

Waste Control Specialists LLC

RN101702439

Docket No. 2015-0514-RAW-E

Order Type:

Agreed Order

Media:

RAW

Small Business:

No

Location(s) Where Violation(s) Occurred:

9998 West State Highway 176, approximately one mile north of State Highway 176 and 250 feet east of the Texas-New Mexico state line, approximately 30 miles west of Andrews, Andrews County

Type of Operation:

commercial waste transfer, treatments, storage, and disposal facility

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	United States of America Department of Energy

Texas Register Publication Date: November 6, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed:	\$8,550
Deferred for Expedited Settlement:	\$1,710
Total Paid to General Revenue:	\$6,840
Total Due to General Revenue:	\$0

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Date(s) of Investigation: April 2, 2015; May 20, 2015

Date(s) of NOV(s): N/A

Date(s) of NOE(s): April 2, 2015

Waste Control Specialists LLC

RN101702439

Docket No. 2015-0514-RAW-E

Violation Information

1. Failed to place waste into interim storage or transfer waste to an authorized recipient within 365 days of the initial date of receipt [30 TEX. ADMIN. CODE §§ 305.125(1), 336.1(c) and (d), 336.1205, and 336.1221; TEX. HEALTH & SAFETY CODE § 401.101; and TCEQ Radioactive Material License R04100, License Conditions Numbers 23 and 196.B].
2. Failed to ensure that all waste management activities are confined to authorized facility units [Hazardous Waste Permit 50358, Permit Condition V.A.1].

Corrective Actions/Technical Requirements**Technical Requirements:**

1. Within 60 days, submit to the Executive Director for approval a written plan (the "Plan") for the management, removal, and handling of all TRU waste received at the Facility from the U.S. Department of Energy ("DOE") from April 2, 2014, through November 20, 2014. The Plan must include:
 - a. Procedures for additional standard waste boxes identified with hazardous waste codes;
 - b. Procedures for on-site handling and management of waste in the container storage building at the Facility and D001 waste, as appropriate, to ensure that exposure to radiological components of the material are maintained as low as reasonably achievable;
 - c. Procedures for processing the D001 Waste, as necessary, to meet waste acceptance criteria or for lawful transportation to an authorized recipient consistent with the requirement to ensure that exposure to radiological and other safety-related components of the material are maintained as low as reasonably achievable;
 - d. Procedures for updating the TCEQ no less than quarterly on the status of the WIPP resuming normal operations and the viability of other authorized disposal sites for the TRU waste;
 - e. Procedures for lawful removal and transportation of all TRU waste received at the Facility from the DOE from April 2, 2014 through November 20, 2014, to an authorized recipient once the DOE WIPP is re-opened for resumption of TRU waste disposal operations; and
 - f. A schedule for implementing the Plan after it is approved by the Executive Director.
2. Immediately upon written approval of the Plan by the Executive Director, implement the Plan in accordance with the approved schedule.
3. Within 30 days after the Executive Director has approved the Plan, submit written certification to demonstrate compliance with Technical Requirement No. 2.
4. Handle, manage, process (if necessary), and remove all transuranic ("TRU") waste from the Facility and transport it to an authorized recipient in accordance with the approved Plan.
5. Within 30 days after the removal of all TRU waste, submit written certification to demonstrate compliance with Technical Requirement No. 4.

Litigation Information**Settlement Date:** October 23, 2015**Contact Information****TCEQ Enforcement Coordinator:** Keith Frank, Enforcement Division, (512) 239-1203**TCEQ Regional Contact:** Michael Edmiston, P.E., Midland Regional Office, (432) 570-1359**Respondent Contact:** Rodney A. Baltzer, President and CEO, Waste Control Specialists LLC, 5430 LBJ Freeway, Ste. 1700, Dallas, Texas 75240**Respondent's Attorney:** N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	2-Apr-2015	Screening	21-May-2015	EPA Due	
	PCW	29-Jun-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Waste Control Specialists LLC
Reg. Ent. Ref. No.	RN101702439
Facility/Site Region	7-Midland
Major/Minor Source	Major

