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Waste Control Specialists, LLC License Application for Low-Level Radioactive Waste Disposal

On August 4, 2004, [Waste Control Specialists, LLC](#) [Exit...](#) (WCS) submitted to the TCEQ an application for a license (read the [current WCS application](#) [Exit...](#)) to authorize near-surface land disposal of low-level radioactive waste (LLRW). This license application seeks authorization to construct and operate in Andrews County a facility that will receive both [compact states](#) [Exit...](#) waste and federal waste for disposal.

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Current Status: Commissioners Approve Application

On January 14, 2009 the TCEQ Commissioners approved an order on the application of Waste Control Specialists, LLC for Radioactive Material License No. R04100 and the order was signed on January 20, 2009. Unless a Motion for Rehearing ("MFR" or "motion") is timely filed with the chief clerk, this action of the Commission may become final. A MFR is a request for the Commission to review its decision on the matter. Any motion must explain why the Commission should review the decision. A MFR must be received by the chief clerk's office by February 20, 2009. The license will be issued after condemnation proceedings are completed and the applicant has acquired the mineral rights on the underlying land at which the site will be located.

Licensing Rules

Under [House Bill 1567](#), [78th Texas Legislature, Regular Session](#), [Exit...](#) a 30-day window was established — from July 8 through August 6, 2004 — for parties that intended to build low-level radioactive waste disposal facilities in Texas to submit an application to the TCEQ. [Waste Control Specialists LLC](#) [Exit...](#)

RELATED LINKS:

[WCS By-Product License Application](#)

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submitted an application (read the [current WCS application](#)) under this legislation.

To review this application, our staff follows the rules found in these chapters of Title 30, Texas Administrative Code (30 TAC):

- Chapter 336, [Radioactive Substance Rule](#)
- Chapter 281, [Application Processing](#)
- Chapter 39, [Public Notice](#)

Among other factors, a successful application must demonstrate with reasonable assurance that the facility and its operators will comply with these sections of 30 TAC:

- 336.709, [Technical and Environmental Analyses](#)
- 336.723, [Performance Objectives](#)
- 336.724, [Protection of the General Population from Releases of Radioactivity](#)
- 336.725, [Protection of Individuals from Inadvertent Intrusion](#)
- 336.726, [Protection of Individuals during Operations](#)
- 336.727, [Stability of the Disposal Site after Closure](#)

Application Review Timeline

Date	Event
July 8, 2004	30-day period begins in which HB1567 allows parties to file applications for licenses to build and operate near-surface LLRW disposal facilities in Texas
Aug. 4, 2004	Waste Control Specialists LLC (WCS) files license application with TCEQ for a planned facility in Andrews County (read the current WCS application)
Aug. 6, 2004	30-day application window ends
Sept. 17, 2004	TCEQ issues First Notice of Administrative Deficiency to WCS
Oct. 18, 2004	WCS submits its response to first notice of administrative deficiency
Nov. 17, 2004	TCEQ finds that application remains incomplete and issues Second Notice of Administrative Deficiency to WCS
Dec. 17, 2004	WCS submits its response to second notice of administrative deficiency
Jan. 14, 2005	TCEQ finds that application remains incomplete and issues Third Notice of Administrative Deficiency to WCS
Jan. 31, 2005	WCS submits its response to third notice of administrative deficiency

