

For the Nuclear Regulatory Commission.
Lawrence W. Rossbach,
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 Regulation.*
 [FR Doc. 99-13023 Filed 5-20-99; 8:45 am]
 BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289]

GPU Nuclear Inc., et al; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of GPU Nuclear, Inc., et al., (the licensee) to withdraw its August 29, 1996, application as supplemented by letter dated October 3, 1996, for proposed amendment to Facility Operating License No. DPR-50 for the Three Mile Island Nuclear Station, Unit No. 1, located in Dauphin County, Pa.

The proposed amendment requested deletion of several limiting conditions for operation and related surveillance requirements that the licensee judged did not meet the criteria for inclusion in technical specifications (TS) as set forth in 10 CFR 50.36(c)(2)(ii) and are not included in the Revised Standard Technical Specifications for B&W plants as delineated in NUREG 1430. The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 18, 1996 (61 FR 66708). However, by letter dated April 27, 1999, the licensee withdrew the proposed change request.

For further details with respect to this action, see the application for amendment dated August 29, 1996, as supplemented October 3, 1996, and the licensee's letter dated April 27, 1999, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Law/Government Publications Section, State Library of Pennsylvania, (Regional Depository) Walnut Street and Commonwealth Avenue, P.O. Box 1601, Harrisburg, PA 17105.

Dated at Rockville, MD, this 14th day of May 1999.

For the Nuclear Regulatory Commission.
Timothy G. Colburn, Sr.,
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 Directorate I, Division of Licensing Project
 Management, Office of Nuclear Reactor
 Regulation.*
 [FR Doc. 99-12904 Filed 5-20-99; 8:45 am]
 BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8989]

Order To Exempt Envirocare of Utah, Inc. From Certain NRC Licensing Requirements for Special Nuclear Material

Background

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is issuing an Order pursuant to section 274f of the Atomic Energy Act to Envirocare of Utah, Inc. (Envirocare) from certain NRC regulations. The exemption will allow Envirocare, under specified conditions, to possess waste containing special nuclear material (SNM), in greater mass quantities than specified in 10 CFR part 150, at Envirocare's low-level waste (LLW) disposal facility located in Clive, Utah, without obtaining an NRC license pursuant to 10 CFR part 70. NRC has previously published an Environmental Assessment (EA) and Finding of No Significant Impact in the **Federal Register**. In addition, a description of the operations at the facility and staff's safety analysis for the exemption are discussed in a Safety Evaluation Report (SER), which is available in the public docket room.

Order

I.

Envirocare of Utah, Inc. (Envirocare) operates a low-level waste disposal facility in Clive, Utah. This facility is licensed by the State of Utah, an NRC Agreement State, under a 10 CFR part 61 equivalent license (UT 2300249). In 1988, Envirocare began accepting naturally occurring radioactive material (NORM) waste. In 1992, Envirocare began accepting very low activity, low-level waste (LLW) primarily generated during the decommissioning of nuclear facilities. Envirocare's State of Utah radioactive materials license (RML) has been amended to permit disposal of other types of LLW. Envirocare is also licensed by Utah to dispose of mixed radioactive and hazardous wastes (MW). In addition, Envirocare has an NRC license to dispose of waste containing 11(e)2 byproduct material. The MW and

11(e)2 byproduct material are disposed of in separate disposal cells from the LLW. The MW and LLW streams may contain quantities of special nuclear material (SNM).

Envirocare receives wastes by rail and truck. Separate storage and disposal facilities exist for the LLW and MW. Envirocare's method of disposal is to remove the waste from its container or dump bulk waste into lifts and compact the material. Subsequent lifts of material are placed above completed lifts. The waste streams are diverse and vary from contaminated soils and debris from decommissioning facilities to dry active waste (DAW) and resins from operating facilities.

In addition to disposing of mixed waste, Envirocare also has capabilities to treat mixed waste prior to disposal. This treatment typically includes chemically stabilizing of hazardous constituents by mixing the waste with various reagents, and micro- and macro-encapsulation of waste with low density polyethylene plastic. The applicable hazardous waste regulations require bench scale treatability studies prior to treating the bulk of the waste.