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	50333	Order Type	1660
Docket No.	2015-0514-RAW-E	Government/Non-Profit	No
Media Program(s)	Radioactive Substances	Enf. Coordinator	Keith Frank
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	14.0% Enhancement	Subtotals 2, 3, & 7	\$1,050
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Notes: Enhancement for one order containing a denial of liability and reduction for two notices of audit and two disclosures of violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$12,847
 Estimated Cost of Compliance: \$110,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,550
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$8,550
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,550
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,710
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$6,840
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Screening Date 21-May-2015

Docket No. 2015-0514-RAW-E

PCW

Respondent Waste Control Specialists LLC

Policy Revision 4 (April 2014)

Case ID No. 50333

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101702439

Media [Statute] Radioactive Substances

Enf. Coordinator Keith Frank

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	2	-4%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 14%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one order containing a denial of liability and reduction for two notices of audit and two disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 14%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 14%

Screening Date 21-May-2015	Docket No. 2015-0514-RAW-E	PCW
Respondent Waste Control Specialists LLC		<i>Policy Revision 4 (April 2014)</i>
Case ID No. 50333		<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No. RN101702439		
Media [Statute] Radioactive Substances		
Enf. Coordinator Keith Frank		

Violation Number

Rule Cite(s) Radioactive Material License R04100 Condition Nos. 23 and 196.B, 30 Tex. Admin. Code §§ 305.125(1), 336.1(c) and (d), 336.1205, and 336.1221, and Tex. Health & Safety Code § 401.101

Violation Description
 Failed to comply with License Condition Nos. 23 and 196.B, which require that all waste placed into storage be placed into interim storage or transferred to an authorized recipient within 365 days of the initial date of receipt. Specifically, 39 shipments of transuranic ("TRU") waste were received at the Facility between April 2 and May 1, 2014, from the United States of America Department of Energy and placed into storage. The TRU waste should have been placed into interim storage or transferred to an authorized recipient within 365 days of the date of receipt, and it was not placed into interim storage or transferred to an authorized recipient within 365 days.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="15.0%"/>	

>> Programmatic Matrix

Matrix Notes	Falsification				
	Major	Moderate	Minor		
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0.0%"/>	
Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.					

Adjustment

Violation Events

Number of Violation Events	<input type="text" value="1"/>		<input type="text" value="49"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$3,750"/>
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		

One quarterly event is recommended based on documentation of the violation beginning April 2, 2015 to the May 21, 2015 screening date.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Waste Control Specialists LLC
Case ID No. 50333
Reg. Ent. Reference No. RN101702439
Media Radioactive Substances
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$110,000	2-Apr-2015	1-Dec-2016	1.67	\$612	\$12,236	\$12,847
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to develop and implement procedures for the removal and handling of all TRU waste received at the Facility from the DOE between April 2 and May 1, 2014. Date Required is the beginning date of the violation. Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$110,000 **TOTAL** \$12,847

Screening Date 21-May-2015
Respondent Waste Control Specialists LLC
Case ID No. 50333
Reg. Ent. Reference No. RN101702439
Media [Statute] Radioactive Substances
Enf. Coordinator Keith Frank

Docket No. 2015-0514-RAW-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Violation Number

Rule Cite(s)

HW Permit No. 50358 Permit Condition V.A.1

Violation Description

Failed to comply with Permit Condition V.A.1, which requires that all waste management activities shall be confined to the authorized facility units listed in Attachment D to the Permit.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended based on documentation of the violation during the April 2, 2015 investigation to the May 21, 2015 screening date.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark w th x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Waste Control Specialists LLC
Case ID No. 50333
Reg. Ent. Reference No. RN101702439
Media Radioactive Substances
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

EB calculated on violation no. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600616890, RN101702439, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600616890, Waste Control Specialists LLC **Classification:** SATISFACTORY **Rating:** 0.34

Regulated Entity: RN101702439, Waste Control Specialists **Classification:** SATISFACTORY **Rating:** 0.34

Complexity Points: 38 **Repeat Violator:** NO

CH Group: 11 - Waste Management (Excluding Landfills)

Location: 9998 W STATE HIGHWAY 176 ANDREWS, TX 79714-9100, ANDREWS COUNTY

TCEQ Region: REGION 07 - MIDLAND

ID Number(s):

AIR NEW SOURCE PERMITS

ACCOUNT NUMBER AB0164V
AFS NUM 4800300044
PERMIT 72653
REGISTRATION 42916
REGISTRATION 90344
REGISTRATION 86421
REGISTRATION 86252
REGISTRATION 106888

