

Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Wilson may be contacted at 301-415-1108 or by writing to James H. Wilson, U.S. Nuclear Regulatory Commission, Mail Stop O 12-D-1.

Dated at Rockville, Maryland, this 24th day of December, 2002.

For the Nuclear Regulatory Commission.

**Pao-Tsin Kuo,**

*Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 03-81 Filed 1-2-03; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8989]

### Environmental Assessment and Finding of No Significant Impact for Envirocare of Utah, Inc.'s Request to Amend NRC Source Material License SMC-1559

#### I. Introduction

The NRC is considering an amendment to Envirocare of Utah's (Envirocare) NRC Source Material License SMC-1559. The proposed amendment will revise the methods used to suppress dust on haul roads in Envirocare's Clive, Utah facility for the disposal of byproduct material as defined in section 11e.(2) of the Atomic Energy Act. An Environmental Assessment (EA) was performed by the NRC staff in support of its review of Envirocare's license amendment request, in accordance with the requirements of 10 CFR Part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

#### II. Supplementary Information

##### *Background*

Envirocare requested NRC approval to revise the methods used to suppress dust on facility haul roads, by replacing the requirement to apply magnesium chloride twice a year with a requirement to scrape the roads quarterly. The NRC staff reviewed the proposed revision and concludes that it will be effective in controlling dust from the haul roads.

By letters dated July 12, 2002 (Envirocare, 2002a) and September 4, 2002 (Envirocare, 2002b), the licensee requested NRC approval to revise its license application. The requested change would remove the requirement, in Section 17 and Appendix Z, for semi-annual application of magnesium

chloride to facility haul roads and replace it with a requirement to scrape the roads at least quarterly.

Currently, the licensee is required to have a water truck on site on days when the facility is operating, to apply water to the haul roads, and to keep a record of water applications. Additionally, the licensee is required to apply magnesium chloride solution, which is a surfactant, to the haul roads twice a year.

The requested revision will not change the requirement to apply water to the roads. It would replace the requirement to semi-annually apply magnesium chloride to the haul roads with a requirement to scrape the roads quarterly. The licensee states that scraping the roads is superior to application of magnesium chloride because the radiological contaminants from the road surfaces will be disposed of in a timely manner rather than being trapped on the road surface with a potential for gradual buildup. The licensee also states that scraping the roads will preserve its condition, reducing the potential for spillage of contaminated material from equipment due to uneven road surfaces.

The proposed licensing action meets the conditions for a categorical exclusion under 10 CFR 51.22(c)(11) because the staff has determined that the following conditions have been met:

1. There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite,
2. There is no significant increase in individual or cumulative occupational radiation exposure,
3. There is no significant construction impact, and
4. There is no significant increase in the potential for or occurrences from radiological accidents.

However, because the proposed revision to the licensee's dust suppression program does not comply with the statement in Section 5.5, "Mitigative Measures" of the licensee's Final Environmental Statement (NUREG-1476-August 1993) issued in support of the original license for the facility, the staff determined that an environmental assessment was necessary. That section requires Envirocare to achieve a high level of dust suppression through watering of the roads and *application of chemical dust suppressants* [emphasis added].

##### *Identification of the Proposed Action*

The proposed action would replace the requirement for the licensee to semi-annually apply magnesium chloride to the facility haul roads with a requirement to scrape the roads

quarterly. The material scraped off the roads, including the contamination contained in the material, would be put into one of the facility's disposal cells.

##### *Purpose and Need for the Proposed Action*

The proposed action would remove contaminated material from the surface of facility haul roads and put it into disposal cells. It would also improve the surface of the haul roads, thus reducing the potential of spillage of contaminated material from equipment using the roads.

##### *Cumulative Impacts*

NRC has found no other current or planned activities in the area that could result in cumulative impacts.

##### *Alternatives to the Proposed Action*

An alternative to the proposed action would be for the staff to deny the licensee's request. The licensee would then continue to apply magnesium chloride to road surfaces semi-annually and not remove soil from the road.

##### *Affected Environment*

NUREG-1476 provides detailed descriptions of the Envirocare facility and the nearby environment.

##### *Environmental Impacts of the Proposed Action*

The environmental impacts of the proposed action are minimal. The potential for dust blowing from the haul roads will continue to be controlled by the application of water. There is a potential for a minor increase in dust during the actual scraping of the roads but the licensee will perform the scraping in a manner that minimizes the creation of airborne dust. The proposed action will remove contaminated material from the surface of the road and thus reduce the potential for the contaminated material to be carried away from the site. The proposed action will also eliminate the application of magnesium chloride and thus eliminate the potential of a spill or other inadvertent release of this chemical to the environment.