II

Pursuant to 10 CFR 70.14, "the Commission may * * * grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest."

Section 70.3 of 10 CFR Part 70 requires persons who own, acquire, deliver, receive, possess, use, or transfer SNM to obtain a license pursuant to the requirements in 10 CFR Part 70. Section 10 CFR 150.10 exempts persons in Agreement States, who possess SNM in quantities not sufficient to form a critical mass, from Commission-imposed licensing requirements and regulations. The method for calculating a quantity of SNM not sufficient to form a critical mass is set forth in 10 CFR 150.11. Therefore, Envirocare is currently limited by regulation and its State of Utah license to possess SNM in quantities set out in 10 CFR 150.10 and 150.11. The SNM possession limits in the regulation and license, as they relate to LLW disposal facilities, apply to above-ground possession prior to disposal. Therefore, once the SNM is disposed of, the possession limits no longer apply.

In response to an inspection by the State of Utah which determined that Envirocare had exceeded its Agreement State license limits for the possession of U-235, NRC conducted its own

inspection of the facility. As a result of this inspection, NRC issued a Confirmatory Order (Order), dated June 25, 1997, which required Envirocare to reduce its possession of SNM to the amounts prescribed in 10 CFR 150.11 and Envirocare's Agreement State license, and to submit a compliance plan (CP) for meeting 10 CFR 150.10 and 150.11 to NRC for approval. Condition 3 of the Order required Envirocare to include all SNM in the restricted area at the site in applying the limitations in 10 CFR 150.10 and 150.11. Envirocare submitted a CP dated July 23, 1997, which was approved by NRC in a letter, dated August 1, 1997. Under the provisions of the CP, all waste containing SNM with the exception of waste "in transport" which is located within the restricted area at Envirocare's site is subject to the limitations in 10 CFR 150.10 and 150.11. However, trucks containing SNM waste can proceed directly to the disposal cell and would be considered "in transport" and not in Envirocare's possession. This condition is applicable provided that the waste was disposed of on the same calendar day as arrival, and that the amount of SNM in any individual truck did not exceed the limits in 10 CFR 150.11. When NRC approved the CP on August 13, 1997, Condition 3 of the Order was revised to incorporate the terms of the CP.

When Envirocare submitted its July 23, 1997, CP, it noted that application of the "in transport" approach to rail shipments and shipments disposed on the same day they are received would greatly assist operational flexibility at no risk to public health and safety. Based on consultation with the U.S. Department of Transportation (DOT), the NRC has concluded that the "in transport" approach would not apply to rail shipments. However, the staff believes the circumstances warrant some action to provide Envirocare the needed flexibility without undue risk to public health and safety. The NRC staff has been informed that, in order to accommodate possession limits, rail shipments containing SNM waste are being transferred to trucks in Salt Lake City, Utah, for transport to the Envirocare disposal facility. In response to questions raised in a letter from the State of Utah, NRC accompanied DOT on an inspection of the Salt Lake City rail yard and to the carriers facilities. DOT concluded that the process observed met DOT's requirements; however, NRC staff concluded that the process resulted in an increased number of trips, leading to a slightly higher probability of a transportation accident.

Prior to the Order and CP, these shipments were transported by rail directly to the site. Thus the Order and CP have led to increased waste handling and the increased possibility of container rupture and resultant spillage in a metropolitan area.

III

NRC staff has reviewed the current shipping practice and considers it to be less desirable from a health and safety standpoint than having the rail cars proceed directly to the site. However, Condition 3 of the Order and the CP, as they now stand, effectively preclude many rail cars containing SNM from being brought onto the Envirocare site. Envirocare would need to obtain a license or an exemption from the NRC under 10 CFR part 70 that would permit it to possess the SNM in the cars on the site. Such SNM might well exceed the limits in 10 CFR 150.10 and 150.11, as well as the limits of the State of Utah license.

