

Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov); or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to the J. M. Fulton, Esquire, Assistant General Counsel, Pilgrim Nuclear Power Station, 600 Rocky Hill Road, Plymouth, Massachusetts 02360-5599, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated October 12, 2004, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, (301) 415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 14th day of October, 2004.

For the Nuclear Regulatory Commission.

**George F. Wunder,**

*Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 04-23427 Filed 10-19-04; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7005]

### Issuance of Environmental Assessment and Finding of No Significant Impact for Modification of Exemption From Certain NRC Licensing Requirements for Special Nuclear Material for Waste Control Specialists, LLC., Andrews County, TX

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental assessment and finding of no significant impact.

#### FOR FURTHER INFORMATION CONTACT:

James R. Park, Project Manager, Environmental and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415-5835; Fax number: (301) 415-5397; E-mail: [jrp@nrc.gov](mailto:jrp@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Order pursuant to Section 274f of the Atomic Energy Act that would modify an Order transmitted to Waste Control Specialists, LLC (WCS) on November 21, 2001. The Order was published in the **Federal Register** on November 15, 2001 (66 FR 57489). The 2001 Order exempted WCS from certain NRC regulations and permitted WCS, under specified conditions, to possess waste containing special nuclear material (SNM), in greater quantities than specified in 10 CFR part 150, at WCS's facility located in Andrews County, Texas, without obtaining an NRC license pursuant to 10 CFR part 70.

The current action is in response to a request by WCS dated August 6, 2003, as modified by letter dated March 15, 2004. NRC has prepared an Environmental Assessment (EA) in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate for the proposed action as modified with additional conditions. The modified Order that incorporates the results of the NRC staff's evaluation will be issued following the publication of this Notice.

## II. Environmental Assessment

### Background

As stated above, the 2001 Order exempted WCS from certain NRC regulations and permitted WCS, under specified conditions, to possess waste containing SNM, in greater quantities than specified in 10 CFR part 150, at WCS's facility located in Andrews County, Texas, without obtaining an NRC license pursuant to 10 CFR part 70. The 2001 Order permits WCS to possess SNM without regard for mass. Rather than relying on mass to ensure criticality safety, concentration-based limits are being applied, such that accumulations of SNM at or below these concentration limits would not pose a criticality safety concern. The methodology used to establish these limits is discussed in the 2001 Safety Evaluation Report (SER) that supported the 2001 Order.

The WCS facility is licensed by the State of Texas, an NRC Agreement State, under a 10 CFR part 30 equivalent radioactive materials license. The facility also is licensed by the Texas Commission on Environmental Quality to treat and dispose of hazardous waste. In 1997, WCS began accepting Resource Conservation and Recovery Act (RCRA) and Toxic Substance Control Act (TSCA) wastes for treatment, storage, and disposal. Later that year, WCS received a license from the Texas Department of Health for treatment and storage of mixed waste and low-level waste. The mixed waste and low-level waste streams may contain quantities of SNM.

By letter dated August 6, 2003, WCS requested that the list of reagents identified in Condition 5 of the 2001 Order be modified to include an additional 18 reagents. WCS uses reagents in chemically stabilizing mixed waste that contains SNM. In response to an NRC staff request for additional information dated September 30, 2003, WCS submitted a modified request by letter dated March 15, 2004.

### Review Scope

The purpose of this EA is to assess the environmental impacts of WCS's requested modification to its 2001 Order. This EA does not approve or deny the requested action. A separate Safety Evaluation Report (SER) also will be issued in support of the approval or denial of the requested action. This EA will determine whether to issue or prepare an Environmental Impact Statement (EIS). Should the NRC issue a FONSI, no EIS will be prepared.

### Proposed Action

The proposed action is to grant WCS's March 15, 2004, request to add 22 specified stabilization and oxidation-reduction reagents to Condition 5 of the 2001 Order. These reagents would be used in WCS's stabilization of mixed waste that contains SNM.

### Purpose and Need for Proposed Action

WCS is making this request so that it can treat incoming mixed waste that contains SNM using appropriate reagents. In seeking NRC approval of the reagents specified in its request, WCS hopes to avoid making multiple requests for NRC approval of stabilization reagents.