WASTEWATER

PERMIT WQ0004038000
EPA ID TX0117005
PERMIT WQ0004948000
PERMIT WQ0004857000
EPA ID TX0131644

AIR EMISSIONS INVENTORY

ACCOUNT NUMBER AB0164V

INDUSTRIAL AND HAZARDOUS WASTE

EPA ID TXR000075788
EPA ID TXD988088464
SOLID WASTE REGISTRATION # (SWR) 50397
SOLID WASTE REGISTRATION # (SWR) 50358
PERMIT 50358
PERMIT 50397

IHW CORRECTIVE ACTION

SOLID WASTE REGISTRATION # (SWR) 50358

POLLUTION PREVENTION PLANNING

ID NUMBER P04197
ID NUMBER P08489

RADIOACTIVE WASTE DISPOSAL

LICENSE R05807
LICENSE R04100
ID NUMBER RDR001

PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 73836

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: May 19, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 19, 2010 to May 19, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Keith Frank

Phone: (512) 239-1203

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 07/02/2011 **ADMINORDER 2010-1632-IWD-E (1660 Order-Agreed Order With Denial)**

Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Classification: Major
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Other Requirements No. 16 PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	May 20, 2010	(835820)	Item 54	February 12, 2013	(1082767)
Item 2	May 21, 2010	(837146)	Item 55	February 19, 2013	(1055503)
Item 3	June 16, 2010	(847792)	Item 56	February 20, 2013	(1054088)
Item 4	July 20, 2010	(862195)	Item 57	February 21, 2013	(1054015)
Item 5	July 23, 2010	(869253)	Item 58	March 13, 2013	(1091135)
Item 6	August 20, 2010	(868793)	Item 59	April 16, 2013	(1097469)
Item 7	September 20, 2010	(875667)	Item 60	April 17, 2013	(1027976)
Item 8	September 24, 2010	(876142)	Item 61	May 01, 2013	(1057216)
Item 9	October 19, 2010	(883218)	Item 62	May 14, 2013	(1108484)
Item 10	November 16, 2010	(889632)	Item 63	May 16, 2013	(1078128)
Item 11	December 20, 2010	(897998)	Item 64	May 23, 2013	(1085785)
Item 12	December 23, 2010	(898500)	Item 65	June 20, 2013	(1112071)
Item 13	January 20, 2011	(903898)	Item 66	July 02, 2013	(1057217)
Item 14	January 21, 2011	(904347)	Item 67	July 05, 2013	(1087639)
Item 15	February 17, 2011	(910788)	Item 68	July 09, 2013	(1027980)
Item 16	March 16, 2011	(895691)	Item 69	July 10, 2013	(1058228)
Item 17	March 18, 2011	(918046)	Item 70	July 16, 2013	(1119008)
Item 18	March 25, 2011	(918522)	Item 71	July 23, 2013	(1057227)
Item 19	April 18, 2011	(930174)	Item 72	August 01, 2013	(1058224)
Item 20	May 16, 2011	(939753)	Item 73	August 06, 2013	(1057219)
Item 21	June 15, 2011	(947170)	Item 74	August 07, 2013	(1078135)
Item 22	June 20, 2011	(947628)	Item 75	August 13, 2013	(1057208)
Item 23	July 11, 2011	(954420)	Item 76	August 14, 2013	(1057223)
Item 24	August 15, 2011	(936999)	Item 77	August 16, 2013	(1126769)
Item 25	August 16, 2011	(961004)	Item 78	August 20, 2013	(1027978)
Item 26	September 16, 2011	(967098)	Item 79	August 22, 2013	(1057209)
Item 27	November 16, 2011	(979192)	Item 80	August 29, 2013	(1078132)
Item 28	December 19, 2011	(986035)	Item 81	August 30, 2013	(1116231)
Item 29	January 06, 2012	(968780)	Item 82	September 18, 2013	(1121007)
Item 30	January 20, 2012	(992386)	Item 83	September 23, 2013	(1131800)
Item 31	February 16, 2012	(999699)	Item 84	October 17, 2013	(1137056)
Item 32	March 12, 2012	(1005244)	Item 85	November 18, 2013	(1142470)
Item 33	April 17, 2012	(1011821)	Item 86	December 16, 2013	(1148903)
Item 34	May 03, 2012	(996553)	Item 87	December 19, 2013	(1149391)
Item 35	May 16, 2012	(1018180)	Item 88	January 06, 2014	(1134259)
Item 36	June 20, 2012	(1025921)	Item 89	January 07, 2014	(1139234)
Item 37	July 17, 2012	(1033274)	Item 90	January 08, 2014	(1139236)
Item 38	August 20, 2012	(886747)	Item 91	January 09, 2014	(1139237)
Item 39	August 29, 2012	(1027735)	Item 92	January 22, 2014	(1120911)
Item 40	August 30, 2012	(1027939)	Item 93	February 04, 2014	(1124553)
Item 41	August 31, 2012	(1027958)	Item 94	February 05, 2014	(1057218)
Item 42	September 05, 2012	(1029627)	Item 95	February 06, 2014	(1124555)
Item 43	September 13, 2012	(1048735)	Item 96	February 09, 2014	(1124558)
Item 44	September 14, 2012	(1049310)	Item 97	February 10, 2014	(1134492)
Item 45	October 17, 2012	(1069391)	Item 98	February 12, 2014	(1124551)
Item 46	November 15, 2012	(1069392)	Item 99	February 18, 2014	(1162300)
Item 47	December 14, 2012	(1069393)	Item 100	February 24, 2014	(1162822)
Item 48	January 14, 2013	(1082768)	Item 101	March 07, 2014	(1134498)
Item 49	January 15, 2013	(1037654)	Item 102	March 13, 2014	(1144213)
Item 50	January 16, 2013	(1037666)	Item 103	March 14, 2014	(1150260)
Item 51	February 06, 2013	(1055499)	Item 104	March 17, 2014	(1134497)
Item 52	February 07, 2013	(1055500)	Item 105	March 18, 2014	(1151024)
Item 53	February 08, 2013	(1054085)	Item 106	March 19, 2014	(1134502)

