

by the State of Texas to permit independent review.

At the time waste is received, WCS shall require generators of SNM waste to provide a written certification with each waste manifest that states that the SNM concentrations reported on the manifest do not exceed the limits in Condition 1, and that the waste meets Conditions 2 through 4.

WCS shall require generators to sample and determine the SNM concentration for each waste stream, not to include sealed sources, at a frequency of once per 600 kg if the concentrations are above one tenth the SNM limits of Condition 1. The measurement uncertainty shall not exceed the uncertainty value in Condition 1 and shall be provided on the written certification.

7. WCS shall sample and determine the SNM concentration for each waste stream, not to include sealed sources, at a frequency of once per 600 kg if the concentrations are above one tenth the SNM limits of Condition 1. This confirmatory testing is not required for waste to be disposed of at DOE's WIPP facility.

8. WCS shall notify the NRC, Region IV office within 24 hours if any of the above Conditions are violated. A written notification of the event must be provided within 7 days.

9. WCS shall obtain NRC approval prior to changing any activities associated with the above Conditions.

### III.

Based on the staff's evaluation, the Commission has determined, pursuant to 10 CFR 70.17(a), that the exemption as described above at the WCS facility is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest. Accordingly, by this Order, the Commission hereby grants this exemption subject to the above conditions. The exemption will become effective after the State of Texas has incorporated the above conditions into WCS's RML.

Pursuant to the requirements in 10 CFR part 51, the Commission has published an Environmental Assessment for the proposed action wherein it has determined that the granting of this exemption will have no significant impacts on the quality of the human environment. This finding was noticed in the **Federal Register** on October 15, 2009 (74 FR 52981–52985).

Dated at Rockville, Maryland this 20th day of October 2009.

For the U.S. Nuclear Regulatory Commission.

**Larry W. Camper,**

*Division Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.*

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## NUCLEAR REGULATORY COMMISSION

[NRC–2009–0465]

### Withdrawal of Regulatory Guides 4.5 and 4.6

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Withdrawal of Regulatory Guides 4.5, “Measurements of Radionuclides in the Environment—Sampling and Analysis of Plutonium in Soil” and 4.6, “Measurements of Radionuclides in the Environment—Strontium-89 and Strontium-90 Analysis.”

**FOR FURTHER INFORMATION CONTACT:** George Powers, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *telephone:* 301–251–7449 or e-mail *George.Powers@nrc.gov*.

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide (RG) 4.5, “Measurements of Radionuclides in the Environment—Sampling and Analysis of Plutonium in Soil,” and RG 4.6, “Measurements of Radionuclides in the Environment—Strontium-89 and Strontium-90 Analysis.” Both of these guides were published in May 1974.

These regulatory guides provide prescriptive guidance to licensees and applicants on the sampling and laboratory analysis of Strontium and Plutonium. The guides provided guidance on compliance with a provision in 10 CFR Part 20, “Standards for Protection against Radiation.” That provision, 10 CFR 20.106, “Concentrations in Effluents to Unrestricted Areas,” was deleted, and that subject matter is addressed in a new section, 10 CFR 20.1302.

“Compliance with dose limits for individual members of the public.” Paragraphs (a) and (b) of 20.1302 contain the effluent standards and allowable radionuclide concentrations in effluent releases.

Updated performance based guidance for the measurement of plutonium (Pu), strontium-89 (Sr<sup>89</sup>), and strontium-90

(Sr<sup>90</sup>) is now provided through Regulatory Guide 4.15, “Quality Assurance for Radiological Monitoring Programs (Inception through Normal Operations to License Termination)—Effluent Streams and the Environment,” published July 2007. This guidance references NUREG–1576, “Multi-Agency Radiological Laboratory Analytical Protocols Manual (MARLAP),” published in July 2004. MARLAP provides analytical detail for measurement of Pu, Sr<sup>89</sup>, and Sr<sup>90</sup> which includes methods described in RG 4.5 and 4.6 and more recent methods and procedures that are also acceptable to the staff. NUREG–1576 is available electronically through the NRC's Agencywide Documents Access and Management System at <http://www.nrc.gov/reading-rm/adams.html>, under Accession No. ML060930645.

#### II. Further Information

The withdrawal of RGs 4.5 and 4.6 does not alter any prior or existing licensing commitments or conditions based on their use. The guidance provided in these regulatory guides is neither necessary nor current. Regulatory guides may be withdrawn when their guidance is superseded by congressional action or no longer provides useful information.

Regulatory guides are available for inspection or downloading through the NRC's public Web site under “Regulatory Guides” in the NRC's Electronic Reading Room at: <http://www.nrc.gov/reading-rm/doc-collections>.

In addition, regulatory guides are also available for inspection at the NRC's Public Document Room (PDR), Room O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738. The PDR's mailing address is US NRC PDR, Washington, DC 20555–0001. You can reach the PDR staff by telephone at 301–415–4737 or 800–397–4209, by fax at 301–415–3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

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Dated at Rockville, Maryland, this 13th day of October, 2009.

For the Nuclear Regulatory Commission.

**Andrea D. Valentin,**

*Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

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