### Alternatives

In addition to the proposed action, the NRC staff considered two alternatives. One alternative was to deny WCS's request and thus not revise the Order (*i.e.*, the no-action alternative). The second alternative was to revise the Order to remove the specific chemical names from Condition 5 and instead to add a per-batch, mass limit for stabilization not to exceed the concentration limits in Condition 1 of the Order times 600 kilograms (kg) of waste.

### Environmental Impacts of No Action Alternative

For the no-action alternative, the environmental impacts would be the same as those evaluated in the EA that supports the 2001 Order. The regulations regarding SNM possession in 10 CFR part 150 set mass limits whereby a licensee is exempted from the licensing requirements of 10 CFR part 70 and can be regulated by an Agreement State. The licensing requirements in 10 CFR part 70 apply to persons possessing greater than critical mass quantities (as defined in 10 CFR 150.11). The principal emphasis of 10 CFR part 70 is criticality safety and safeguarding SNM against diversion or sabotage. Based on previous modeling and past experience, the NRC staff considers that criticality safety can be maintained by relying on concentration limits, under the specified conditions. These concentration limits are considered an alternative definition of quantities not sufficient to form a critical mass to the weight limits in 10 CFR 150.11; thereby, assuring the same level of protection. The 2001 EA concluded that the 2001 Order would have no significant radiological or non-radiological environmental impacts.

### Environmental Impacts of Proposed Action

By letter dated March 15, 2004, WCS discussed its use of chemical reagents and requested that the list of reagents identified in Condition 5 of the Order be modified to include an additional 22 reagents. In reviewing WCS's request, the NRC staff identified four reagents (potassium permanganate, sulfuric acid, phosphoric acid, and hydrochloric acid) that could change the solubility of the SNM in the mixed waste being treated, thus potentially changing its concentration. As discussed previously, the principal emphasis of 10 CFR part 70 is criticality safety and safeguarding SNM against diversion or sabotage. The addition of reagents that could increase the concentration of SNM poses a criticality concern.

The proposed action could allow for more SNM to be stored on site. In addition, the NRC staff has identified a criticality safety concern. Effluent releases and potential doses to workers and to the public could increase as a result of WCS's use of specific reagents in treating mixed waste containing SNM. These releases and doses are regulated by the State of Texas.

The proposed action is not expected to result in any changes to the transportation impacts identified in the 2001 EA. While WCS's request concerns mixed waste containing SNM that currently is or will be treated at its facility, WCS believes that approval of its request will not result in any change in its market opportunities for treating various waste streams.

### Environmental Impacts of Proposed Action With Additional Conditions

As indicated previously, the NRC staff identified criticality safety concerns with WCS's proposed action. Therefore, under the proposed action as modified with additional conditions, NRC would modify Condition 5 of the Order to remove the names of specific reagents and instead require that WCS, in treating each container of mixed waste containing SNM, meet a mass limit for stabilization. Currently, Condition 1 sets concentration limits for SNM in individual containers and/or during processing. The amended Condition 5 would set the mass limit for batches of greater than 600 kg of waste at the concentration limits in Condition 1 times 600 kg of waste. Condition 1 concentration limits would continue to apply to batches of 600 kg of waste or less. Use of the mass limit in Condition 1 for contiguous masses of waste of greater than 600 kg reduces criticality safety concerns since accumulations of

SNM at this concentration limit would not pose a criticality safety concern.

In an electronic mail message (email) to WCS dated April 26, 2004, the NRC staff documented telephone discussions with WCS concerning the proposed action with additional conditions. By a response email dated April 27, 2004, WCS agreed to the NRC staff's proposed revision to Condition 5 of the Order.

This modification would allow WCS to use the chemical reagents identified in its submittals, as well as other reagents, so long as the applicable mass limit for stabilization was met. WCS would continue to be restricted from using magnesium oxide in the treatment, per Condition 2 of the 2001 Order.

In addition, the amended Condition 5 would continue to allow WCS to use reagents as part of its currently approved stabilization process, which includes oxidation-reduction, pH adjustment, and bulking. This understanding was clarified in a series of emails dated August 3, 10, and 13, 2004, between the NRC staff and WCS.