Item 107	March 31, 2014	(1134504)	Item 126	August 13, 2014	(1170837)
Item 108	April 02, 2014	(1102102)	Item 127	August 14, 2014	(1172707)
Item 109	April 08, 2014	(1134500)	Item 128	August 15, 2014	(1134496)
Item 110	April 15, 2014	(1176105)	Item 129	August 19, 2014	(1172722)
Item 111	April 21, 2014	(1151027)	Item 130	August 22, 2014	(1152102)
Item 112	April 24, 2014	(1160251)	Item 131	August 25, 2014	(1172714)
Item 113	April 29, 2014	(1152094)	Item 132	August 26, 2014	(1173572)
Item 114	May 19, 2014	(1182326)	Item 133	August 29, 2014	(1173573)
Item 115	May 22, 2014	(1182870)	Item 134	September 15, 2014	(1207539)
Item 116	June 11, 2014	(1156845)	Item 135	September 17, 2014	(1208029)
Item 117	June 16, 2014	(1189224)	Item 136	October 01, 2014	(1179643)
Item 118	June 30, 2014	(1151029)	Item 137	October 20, 2014	(1213937)
Item 119	July 01, 2014	(1152097)	Item 138	November 17, 2014	(1172840)
Item 120	July 02, 2014	(1152100)	Item 139	December 19, 2014	(1225995)
Item 121	July 15, 2014	(1177692)	Item 140	January 15, 2015	(1233001)
Item 122	July 16, 2014	(1170663)	Item 141	February 17, 2015	(1243994)
Item 123	July 17, 2014	(1201156)	Item 142	March 19, 2015	(1250366)
Item 124	July 18, 2014	(1201816)	Item 143	March 24, 2015	(1250880)
Item 125	August 12, 2014	(1152098)	Item 144	May 18, 2015	(1245732)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

1 Notice of Intent Date: 01/27/2011 (906519)

Disclosure Date: 03/21/2011

Viol. Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(a)
5A THSC Chapter 341, SubChapter A 341.035

Description: Failed to submit plans and specifications for the public water system to the Executive Director for review and approval prior to construction of the system. In addition, it was discovered during the audit that portions of the potable water supply system designed to serve the proposed low-level radioactive waste disposal facility were constructed, and it is uncertain whether the company ensured that they submitted the plans to TCEQ staff for review.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)

Description: Failed to have a licensed water works operator operating the public water system.