Feb. 18, 2005	TCEQ finds WCS license application to be administratively complete and issues Notice of Declaration of Administrative Completeness , which describes subsequent public notice and evaluation phases for the application
Mar. 31, 2005	TCEQ holds public meeting at Andrews High School to receive comments on this application
May 2, 2005	TCEQ publishes Evaluation of Merit Report evaluating application's merit and responding to public comments
July 20, 2005	TCEQ issues a courtesy letter to WCS providing an early notification of issues that are of fundamental importance to the consideration of the WCS application.
September 16, 2005	TCEQ issues the First Technical Notice of Deficiency which provides comments and requests additional actions to resolve the noted deficiencies in the WCS application. Under separate cover, labeled "CONFIDENTIAL," the TCEQ submitting two additional attachments which request information to resolve deficiencies regarding financial information that WCS designated as "CONFIDENTIAL."
September 20, 2005	TCEQ issues a Revision to Attachment 3 of the First Technical Notice of Deficiency. The revision adds comments that were inadvertently omitted by an editing error.
November 30, 2005	WCS responds to the First Technical Notice of Deficiency (TNOD) . Changes to the WCS License Application were enclosed as Revision 9. Responses to the first TNOD's confidential financial information, dated September 16, 2005, were provided under separate cover directly to the TCEQ Financial Administration Division.
January 30, 2006	TCEQ issues the Second Technical Notice of Deficiency which provides comments and requests additional actions to resolve the noted deficiencies in the WCS application. Under separate cover, labeled "CONFIDENTIAL," the TCEQ issues two additional attachments which request information to resolve deficiencies regarding financial information that WCS designated as "CONFIDENTIAL."
March 31, 2006	WCS responds to the Second Technical Notice of Deficiency (TNOD) . Changes to the WCS License Application were enclosed as Revision 11. Responses to the second TNOD's confidential financial information, dated March 31, 2006, were provided under separate cover directly to the TCEQ Financial Administration Division. The Radioactive Material Licensing Team continued its technical review of the WCS application. This review was scheduled to be completed by August 31, 2006.
June 5, 2006	TCEQ advises WCS that many significant deficiencies in its application remain unresolved.

June 30, 2006	TCEQ issued a List of Concerns to WCS regarding unresolved license application issues. This information is needed before the application can be considered complete. WCS is now determining whether to apply for an extension of time and, if an extension is requested, what time would be needed to prepare and submit the additional information.
August 8, 2006	In a letter sent August 8, 2006, WCS requested an extension to the licensing process until May 31, 2007, in order to fully respond to the outstanding issues from the Second Technical Notice of Deficiency.
August 30, 2006	TCEQ grants the extension request .
May 1 , 2007	TCEQ officially accepts responses and revision to the application. Changes to the WCS License Application were enclosed as Revision 12c.
December 10, 2007	The TCEQ submitted a Cover Letter , Initial Draft License and a Draft Licensing Order to WCS for review and comment.
January 9, 2008	WCS submits comments on Initial Draft License and Draft Licensing Order.
August 11, 2008	The Executive Director files documents with the Office of the Chief Clerk.
August 13, 2008	TCEQ Office of Chief Clerk mailed the Notice of Technical Summary and Executive Director's Preliminary Decision , Final Draft Licensing Order , Final Draft License and the Draft Environmental Analysis to Waste Control Specialists LLC and adjacent land and mineral rights owners for notice of preliminary decision. Upon WCS publishing the official TCEQ notice, the public will have 30 days to provide comment and request a hearing.
September 8, 2008	Public meeting in Andrews Texas on the application and preliminary decision.
September 16, 2008	End of public comment period.
November 19, 2008	TCEQ Commissioners to consider mineral rights condemnation proceedings.
November 21, 2008	The TCEQ Commission issues an order for the Executive Director to transmit a request to the Attorney General of the State of Texas to begin condemnation proceeding to acquire the mineral rights underlying land on which the low-level radioactive waste disposal facility site is proposed to be located.
December 2 , 2008	The Executive Director of the TCEQ files response to comments and proposed revised draft license with the Office of the Chief Clerk.