##### *State Consultation*

NRC provided a draft version of the EA to William J. Sinclair, Director of the Utah Division of Radiation Control (DRC), for comment. The DRC is in agreement with the proposed action and has no additional comments.

#### III. Finding of No Significant Impact

Based upon the environmental assessment, the staff concludes that the proposed action will not have a

significant effect on the quality of the human environment. Accordingly, the staff has determined that preparation of an environmental impact statement is not warranted.

#### IV. Further Information

The following documents are related to the proposed action:

##### References

Code of Federal Regulations (CFR), Title 10, Chapter I—Nuclear Regulatory Commission, Part 51, revised as of January 1, 2002.

Envirocare of Utah, Inc. 2002a. Request to amend Material License No. SMC-1599. Letter from Tye Rogers, Envirocare of Utah to Melvin Leach, Fuel Cycle Licensing Branch, NRC, dated July 12, 2002. Accession Number ML021990436.

Envirocare of Utah, Inc. 2002b. Request to amend Material License No. SMC-1599. Revised Section 17 of the license application. Letter from Tye Rogers, Envirocare of Utah to Daniel Gillen, Fuel Cycle Licensing Branch, NRC, dated September 4, 2002. Accession Number ML022680025.

NRC (U.S. Nuclear Regulatory Commission), 1993. Final Environmental Impact Statement to Construct and Operate a Facility to Receive, Store, and Dispose of 11e.(2) Byproduct Material Near Clive, Utah. NUREG-1476.

These references may be examined and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738. Some of the references may also be viewed in the NRC's Public Document Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. Any questions with respect to this action should be referred to Mr. Myron Fliegel, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T8-A33, Washington, DC 20555-0001. Telephone: (301) 415-6629.

Dated at Rockville, Maryland, this 24th day of November, 2002.

For the Nuclear Regulatory Commission.

##### Daniel M. Gillen,

Chief, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03-82 Filed 1-2-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 6, 2003:

Closed Meetings will be held on Tuesday, January 7, 2003, at 10 a.m., and Thursday, January 9, 2003, at 9 a.m., and an Open Meeting will be held on Wednesday, January 8, 2002, at 10 a.m., in Room 1C30, the William O. Douglas Room.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

The subject matter of the Closed Meeting scheduled for Tuesday, January 7, 2003 will be:

Formal orders of investigation; Institution and settlement of administrative proceedings of an enforcement nature; Institution and settlement of injunctive actions; Adjudicatory matters; and Opinion.

The subject matter of the Open Meeting scheduled for Wednesday, January 8, 2003 will be:

1. The Commission will consider whether to adopt new Rule 17a-10 and amendments to Rules 10f-3, 12d3-1, 17a-6, 17d-1, and 17e-1 under the Investment Company Act of 1940. The rule and amendments would eliminate the need for investment companies, and their portfolio affiliates and subadvisers, to obtain individual exemptive relief from the Commission to enter into transactions and arrangements that are not likely to raise the concerns that the Act was intended to address. The amendments to Rules 17a-6 and 17d-1 would expand the current exemptions for investment companies to enter into principal transactions and joint

arrangements with portfolio companies that are affiliated with an investment company because the investment company controls the portfolio company, or owns more than five percent of the portfolio company's voting securities. New Rule 17a-10 and the amendments to Rules 10f-3, 12d3-1, and 17e-1 would permit investment companies to enter into a variety of transactions with subadvisers that are affiliated with the investment company but not in a position to influence the investment company's decision to enter into the transaction.

2. The Commission will consider whether to issue proposals to direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the audit committee requirements established by the Sarbanes-Oxley Act of 2002. These requirements relate to: The independence of audit committee members; the audit committee's responsibility to select and oversee the issuer's independent accountant; procedures for handling complaints regarding the issuer's accounting practices; the authority of the audit committee to engage advisors; and funding for the independent auditor and any outside advisors engaged by the audit committee. The proposals would implement the requirements of Section 10A(m)(1) of the Securities Exchange Act of 1934, as added by Section 301 of the Sarbanes-Oxley Act of 2002.

The subject matter of the Closed Meeting scheduled for Thursday, January 9, 2003 will be:

Litigation matters; Institution and settlement of administrative proceedings of an enforcement nature; and Institution and settlement of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: December 31, 2002.

**Margaret H. McFarland,**  
Deputy Secretary.

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