



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

September 26, 2017

Mr. Rod Baltzer
President and CEO
Waste Control Specialists LLC
P.O. Box 1129
Andrews, TX 79714

SUBJECT: CLOSEOUT OF U.S. NUCLEAR REGULATORY COMMISSION REVIEW OF THE
WASTE CONTROL SPECIALISTS LLC EXEMPTION REQUEST DATED
DECEMBER 4, 2014 (CAC NO. L00904)

Dear Mr. Baltzer:

On August 18, 2017, Waste Control Specialists LLC (WCS) sent a letter to the U.S. Nuclear Regulatory Commission (NRC) to withdraw WCS's exemption request submitted on December 4, 2014, that requested an amendment to WCS's 2009 Order. The August 18, 2017 letter from WCS withdrawing their December 4, 2014, exemption request is available in the NRC's Agencywide Documents Access and Management System (ADAMS) as Accession No. ML17234A430 (2014c Withdrawal Letter).

Beginning in 2001, the NRC has issued an initial Order (see ADAMS Accession No. ML030130085 (2001 Order) and three superseding Orders (see ADAMS Accession Nos. ML042650361 (2004 Order), ML092810374 (2009 Order), and ML14238A268 (2014 Order)) granting WCS exemptions from certain NRC regulatory requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 70 "Domestic Licensing of Special Nuclear Material" to possess Special Nuclear Material (SNM). Each Order permitted WCS, under specified conditions, to possess Special Nuclear Material (SNM) in greater quantities than specified in 10 CFR Part 150 at the WCS Site in Andrews County, Texas, without obtaining a NRC license pursuant to 10 CFR Part 70.

The currently effective NRC Order (2014 Order) to WCS is dated December 3, 2014. On March 28, 2016, WCS requested to extend the possession time of certain waste specified in Order Condition 8.B.4 (publicly available part of WCS Request in ADAMS Accession No. ML16095A361). In an NRC letter dated September 23, 2016, (ADAMS Accession No. ML16097A265), the NRC agreed to extend the possession time of the specified waste until December 23, 2018. That letter also stated that "... the new date of December 23, 2018, will be included in the next superseding NRC Order to WCS." This letter reaffirms that the extended deadline until December 23, 2018, still applies to the specified waste. Subsequently, WCS informed the NRC that it submitted a license amendment request to the Texas Commission on Environmental Quality (TCEQ) to extend the possession deadline of the specified waste until December 23, 2018.

In 2014, WCS submitted three requests to amend the 2009 Order. The NRC designated those requests as: (1) WCS 2014a Request (dated March 28, 2014) to allow storage of certain waste that did not meet the 2009 Order Conditions; (2) WCS 2014b Request (dated July 18, 2014) to allow movement of certain waste to and storage of that waste in a new location, which resulted in the 2014 Order that was issued on December 3, 2014; and (3) WCS 2014c Request (dated

December 4, 2014) to allow the safety basis to be related to the Criticality Safety Index for specific transfers of SNM aboveground at the WCS Site. The NRC and WCS agreed to place a hold on reviewing the WCS 2014a Request since June 2014 due to higher priorities (i.e., the WCS 2014b Request and then the WCS 2014c Request).

By letter dated July 21, 2017 (ADAMS Accession No. ML17206A202), WCS requested to withdraw the WCS 2014a Request. The NRC sent a response letter to WCS dated August 18, 2017, (ADAMS Accession No. ML17205A062), replying that the NRC closed out the review of the WCS 2014a Request.

In support of its review of the WCS 2014c Request, the NRC staff prepared an Environmental Assessment (EA) in accordance with the provisions of the National Environmental Policy Act of 1969, as amended, and NRC's regulations under 10 CFR Part 51. The NRC staff determined that there were no significant environmental impacts associated with the action and published a Finding of No Significant Impact in the Federal Register on April 13, 2017 (see 82 FR 17887 and ADAMS Accession No. ML15201A126). The NRC did perform a safety/security evaluation in a draft Safety Evaluation Report (SER); but, the SER was never finalized because WCS withdrew the 2014c Request.

While evaluating the WCS 2014c Request, the NRC decided to make clarifying changes to 2014 Order Condition 8 and add a new Order Condition. The modifications reduce ambiguity in the existing provisions in Order Condition 8 and correct a typo referencing 10 CFR Part 73 instead of 10 CFR Part 74. The new Order Condition clarifies when WCS possesses waste and the relevancy of counting waste at specific locations towards the SNM aboveground possession limit. The reason for the new Order Condition was that there appears to be confusion regarding when WCS possesses waste and when the waste applies towards the aboveground SNM possession limit at the WCS Site.

During the NRC review of the WCS 2014c Request, TCEQ reviewed and commented on the NRC's draft revisions to the 2014 Order Conditions. However, the NRC has modified the new condition that TCEQ reviewed because WCS withdrew the 2014c Request. TCEQ has reviewed the modified new condition.

The NRC makes the following modifications to the 2014 Order. These modifications will also be reflected in the next superseding order issued to WCS:

8. The "WIPP incident" is the February 14, 2014, unplanned radiation release event at the DOE WIPP facility in New Mexico. The following relate to WCS storing DOE transuranic waste that originated at the LANL, which are destined to be disposed of at the DOE WIPP facility (i.e., "LANL Waste"), at either the WCS Federal Waste Disposal Facility (FWF) disposal cell or the WCS Treatment, Storage, and Disposal Facility (TSDF):
 - 8.A. The following conditions are applicable to LANL Waste stored at the Federal Waste Disposal Facility (FWF) disposal cell and other SNM bearing waste stored or disposed of at the FWF:
 - 8.A.1 The following waste is allowed to be stored at the WCS FWF disposal cell: LANL Waste in accordance with the concentration-based limits specified in Conditions 1 through 7, provided that it is in Standardized Waste Boxes (SWBs) analyzed to

be safe in the DOE "Nuclear Critical Safety Evaluation," WIPP-016, Rev. 4. The lids of the SWBs shall be bolted or similarly secured to the body and the SWBs shall be placed inside Modular Concrete Canisters (MCCs) consistent with the configurations analyzed in WIPP-016.

8.B. The following conditions are applicable to all the LANL Waste stored at either the FWF disposal cell or the TSDF:

8.B.1 WCS shall follow the general reporting and recordkeeping requirements of 10 CFR Part 74 that apply to those who possess SNM of 1 gram or more. Those requirements are:

8.B.3 The physical security plan for the LANL Waste shall be maintained to specifically include detection, assessment, and response methods and procedures for the LANL Waste for as long as the LANL Waste is at the WCS Site.

New Condition: Upon possession, all waste applies towards the aboveground SNM possession limit except the waste: (1) disposed at the WCS Site; or (2) transported off the WCS Site – unless the waste is transported from the WCS Site to the WCS-owned rail spur.

Based on the WCS letter withdrawing WCS 2014c Request, the NRC has closed out the review of the WCS 2014c Request.

If you have any questions, then please contact Mr. Harry Felsher of my staff. Mr. Felsher can be reached at (301) 415-6559 or by e-mail at Harry.Felsher@nrc.gov.

Sincerely,

/RA/

John R. Tappert, Director
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Materials Safety
and Safeguards

Docket No. 070-7005

cc: Charles Maguire, Director
Texas Commission
on Environmental Quality

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ADAMS Accession No.:

ML17234A414 (Pkg.)

ML17234A415 (NRC Ltr)

ML17234A430 (WCS Ltr)

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