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| January 14 , 2009 | On January 14, 2009 the TCEQ Commissioners approved an order granting the application of Waste Control Specialists, LLC for Radioactive Material License No. R04100. The license will be issued after condemnation proceedings are completed and the applicant has acquired the mineral rights on the underlying land at which the site will be located. |
| January 28 , 2009 | The Office of the Chief Clerk mails the Motion for Rehearing to persons on mailing list, with copies of signed licensing order and unsigned draft license. |

Related Documents

- **TCEQ Application Forms:**
 - *Application for License to Authorize Near-Surface Land Disposal of Low-Level Radioactive Waste:*
 - [in PDF](#)
 - [in Word](#)
 - [in WordPerfect](#)
 - Form TCEQ-10052, *Application for License to Possess Disposed Radioactive Material and Decommission the Inactive Site:*
 - [in PDF](#)
 - [in Word](#)
- [Waste Control Specialists, LLC License Application for Low-Level Radioactive Waste Disposal](#)
- **TCEQ Guidance for Completing LLRW License Application.** In question-and-answer format, [this guidance](#) addresses the administratively required elements of the application.
- ***Performance Assessment: A Method to Quantitatively Demonstrate Compliance with Performance Objectives for LLRW Facilities (Draft)***. TCEQ draft document describing methods that can be used to determine whether an LLRW disposal facility will comply with statutory requirements to protect against potential impacts to the general public and the environment:
 - [draft in PDF](#)
- **Merit Report and Related Attachments:**
 - [Evaluation of Merit Cover Letter](#)
 - [Att. A - TCEQ Evaluation Table](#)
 - [Att. B - Response to Public Comments](#)
 - [Att. C - Transcript of Proceedings, Public Meeting 3/31/05](#)
 - [Att. D - Written Comments](#)
- **[Courtesy Letter to WCS \(in PDF\)](#)**
- **First Technical Notice of Deficiency:**
 - [First Technical Notice of Deficiency, including revision to Attachment 3, in PDF](#)
 - [Attachment 3 Revision Letter in PDF](#)
- **WCS Response to First Technical Notice of Deficiency:**
 - [Attachment 1 \(General Information\)](#)
 - [Attachment 2 \(Site Characteristics\)](#)
 - [Attachment 3 \(Design\)](#)
 - [Attachment 4 \(Construction\)](#)
 - [Attachment 5 \(Operation\)](#)
 - [Attachment 6 \(Closure\)](#)
 - [Attachment 7 \(Post-Closure and Institutional Care\)](#)

- [Attachment 8 \(Performance Assessment\)](#)
 - [Attachment 9 \(Quality Assurance and Quality Control\)](#)
 - [Attachment 10 \(Personnel\)](#)
 - [Attachment 11 \(Environmental Report and Alternative Management Techniques\)](#)
 - [Attachment 12 \(Financial Qualifications and Financial Assurance\)](#)
- [TCEQ Second Technical Notice of Deficiency \(in PDF\)](#)
- [WCS Response to Second Technical Notice of Deficiency:](#)
 - [Attachment 1 \(General Information\)](#)
 - [Attachment 2 \(Site Characteristics\)](#)
 - [Attachment 3 \(Design\)](#)
 - [Attachment 4 \(Construction\)](#)
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 - [Attachment 12 \(Financial Qualifications and Financial Assurance\)](#)
- [TCEQ Response to Application Revisions 11 & 12 \(in PDF\)](#)
- [TCEQ Issues List of Concerns Regarding Unresolved License Application Issues:](#)
 - [Attachment 1 \(Cover Letter and General Information\)](#)
 - [Attachment 2 \(Site Characteristics\)](#)
 - [Attachment 3 \(Design\)](#)
 - [Attachment 4 \(Construction\)](#)
 - [Attachment 5 \(Operation\)](#)
 - [Attachment 6 \(Closure\)](#)
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 - [Attachment 8 \(Performance Assessment\)](#)
 - [Attachment 9 \(Quality Assurance and Quality Control\)](#)
 - [Attachment 10 \(Personnel\)](#)
 - [Attachment 11 \(Financial Qualifications and Financial Assurance\)](#)
- [WCS Letter Requesting Additional Time to Respond to Second Technical Notice of Deficiency \(in PDF\)](#)
- [TCEQ Letter Granting Extension Request \(in PDF\)](#)
- [WCS Response to List of Concerns \(in PDF\):](#)
 - [Attachment 1 \(General Information\)](#)
 - [Attachment 2 \(Site Characteristics\)](#)
 - [Attachment 3 \(Design\)](#)
 - [Attachment 4 \(Construction\)](#)
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 - [Attachment 8 \(Performance Assessment\)](#)
 - [Attachment 9 \(Quality Assurance and Quality Control\)](#)
 - [Attachment 10 \(Personnel\)](#)
 - (No response was required concerning Attachment 11)
 - [Attachment 12 \(Financial Qualifications and Financial Assurance\)](#)
- [WCS Initial Draft License \(in PDF\)](#)
 - [Cover Letter](#)