Viol. Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)

Description: Failed to maintain internal operating and maintenance records.

2 Notice of Intent Date: 03/31/2014 (1193699)

Disclosure Date: 09/24/2014

Viol. Classification: Moderate

Citation: 30 TAC Chapter 336, SubChapter C 336.209

Rqmt Prov: PERMIT RML R04100 License Condition 119(f)

Description: Failure to conduct bioassays within one month following the donning of a respirator for any individual performing work within any designated area within the Restricted Area for which respiratory protection is required.

Viol. Classification: Minor

Citation: 30 TAC Chapter 336, SubChapter D 336.355

Description: Failure to maintain records of all the information required by form "Occupational Exposure Record for a Monitoring Period", including the date of birth and gender of the individual and the report generation date.

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WASTE CONTROL SPECIALISTS LLC;
RN101702439**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2015-0514-RAW-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Waste Control Specialists LLC ("Respondent" or "WCS") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 401. The Executive Director of the TCEQ, represented by the Enforcement Division, and Respondent, together stipulate that:

1. Respondent owns and operates a commercial waste transfer, treatment, storage, and disposal facility located at 9998 West State Highway 176 in Andrews County, Texas approximately one mile north of the State Highway 176 and 250 feet east of the Texas-New Mexico state line, approximately 30 miles west of Andrews, Texas (the "Facility").
2. The United States of America Department of Energy ("DOE") owns the Waste Isolation Pilot Plant ("WIPP") located in southeast New Mexico approximately 26 miles from Carlsbad, New Mexico. The DOE also owns the Los Alamos National Lab ("LANL") located in Los Alamos, New Mexico.
3. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051 and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH AND SAFETY CODE ch. 401 and TCEQ rules.
4. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. Any notice and procedures that might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
6. An administrative penalty in the amount of Eight Thousand Five Hundred Fifty Dollars (\$8,550.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Respondent paid Six Thousand Eight Hundred Forty Dollars (\$6,840.00) of the penalty. One Thousand Seven Hundred Ten Dollars (\$1710.00) of the penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms and conditions of this Order, and will be waived only upon full compliance with this Order. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Order, the Executive

- Director may require Respondent to pay all or part of the deferred administrative penalty.
7. At the WIPP, the DOE manages and/or disposes of transuranic ("TRU") waste resulting from the nation's nuclear defense program, including TRU waste generated by the DOE at the LANL.
 8. TRU waste consists of clothing, tools, rags, residues, debris, soil and other items contaminated with small amounts of plutonium and other man-made radioactive elements. In addition, the DOE TRU waste contains hazardous waste.
 9. In February 2014, there was a temporary suspension of disposal operations at the WIPP resulting in a need to transport certain TRU waste destined for the WIPP to another licensed facility.
 10. In March 2014, the TCEQ was contacted by both the DOE and Respondent concerning storage of TRU waste from the LANL and other DOE facilities at the Facility. Storage of such waste is currently allowed under WCS' TCEQ Radioactive Material License R04100 ("License") and Hazardous Waste Permit 50358 ("Permit").
 11. The License requires all waste received at the WCS Storage and Processing Facility to be placed into interim storage or transferred to an authorized recipient within one year (365 days) of the initial date of receipt on a per shipment basis.
 12. DOE contracted with Respondent to acquire storage services at the Facility for TRU wastes originating from LANL and other DOE facilities.
 13. Following the initial shipments of the TRU waste and based on an ongoing DOE investigation of this waste, DOE notified Respondent and TCEQ that 74 standard waste boxes ("SWBs") in the TRU waste shipments contain mixed nitrate salts and should bear hazardous waste code D001 due to oxidizing material in the waste. Since that time, DOE has determined that additional SWBs should also bear the D001 waste code. Respondent asserts that technical and regulatory issues prevented it from being able to re-package this waste for transfer to an authorized recipient within 365 days of receipt.
 14. WCS is currently storing TRU waste from DOE at the Facility. The majority of this waste is being stored in the Container Storage Building of the WCS Storage and Processing Facility (the "CSB-Stored Waste") while, due to the enhanced protective measures available, certain SWBs bearing hazardous waste code D001 are being stored in a segregated area of the waste disposal area of the Federal Facility (the "D001 Waste"). To protect human health and the environment and based on information provided by DOE that this waste is more likely to be reactive at temperatures above 130 degrees Fahrenheit, the D001 Waste was packaged in Modular Concrete Canisters ("MCCs"), filled with pea gravel, the MCC lids were placed on the MCC bodies and the closed MCCs were surrounded by sand (to keep temperatures down) in the Federal Facility. SWBs in each MCC are equipped with a temperature monitor.
 15. Respondent, DOE and the TCEQ have agreed that, on the resumption of normal disposal operations at the WIPP, DOE will promptly initiate shipment of the TRU waste from the Facility to the WIPP.
 16. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Order.

17. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
18. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on April 2, 2015, and a record review conducted on May 20, 2015, a TCEQ investigator documented that Respondent failed to comply with License Condition Nos. 23 and 196.B, which require that all waste placed into storage be placed into interim storage or transferred to an authorized recipient within 365 days of the initial date of receipt. Specifically, 39 shipments of TRU waste were received at the Facility between April 2, 2014, and May 1, 2014, from the DOE and placed into storage. The TRU waste should have been placed into interim storage or transferred to an authorized recipient within 365 days of the date of receipt, and it was not placed into interim storage or transferred to an authorized recipient within 365 days, in violation of License Condition Nos. 23 and 196.B, 30 TEX. ADMIN. CODE §§ 305.125(1), 336.1(c) and (d), 336.1205 and 336.1221; and TEX. HEALTH & SAFETY CODE § 401.101. Additionally, Respondent failed to comply with Permit Condition V.A.1., which requires that all waste management activities must be confined to the authorized facility units listed in Attachment D to the Permit. The storage of the D001 Waste in the Federal Facility is in violation of Permit Condition V.A.1.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 6. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Waste Control Specialists LLC, Docket No. 2015-0514-RAW-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Order, submit to the Executive Director for approval a written plan ("Plan") for the management, removal, and handling of all TRU waste received at the Facility from the DOE from April 2, 2014, through November 20, 2014. The Plan must include:
 - i. Procedures for additional SWBs identified with hazardous waste codes;
 - ii. Procedures for on-site handling and management of the CSB- Stored Waste and the D001Waste, as appropriate, to ensure that exposure to radiological components of the material are maintained as low as reasonably achievable;
 - iii. Procedures for processing the D001 Waste, as necessary, to meet waste acceptance criteria or for lawful transportation to an authorized recipient consistent with the requirement to ensure that exposure to radiological and other safety-related components of the material are maintained as low as reasonably achievable;
 - iv. Procedures for updating the TCEQ no less than quarterly on the status of the WIPP resuming normal operations and the viability of other authorized disposal sites for the TRU waste.
 - v. Procedures for lawful removal and transportation of all TRU waste received at the Facility from the DOE from April 2, 2014 through November 20, 2014, to an authorized recipient once the DOE WIPP is re-opened for resumption of TRU waste disposal operations, and
 - vi. A schedule for implementing the Plan after it is approved by the Executive Director.
 - b. Immediately upon written approval of the Plan by the Executive Director, Respondent shall implement the Plan in accordance with the approved schedule.
 - c. Within 30 days after the Executive Director has approved the Plan, Respondent shall submit certification to demonstrate compliance with Ordering Provision No. 2.b.
 - d. Respondent shall handle, manage, process (if necessary), and remove all TRU waste from the Facility and transport it to an authorized recipient in accordance with the approved Plan. While WCS acknowledges the TCEQ's legal authority to require WCS to lawfully handle, manage, process (if necessary) remove, and transport the CSB-Stored Waste and the D001 Waste from the Facility, WCS retains any factual and legal defenses, rights or arguments it may have to assert the existence of regulations or laws prohibiting removal or transportation of the D001 Waste.
 - e. Within 30 days after the removal of all TRU waste received at the Facility from the DOE from April 2, 2014, through November 20, 2014, to an authorized recipient, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 2.d.
 - f. All written certifications shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records,

shall be signed by Respondent, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Michelle Havelka, Manager
Homeland Security Section
Critical Infrastructure Division
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. A, MC-177
Austin, Texas 78753

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the

- terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
 9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

11/6/15

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature

10/23/15

Date

Rodney A. Baltzer
President and CEO
Authorized representative of
Waste Control Specialists LLC