

ENVIROCARE OF UTAH, INC.
THE SAFE ALTERNATIVE

CD02-0503

December 16, 2002

U.S. Nuclear Regulatory Commission
ATTN: Stuart Treby
Office of Legal Council
Mail Stop O15-D21
One White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738

Subject: Request for concurrence with interpretations of 10 CFR 20, Appendix G.

Dear Mr. Treby:

On September 11, 2002, the Utah Division of Radiation Control (DRC) amended Envirocare's Radioactive Materials License to allow receipt of Low-Level Radioactive Waste (LLRW) and Mixed Waste (MW) radioactive liquids for solidification. During the DRC amendment review process, transportation and packaging requirements for shipments containing radioactive liquids were reviewed and discussed. Specifically, the packaging requirement for liquid shipments specified in 10 CFR 61.56 was evaluated. This regulation requires that radioactive liquid shipments transported to a disposal facility be packaged in sufficient absorbent material to absorb twice the volume of the liquid. However, radioactive liquid shipments that are transported to a processing facility only have to comply with Department of Transportation (DOT) requirements which allows other packaging options. Since Envirocare operates both a disposal facility and a processing (treatment) facility, it is Envirocare's interpretation that liquid shipments transported to the processing facility for solidification do not need to meet the packaging requirements specified in 10 CFR 61.56 and can follow alternative DOT packaging requirements.

Envirocare has met with the DRC on this issue. The DRC has indicated that they must defer to the NRC on this issue because it is an NRC rule that must be followed and should be interpreted the same throughout the country. Envirocare has contacted the NRC transportation department (David Pstrak) and have discussed Envirocare's interpretation. They also agreed with this interpretation, but stated that they were not able to provide it in writing. David Pstrak stated that this would have to come from your office. Therefore, Envirocare is requesting an informal letter stating the NRC's interpretation of these regulations. The justification for Envirocare's interpretation is provided below.

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10 CFR 20, Appendix G, III, A., exempts licensees who transfer waste to a licensed waste processor from the waste characteristic requirements specified in 10 CFR 61.56. A waste processor is also defined in this part as follows:

Waste processor means an entity, operating under a Commission or Agreement State license, whose principle purpose is to process, repackage, or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

A low-level radioactive waste land disposal facility is also defined in this part as follows (in part):

Land Disposal facility means the land, buildings and structures, and equipment which are intended to be used for the disposal of radioactive wastes.

Under the provisions in its Agreement State Radioactive Materials License, Condition 14, Envirocare processes (treats) low-level radioactive waste. These processing activities include stabilization, solidification, encapsulation, super compaction, and now thermal desorption. Each of these processes have been thoroughly review and approved by the DRC and the Utah Division of Solid and Hazardous Waste (DSHW). Envirocare performs these activities in a facility segregated from their disposal facility. The Mixed Waste Treatment Facility primary, even sole purpose, is to process waste prior to eventual disposal. It does not utilize the same land, buildings, structures, and equipment that the disposal facility uses in disposal operations. In addition, the Mixed Waste Treatment Facility is regulated by an additional state division (DSHW) and permit, operated by a separate facility manager and site personnel, and they perform treatment activities under a separate set of Standard Operating Procedures. As such, the Mixed Waste Treatment Facility meets the definition of a licensed waste processor cited above and should be exempt from the packaging requirements of 10 CFR 61.56 for wastes that are received for processing prior to disposal.

The Department of Transportation (DOT) does not require that all radioactive liquid shipments be packaged in absorbent sufficient to absorb twice the volume of liquid. In fact, for shipments that contain less than Type A quantities, the only requirement is that the package be capable of withstanding, without leakage, an internal pressure that produces a pressure differential of not less than 95 kPa (49 CFR 173.410). It is not until the package quantity meets Type A that it is required to be packaged with absorbent. And even then, a transporter has the option of packaging with sufficient absorbent or using a containment system composed of primary inner and secondary outer containment components (49 CFR 173.412, k, 3). Nearly all shipments received at the bulk waste facility contain quantities less than Type A. This will be especially true for potential liquid shipments. Most shipments are transported to the facility under Low Specific Activity (LSA) requirements.

The LSA packaging and transportation requirements for radioactive liquid shipments are specified in 49 CFR 173.427(c)(2). Certified tank cars and cargo tank motor vehicles are

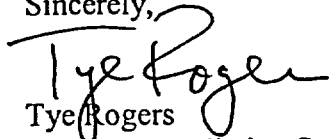
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typically used to transport large volume radioactive liquids. This would be the typical container that utilized for radioactive liquid shipments to Envirocare.

In conclusion, Envirocare's Mixed Waste Treatment Facility meets the definition of a licensed waste processor. Liquid waste received at this facility will be solidified prior to disposal. As such, Envirocare should be able to take advantage of the exemption provided in 10 CFR 20, Appendix G, for shipments transported to a licensed processor which include the packaging requirements specified in 10 CFR 61.56. DOT regulations provide an adequate margin of safety for liquid shipments transported to Envirocare.

If you have any questions concerning this matter, please contact me at (801) 532-1330.

Sincerely,

A handwritten signature in black ink, appearing to read "Tye Rogers". The signature is written in a cursive style with a large, looping initial "T".

Tye Rogers
Corporate Radiation Safety Officer