- [Initial Draft License](#)
- [Licensing Order \(in PDF\)](#)
- [WCS comments on Draft License and Environmental Analysis \(in PDF\)](#)
- [WCS Proposed Draft License \(in PDF\)](#)
 - [Notice of Technical Summary and Executive Director's Preliminary Decision](#)
 - [Executive Summary of Environmental Analysis](#)
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 - [Draft Environmental Analysis](#)
 - [Table of Contents to EA Appendices](#)
- [Letter concerning Mineral Rights Condemnation Proceedings on Nov. 19 Agenda \(in PDF\)](#)
- [Commission Order to Request Mineral Rights Condemnation \(in PDF\)](#)
- [Executive Director Response to Comments \(in PDF\)](#)
- [Final Draft License \(in PDF\)](#)
- [Back-up Materials for Consideration of Hearing Requests \(in PDF\)](#)
- [Letter Extending Time to File a Response to the WCS Hearing Requests \(in PDF\)](#)
- [Signed Licensing Order for Application \(in PDF\)](#)

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

granting the application of Waste Control Specialists, LLC
for Radioactive Material License No. R04100; TCEQ
Docket No. 2005-1994-RAW

On January 14, 2009, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing filed by Rose Gardner, Cruz Montañez, Nuclear Information and Resource Service, and Sierra Club concerning the application by Waste Control Specialists, LLC (Applicant) for Radioactive Material License No. R04100 to authorize the disposal of low-level radioactive waste at a site in Andrews County, Texas. The requests for hearing were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code Chapter 55. The Commission also considered the responses to the hearing requests filed by the Executive Director, the Office of Public Interest Counsel, and the Applicant; the reply filed by Sierra Club; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission denied the hearing requests of Rose Gardner, Cruz Montañez, Nuclear Information and Resource Service, and Sierra Club. In addition, under Title 30 Texas Administrative Code § 336.207(4), an application for a radioactive material license authorizing disposal of low-level radioactive waste may not be approved until the applicant has acquired the title to and any interest in land and buildings,

including the surface and mineral estates, on which the facility or facilities are to be located by either having acquired:

- (A) an undivided ownership of the buildings, surface estate, and mineral estate in fee simple through purchase or completed condemnation; or
- (B) an undivided ownership of the buildings and surface estate, along with an exemption, granted by the commission in accordance with federal law for use of a surface use agreement, in lieu of acquiring fee simple title to the mineral estate.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. The hearing requests of Rose Gardner, Cruz Montañez, Nuclear Information and Resource Service, and Sierra Club are hereby DENIED;
2. The application by Waste Control Specialists, LLC for Radioactive Material License No. R04100 is granted upon a demonstration by Waste Control Specialists, LLC that the Applicant has acquired free and clear title to and all interests in land and buildings, including the surface and mineral estates, of the proposed disposal sites, as defined in Radioactive Material License No. R04100, by either having acquired:
 - (A) an undivided ownership of the buildings, surface estate, and mineral estate in fee simple through purchase or completed condemnation; or
 - (B) an undivided ownership of the buildings and surface estate, along with an exemption, granted by the Commission in accordance with federal law for use of a surface use agreement, in lieu of acquiring fee simple title to the mineral estate;

3. The attached Radioactive Material License No. R04100 may not be issued, signed, or granted until the demonstration required above has been provided to the Executive Director; and
4. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue date: **JAN 20 2009**

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Buddy Garcia
Buddy Garcia, Chairman