

July 7, 2016

Mr. J. Scott Kirk, Vice President  
Licensing and Regulatory Affairs  
Waste Control Specialists LLC  
P.O. Box 1129  
Andrews, TX 79714

SUBJECT: FUTURE SPECIAL NUCLEAR MATERIAL-RELATED ACTIVITIES AT WASTE  
CONTROL SPECIALISTS LLC

Dear Mr. Kirk:

Since 2001, Waste Control Specialists (WCS) LLC has requested and received a number of superseding orders from the U.S. Nuclear Regulatory Commission (NRC) exempting WCS from the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 70 (Domestic Licensing of Special Nuclear Material) under specific conditions established by order. Those NRC orders allowed WCS to possess greater than a critical mass of Special Nuclear Material (SNM) at specific locations at the WCS low-level waste site near Andrews, Texas, without obtaining a 10 CFR Part 70 license from the NRC. In 2014, WCS began to store a larger amount of SNM at the site under the NRC order.

By letter dated December 4, 2014, WCS requested changes to the NRC 2014 Order dated December 3, 2014, which the NRC designated as the WCS 2014c Request. By letter dated January 30, 2015, the NRC staff accepted the WCS 2014c Request for review. On February 12, 2015, the NRC staff held a teleconference call with WCS to discuss general issues related to the WCS 2014c Request. One of those general issues was the NRC issuance of the initial Order in November 2001 and subsequent superseding Orders in 2004, 2009, and 2014 rather than requiring WCS to obtain a 10 CFR Part 70 license. In that teleconference, the NRC indicated to WCS that, given the increased quantity of SNM, new activities at WCS since the 2001 Order and new future activities, the NRC was considering whether WCS needed to obtain a 10 CFR Part 70 license.

In 2004 and 2009, the NRC issued new orders that superseded the previous orders to WCS because NRC determined that the proposed new activities could be performed safely and securely under new order conditions. In 2014, the NRC received three WCS requests to change the NRC 2009 Order: (1) WCS 2014a Request (store higher concentrations of U.S. Department of Energy (DOE) waste), dated March 28, 2014, which WCS put on-hold due to higher priorities; (2) WCS 2014b Request (store DOE waste at Federal Waste Facility) dated July 18, 2014, whereby the NRC staff completed its review and issued the NRC 2014 Order that superseded the NRC 2009 Order; and (3) WCS 2014c Request (move SNM waste using as safety basis the transportation Criticality Safety Index) dated December 4, 2014, which the NRC staff is currently reviewing.

The NRC staff will review the WCS 2014c Request, the WCS 2014a Request, and any future WCS request to ship offsite the DOE waste currently being stored at the WCS site. The NRC

will continue to review the WCS 2014c Request to determine whether the requested activities can be performed safely and securely. If that determination is made, then a superseding NRC order with new order conditions will be issued. After that review, the NRC will continue to review the WCS 2014a Request to determine whether the requested activities can be performed safely and securely. If that determination is made, then a superseding NRC order with new order conditions will be issued. Similarly, if WCS requests to ship offsite the DOE waste currently being stored at the WCS site, primarily based on the WCS 2014b Request, then the NRC will issue an appropriate order if the activity can be performed safely and securely. If WCS intends to perform any other activities with greater than a critical mass of SNM besides what is in the 2014 Order, what is in the WCS 2014c Request, what is in the WCS 2014a Request, and what would be in the future WCS request to ship offsite the DOE waste currently being stored at the WCS site, then WCS needs to consider submitting an application to the NRC for a 10 CFR Part 70 license.

After careful consideration and review of the various SNM-related activities taking place at the WCS site, the NRC concludes that any further activities beyond those cited are likely to be appropriate for licensing under 10 CFR Part 70. The scope of the SNM-related activities at the WCS site have increased beyond that of a straight-forward exemption and thus a license is appropriate to authorize further SNM-related activities. WCS would continue to operate under an NRC order while a Part 70 license application is under review by the NRC staff. The process for completing the application review and issuance of a new 10 CFR Part 70 license includes a safety review, environmental review, security review and potential hearings.

Currently, if you have any questions regarding WCS submitting a 10 CFR Part 70 license application to the NRC, 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](mailto:Harry.Felsher@nrc.gov).

Sincerely,

*/RA/*

Scott W. Moore, Acting Director  
Office of Nuclear Material Safety  
and Safeguards

Docket No. 070-7005

cc: C. Maguire, Director  
Texas Commission on  
Environmental Quality

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*/RA/*  
Sincerely,  
Scott Moore, Acting Director  
Office of Nuclear Material Safety  
and Safeguards

Docket No. 070-7005  
cc: C. Maguire, Director  
Texas Commission on  
Environmental Quality

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