In this instance, the staff believes that the appropriate action is to issue Envirocare an exemption. Specifically, Envirocare would be exempted from the requirements of 10 CFR part 70, including the requirements for an NRC license in 10 CFR 70.3, for SNM within the restricted area at Envirocare's site, provided that:

1. Concentrations of SNM in individual waste containers must not exceed the following values at time of receipt:

Radionuclide	Maximum concentration (pCi/g)	Measurement uncertainty (pCi/g)
U-235 ^a	1900	285
U-235 ^b	1190	179
U-235 ^c	160	24
U-235 ^d	680	102
U-233	75,000	11,250
Pu-236	500	75
Pu-238	10,000	1,500
Pu-239	10,000	1,500
Pu-240	10,000	1,500
Pu-241	350,000	50,000
Pu-242	10,000	1,500
Pu-243	500	75
Pu-244	500	75

^a For uranium below 10 percent enrichment and a maximum of 20 percent MgO of the weight of the waste.

^b For uranium at or above 10 percent enrichment and a maximum of 20 percent MgO of the weight of the waste.

^c For uranium at any enrichment with unlimited MgO or beryllium.

^d For uranium at any enrichment with sum of MgO and beryllium not exceeding 49 percent of the weight of the waste.

The measurement uncertainty values in column 3 above represent the maximum one-sigma uncertainty

associated with the measurement of the concentration of the particular radionuclide.

The SNM must be homogeneously distributed throughout the waste. If the SNM is not homogeneously distributed, then the limiting concentrations must not be exceeded on average in any contiguous mass of 145 kilograms.

2. Except as allowed by notes a, b, c, and d in Condition 1, waste may not contain "pure forms" of chemicals containing carbon, fluorine, magnesium, or bismuth in bulk quantities (e.g., a pallet of drums, a B-25 box). By "pure forms," it is meant that mixtures of the above elements such as magnesium oxide, magnesium carbonate, magnesium fluoride, bismuth oxide, etc. do not contain other elements. These chemicals would be added to the waste stream during processing, such as at fuel facilities, or treatment such as at mixed waste treatment facilities. The presence of the above materials will be determined by the generator, based on process knowledge or testing.

3. Except as allowed by notes c and d in Condition 1, waste accepted may not contain total quantities of beryllium, hydrogenous material enriched in deuterium, or graphite above one percent of the total weight of the waste. The presence of the above materials will be determined by the generator, based on process knowledge, physical observations, or testing.

4. Waste packages may not contain highly water soluble forms of uranium greater than 350 grams of uranium-235 or 200 grams of uranium-233. The sum of the fractions rule will apply for mixtures of U-233 and U-235. Highly soluble forms of uranium include, but are not limited to: uranium sulfate, uranyl acetate, uranyl chloride, uranyl formate, uranyl fluoride, uranyl nitrate, uranyl potassium carbonate, and uranyl sulfate. The presence of the above materials will be determined by the generator, based on process knowledge or testing.

5. Mixed waste processing of waste containing SNM must be limited to stabilization (mixing waste with reagents), micro-encapsulation, and macro-encapsulation using low-density polyethylene.

6. Envirocare shall require generators to provide the following information for each waste stream:

Pre-Shipment

1. Waste Description. The description must detail how the waste was generated, list the physical forms in the waste, and identify uranium chemical composition.

2. Waste Characterization Summary. The data must include a general description of how the waste was characterized (including the volumetric extent of the waste, and the number, location, type, and results of any analytical testing), the range of SNM concentrations, and the analytical results with error values used to develop the concentration ranges.

3. Uniformity Description. A description of the process by which the waste was generated showing that the spatial distribution of SNM must be uniform, or other information supporting spatial distribution.

4. Manifest Concentration. The generator shall describe the methods to be used to determine the concentrations on the manifests. These methods could include direct measurement and the use of scaling factors. The generator shall describe the uncertainty associated with sampling and testing used to obtain the manifest concentrations.

