, (ADAMS Accession No. ML14063A193). The main areas of the presentation were “Licensing Overview,” “Site Operations and Candidate Waste Streams,” “Regulatory Precedents and Exemption Threshold,” and “Regulatory and Technical Basis for the Exemption Request.”

In the “Licensing Overview” section of the presentation, WCS emphasized the following:

- WCS was first operating facility licensed to dispose of LLW under the LLW Policy Act of 1980 (as amended in 1985);
- concentration control limits in RML R04100 based on the 2009 NRC SNM Order apply only to waste going to the TSDF (i.e., Treatment/Storage/Processing facility);
- mass control limits in Texas RML R04100 for the rest of the WCS site;
- SNM shipped by truck or rail is “In Transport” (i.e., not possessed by WCS) as long the waste containers remain on the delivery conveyance in compliance with all U.S. Department of Transportation (DOT) requirements;
- future exemption request would be for a new NRC SNM Order to apply to waste going to either the CWF (i.e., LLW-Commercial facility) or FWF (i.e., LLW-Federal facility); and
- future exemption request would be the basis for additional license condition(s) in Texas RML R04100 regarding trans-loading of waste containers from the delivery conveyance to a WCS truck and imposing certain criticality safety conditions to moving that waste via the WCS truck to eventual disposal at either the CWF or FWF.

In the “Site Operations and Candidate Waste Streams” section of the presentation, WCS emphasized the following:

- Future process for receipt of waste by rail and road, including: (a) criticality safety will be based on pre-determined criticality safety evaluations for packages and package arrays for rail and truck shipments; and (b) criticality safety will be consistent with criticality safety requirements associated with the package and package arrays;
- example of waste stream and waste package;
- WCS’ safety culture program is based on NRC position statement;
- WCS indicated that there would be a risk reduction in both safety and security because: (a) fewer trucks needed to move the waste to the CWF and FWF, (b) workers spend less time handling waste, and (c) trans-loading occurring inside the site boundary, not outside the site boundary; and

- WCS indicated that the future request would be in the public interest because it supports DOE mission to cleanup legacy sites in a timely manner.

In the “Regulatory Precedents and Exemption Threshold” section of the presentation, WCS emphasized the following:

- NRC history associated with the LLW disposal site in Clive, Utah that is currently regulated by Utah, which is an Agreement State;
- At the Utah site, the NRC staff determined that SNM waste shipped in accordance with Part 71 and applicable DOT regulations were sufficiently protective while the waste was on a rail conveyance, regardless of whether the rail conveyance was inside or outside the site boundary; and
- In the future, WCS will request an exemption from certain NRC regulations relative to the possession of SNM and demonstrate that the exemption: (a) is authorized by law, (b) will not endanger life or property or the common defense and security; and (c) is otherwise in the public interest.

In the “Regulatory and Technical Basis for the Exemption Request” section of the presentation, WCS emphasized the following:

- Diagram on page 32 that illustrates the difference in transport on-site and transfer on-site that would result if the future exemption request were to become operational;
- future exemption request would not change: (a) transport of waste to WCS site, (b) transport of waste into WCS site, and (c) final disposal of waste at CWF, (i.e., LLW-Commercial facility) or FWF (i.e., LLW-Federal facility) on WCS site;
- future exemption request would: (a) increase number of waste packages moved by a WCS truck; (b) change safety basis of WCS truck moving waste packages; and (c) change safety basis of moving waste packages from WCS truck to final disposal location at CWF or FWF on WCS site;
- example of implementing the future exemption request, shipping in NRC certified package and trans-loading waste containers onto transfer vehicle;
- future exemption request would ensure that current security program at WCS would be adequate for new operations on the site; and
- additional controls on operations using the future exemption request, such as only one waste package would be opened at any one time; speed limits and route controls for movements of waste; and movements of waste escorted by trained personnel.

NRC raised the following issues and expects more information in the future WCS request:

- Bases for safety and security, including defense-in-depth;

- information about what a waste package and a waste container are, such as:
 - (1) description of a waste package (e.g., is it a Part 71 package?),
 - (2) description of what WCS intends to do with a waste package (e.g., disposal only or open it up, process it, and dispose of it?),
 - (3) description of what a waste container in a waste package is,
 - (4) description of what WCS intends to do with a waste container in a waste package;
- descriptions of waste being processed and/or disposed of;
- description of WCS's program to ensure an intruder does not have physical access to a waste package and/or waste container during transport on site, prior to disposal;
- basis for only meeting criticality safety requirements in §71.55 and §71.59, not meeting all Part 71 requirements, and not using NRC certified packages;
- confirmation of no interim storage; and
- description of which WCS NRC Order would be effective, for what activities, and where on the site.

Public Comments/Questions:

No members of the public had any comments or questions.

Closing Remarks:

The NRC appreciated the pre-application WCS presentation and awaits the future request for exemption from certain Part 70 regulations relative to the possession of SNM. When the future request is submitted, the NRC will perform an acceptance review and, if accepted, then the NRC will determine a review schedule. If an NRC Order is issued, then the State of Texas can choose to include the words in that NRC Order in a State approved License Condition in RML R04100. That NRC Order will only be effective if that State approved License Condition is effective.

Meeting Attendees:

Name	Organization
Larry Camper	U.S. Nuclear Regulatory Commission (NRC)
Aby Mohseni	NRC
Boby Abu-Eid	NRC
Maurice Heath	NRC
Harry Felsher	NRC
Joan Olmstead	NRC
Sarah Price	NRC
Dennis Sollenberger	NRC
Stephen Poy	NRC

Bernie White	NRC
Greg Chapman	NRC
Suzanne Ani	NRC
Scott Kirk	Waste Control Specialists, LLC (WCS)
Jay Britten	WCS
Bob Pierson	WCS consultant
Earl Easton	WCS consultant
Brad Broussard	State of Texas Commission on Environmental Quality (TCEQ)
Bobby Janecka	TCEQ
Hans Weger	TCEQ
Thomas Magette	PricewaterhouseCoopers Advisory LLC