Other conditions of the Order would remain unchanged. Currently, WCS is permitted to possess SNM without regard for mass. Instead, to insure criticality safety, a concentration limit is applied, such that accumulations of SNM at or below this concentration limit would not pose a criticality safety concern.

Effluent releases and potential doses to the public are regulated by the State of Texas and are not anticipated to change as a result of this action. WCS will continue to conduct its radiation protection program with an emphasis on maintaining doses as low as reasonably achievable. Occupational exposure are expected to remain within regulatory limits.

The proposed action would not result in any changes in the transportation impacts identified in the 2001 EA. While WCS's request concerns mixed waste containing SNM that currently is or will be treated at its facility, WCS believes that approval of its request will not result in any change in its market opportunities for treating various waste streams.

All other environmental impacts would be the same as evaluated in the EA that support the 2001 Order.

### Conclusion

Based on its review, the staff concluded in the SER for this exemption request that the proposed action (*i.e.*, revise the exemption as requested by WCS without additional conditions) would not provide sufficient protection of health, safety, and the environment.

Therefore, staff's preferred alternative is to revise the 2001 Order with additional conditions. These include adding a per-batch, mass limit for stabilization not to exceed the concentration limits in Condition 1 of the exemption times 600 kg of waste and continuing to restrict WCS from using magnesium oxide in stabilization, per Condition 2 of the exemption. The staff has concluded that, with these revised conditions, the conclusion in the 2001 EA associated with the 2001 Order remains valid.

#### Agencies and Persons Consulted

A draft copy of this EA was provided to officials from the State of Texas Department of Health (TDH). By an e-mail dated August 11, 2004, the TDH recommended certain editorial changes. The NRC staff has modified the EA to address the TDH comments.

#### III. Finding of No Significant Impact

On the basis of the EA, NRC has concluded that there are no significant environmental impacts from the proposed amendment and has determined not to prepare an environmental impact statement.

#### IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

Document description	Accession No.
August 6, 2003, WCS initial request.	ML032590937
September 30, 2003, NRC request for additional information.	ML032731010
March 15, 2004, WCS modified request.	ML041350224
September 2004 NRC SER	ML042250362
April 26 and 27, 2004, NRC and WCS email messages.	ML042450534
August 11, 2004, TDH email message.	ML042450520
August 3, 10 and 13, 2004 NRC and WCS email messages.	ML042450511
November 21, 2001, NRC EA, SER, and Order.	ML030130085

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR)

Reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr@nrc.gov](mailto:pdr@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 14th day of October 2004.

For the Nuclear Regulatory Commission.

#### Mark Thaggard,

Section Chief, Environmental & Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 04-23428 Filed 10-19-04; 8:45 am]

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### NUCLEAR REGULATORY COMMISSION

#### Advisory Committee on Reactor Safeguards; Meeting of the ACRS Subcommittee on Regulatory Policies and Practices; Notice of Meeting

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on October 28 and 29, 2004, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

*Thursday, October 28, 2004—8:30 a.m.*

*until the conclusion of business*

*Friday, October 29, 2004—8:30 a.m.*

*until the conclusion of business*

The purpose of this meeting is to review the proposed rule package for risk-informing 50.46. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Michael R. Snodderly (Telephone: 301-415-6927) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted during the meeting.

Further information regarding this meeting can be obtained by contacting the Designated Federal Officials between 7:30 a.m. and 4:15 p.m. (ET).

Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: October 14, 2004.

#### John H. Flack,

Acting Branch Chief, ACRS/ACNW.

[FR Doc. 04-23429 Filed 10-19-04; 8:45 am]

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50536; File No. SR-FICC-2004-07]

#### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change To Amend the Fixed Income Clearing Corporation's Rules To Eliminate the "Mortgage Banker" Category of Membership in its Mortgage-Backed Securities Division

October 13, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, notice is hereby given that on March 25, 2004, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") and on June 21, 2004 and October 14, 2004, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FICC is seeking to amend the rules of its Mortgage-Backed Securities Division ("MBSD") to eliminate the "mortgage banker" category of membership.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B),

<sup>1</sup> 15 U.S.C. 78s(b)(1).