Envirocare shall review the above information and, if adequate, approve in writing this pre-shipment waste characterization and assurance plan before permitting the shipment of a waste stream. This will include statements that Envirocare has a written copy of all the information required above, that the characterization information is adequate and consistent with the waste description, and that the information is sufficient to demonstrate compliance with conditions 1 through 4. Where generator process knowledge is used to demonstrate compliance with conditions 1, 2, 3, or 4, Envirocare shall review this information and determine when testing is required to provide additional information in assuring compliance with the conditions. Envirocare shall retain this information as required by the State of Utah to permit independent review.

At Receipt

Envirocare 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, that the measurement uncertainty does not exceed the uncertainty value in Condition 1, and that the waste meets conditions 2 through 4.

7. Sampling and radiological testing of waste containing SNM shall be performed in accordance with the Utah Division of Radiation Control license Condition 58.

8. Envirocare 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. Envirocare shall obtain NRC approval prior to changing any activities associated with the above conditions.

Considering that this exemption will permit Envirocare to exceed the SNM possession limits in 10 CFR part 150 which will be in direct conflict with the Confirmatory Order dated June 25, 1997, the Confirmatory Order is hereby rescinded when this Order becomes effective. Moreover, the provisions in Envirocare's CP will no longer be in effect.

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 principle emphasis of part 70 is criticality safety and safeguarding SNM against diversion or sabotage. The NRC staff believes that criticality safety can be maintained by relying on concentration limits, under the specified conditions. Section 150.11 establishes the quantities of SNM considered not sufficient to form a critical mass. The concentration limits in this notice are considered as an acceptable alternative to the definition provided in § 150.11, thereby assuring the same level of protection. Moreover, storing the SNM within the Envirocare restricted area will increase the security and safeguarding of the SNM.

Therefore, the Commission concludes that this proposed exemption will have no significant radiological or nonradiological environmental impacts.

IV

Based on the above evaluation, the Commission has determined, pursuant to 10 CFR 70.14, that the exemption of above activities at the Envirocare disposal facility is authorized by law, and will not endanger life or property or the common defense and security and are otherwise in the public interest. Accordingly, by this Order the Commission hereby grants this exemption. The exemption will become effective after the State of Utah has incorporated the above conditions into Envirocare's RML.

Pursuant to the requirements in 10 CFR part 51, the Commission has published an EA 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. Copies of the EA and SER are available for public inspection at the Commission's Public Document Room, located at 2120 L Street, NW, Washington, DC 20037.

Dated at Rockville, MD., this 7th day of May 1999.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99-12905 Filed 5-20-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Number 40-8102]

Exxon Corp., Highlands, WY

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) proposes to amend Exxon Corporation's (Exxon's) Source Material License SUA-1139, to allow alternate concentration limits (ACLs) for groundwater hazardous constituents at the Highland uranium mill site in Converse County, Wyoming. An Environmental Assessment (EA) was performed by the NRC staff in accordance with the requirements of 10 CFR part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for this licensing action.

SUPPLEMENTARY INFORMATION:

Background

By letter of December 18, 1998, Exxon requested that Source Material License SUA-1139 be amended to allow ACLs for groundwater constituents, nickel, radium-226 & 228 combined, and natural uranium, at Exxon's Highland uranium mill site. Exxon's application for ACLs proposed discontinuing the site groundwater corrective action program (CAP) in order to complete placement of the final radon barrier over the tailings and complete reclamation of the site. In order to terminate the CAP, the licensee must meet 10 CFR part 40, appendix A, Criterion 5B(5), which requires that, at the point of compliance (POC), the concentration of a hazardous constituent must not exceed the established background concentration of that constituent, the maximum concentration limits (MCLs) given in Table 5C of Appendix A, or an alternate concentration limit established by the NRC. The receipt of Exxon's request by NRC and a Notice of Opportunity for a Hearing were published in the **Federal Register** on January 13, 1999.