



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

December 19, 2018

Mr. Jay Cartwright
Radiation Safety Officer
Waste Control Specialists LLC
17101 Preston Road
Dallas, TX 75248

SUBJECT: RESPONSE TO THE AUGUST 30, 2018, WASTE CONTROL SPECIALISTS LLC REQUEST TO EXTEND THE POSSESSION TIME IN THE U.S. NUCLEAR REGULATORY COMMISSION SPECIAL NUCLEAR MATERIAL EXEMPTION ORDER CONDITION 8.B.4 TO WASTE CONTROL SPECIALISTS LLC (CAC NO. 001542/DOCKET NO. 070-7005/EPID NO. L-2018-LLO-0000)

Dear Mr. Cartwright:

On August 30, 2018, Waste Control Specialists LLC (WCS) sent a letter to the U.S. Nuclear Regulatory Commission (NRC) requesting relaxation of Condition 8.B.4 of the currently effective NRC Special Nuclear Material (SNM) Exemption Order to WCS. In the letter, WCS requested permission to possess U.S. Department of Energy (DOE) Los Alamos National Laboratory (LANL) Waste at the WCS Low-Level Waste Site (WCS Site) near Andrews, Texas, until December 23, 2020. The August 30, 2018, WCS letter is available in the NRC's Agencywide Documents Access and Management System (ADAMS) as Accession No. ML18250A289.

Since 2001, the NRC has issued one 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 the requirements of 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material," to possess Special Nuclear Material (SNM). Each Order has allowed WCS to possess greater than a critical mass of SNM, as defined in 10 CFR 150.11, "Critical Mass," without obtaining a Part 70 license from the NRC. The currently effective NRC Order (2014 Order) to WCS is dated December 3, 2014, and is available in ADAMS as Accession No. ML14238A268. The 2014 Order contains conditions that allow WCS to possess and store the LANL Waste at two locations at the WCS Site without obtaining an NRC Part 70 license. The LANL Waste is transuranic waste with SNM that originated from LANL and is destined for disposal at the DOE Waste Isolation Pilot Plant (WIPP) Facility in New Mexico. Currently, DOE transuranic waste may only be disposed at the WIPP Facility. The DOE closed the WIPP Facility after a radiation release event in February 2014 and then re-opened it in 2017. Subsequently, much of the LANL Waste was shipped to the WIPP Facility; however, some of the LANL Waste cannot be shipped from the WCS Site because it does not meet U.S. Department of Transportation (DOT) shipping requirements.

Order Condition 8.B.4. of the 2014 Order to WCS states that, "WCS is allowed to possess the LANL Waste for a maximum of 2 years." Order Condition 11 of the 2014 Order to WCS states that, "The Director of the Office of Nuclear Material Safety and Safeguards [NMSS] (or designee), may, in writing, relax or rescind any of the above conditions upon demonstration by

WCS of good cause.” By letter dated March 28, 2016, (ADAMS Accession No. ML16095A361), WCS requested that the NRC extend the storage timeframe for the LANL Waste at the WCS Site until December 23, 2018. By letter dated September 23, 2016, (ADAMS Accession No. ML16097A265), the NMSS Director approved the 2016 WCS request.

In its August 30, 2018 letter, WCS requested that it be allowed to continue to store LANL Waste at the WCS Site until December 23, 2020 because the final disposition plan for the LANL Waste will not be implemented (i.e., all LANL Waste shipped from the WCS Site) before the current deadline of December 23, 2018. The DOE-led Integrated Project Team (which includes the DOE, the Texas Commission on Environmental Quality (TCEQ), the NRC, the U.S. Environmental Protection Agency, and WCS) is still determining a recommended path forward for the safe disposition of the LANL Waste. The Integrated Project Team was formed in response to separate orders to DOE and WCS from TCEQ in late 2015 directing those entities to provide a Joint Plan to TCEQ with options for disposition of the LANL Waste in storage at the WCS Site. The NRC joined the Integrated Project Team in May 2017. As part of its participation on the Integrated Project Team, the NRC is aware that developments in 2019 could allow all of the remaining LANL Waste in storage at the WCS Site to be safely shipped from the WCS Site under the DOT shipping requirements to WIPP, LANL, or elsewhere over time.

Consistent with both the 2014 Order to WCS and the September 2016, NRC letter to WCS modifying the 2014 Order Condition 8.B.4, the NRC has determined that an additional two-year extension of the timeframe for the storage of LANL Waste at the WCS Site is appropriate because: (1) it is consistent with the timeframe for storage of waste at the WCS Site previously approved by the NRC and permitted by TCEQ, while (2) the NRC maintains a definitive possession time specified in the Order.

As noted in both the 2014 Order to WCS and the September 2016 letter to WCS:

- the 2014 Order contains conditions that enable the LANL Waste to be safely and securely possessed and stored at the WCS Site;
- under the 2014 Order, WCS is responsible for the safe and secure possession of radioactive material at the WCS Site; and
- the 2014 Order contains conditions that require WCS to: (1) notify the NRC if any of the Order conditions are violated, and (2) obtain the NRC’s approval prior to changing any activities associated with the Order conditions.

The NRC finds that the waste continues to be safely and securely stored at the WCS Site consistent with the requirements of the 2014 Order because there has been no change in the LANL Waste in storage at the WCS Treatment, Storage, and Disposal Facility (TSDF), with the exception of the LANL Waste that has already been shipped to the WIPP Facility. The NRC also finds that the LANL Waste in storage at the WCS Federal Waste Facility disposal cell continues to be safely and securely stored consistent with the requirements of the 2014 Order, as stated by WCS in its August 30, 2018 letter and confirmed via the NRC’s participation on the Integrated Project Team.

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Based on the above, the NRC has determined that WCS demonstrated good cause in satisfying the Condition 11 requirements of the 2014 Order to WCS, such that the NMSS Director is relaxing Condition 8.B.4 of that Order to allow WCS to possess the LANL Waste until December 23, 2020. Consequently, the possession time limit specified in Condition 8.B.4 of the NRC's 2014 Order to WCS is extended to December 23, 2020.

The NRC staff prepared an environmental assessment (EA) in support of its review of WCS' exemption request from NRC licensing requirements under 10 CFR Part 70. The EA (ADAMS Accession No. ML18333A025) can also be found at 83 FR 64902.

If you have any questions or need additional information, please contact Harry Felsher of my staff at Harry.Felsher@nrc.gov or at (301) 415-6559.

Sincerely,

/RA/

Marc L. Dapas, Director
Office of Nuclear Material Safety
and Safeguards

Docket No. 070-7005

cc: A. Forbes
Texas Commission on
Environmental Quality

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DATE December 19, 2018

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ADAMS ACCESSION NO. ML18269A318

***via email**

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