

**MERIT SYSTEMS PROTECTION BOARD****Sunshine Act Meeting****Merit Systems Protection Board****ACTION:** Notice.

**SUMMARY:** Pursuant to the Government in the Sunshine Act (5 U.S.C. 552(b)), notice is hereby given that the Merit Systems Protection Board is holding a closed meeting on November 14, 2001, at 2 p.m., in the Board's conference room at 1615 M Street, NW., 6th Floor, Washington, DC 20419. In calling the meeting, the Board determined that Board business required its consideration of the agenda item on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matter could be considered by authority of subsections (c)(10) and (c)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(10) and 5 U.S.C. 552b(c)(2)).

**Matter to Be Considered:**

Briefing of the Board members on issues in the matter of *Mohammed Yunus v. Department of Veterans Affairs*, and *Phillip A. Geyer v. Department of Justice*.

**CONTACT PERSON FOR ADDITIONAL**

**INFORMATION:** Shannon McCarthy or Matthew Shannon, Office of the Clerk of the Board, (202) 653-7200.

Dated: November 9, 2001.

**Robert E. Taylor,***Clerk of the Board.*

[FR Doc. 01-28691 Filed 11-9-01; 4:35 pm]

**BILLING CODE 7400-01-M****NATIONAL COUNCIL ON DISABILITY****Advisory Committee Meeting/  
Teleconference****AGENCY:** National Council on Disability (NCD).

**SUMMARY:** This notice sets forth the schedule of the forthcoming meeting/teleconference for NCD's Youth Advisory Committee. Notice of this meeting is required under Section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92-463).

*Youth Advisory Committee:* The purpose of NCD's Youth Advisory Committee is to Provide input into NCD activities consistent with the values and goals of the Americans with Disabilities Act.

Date: December 6, 2001, 4 p.m. EST.

*For Youth Advisory Committee Information, Contact:* Gerrie Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F. Street NW., Suite 850, Washington, DC 2004; 202-272-2004 (voice), 202-272-2074 (TTY), 202-272-2022 (fax), ghawkins@nacd.gov (e-mail).

*Agency Mission:* The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on disability issues.

We currently have a membership reflecting our nation's diversity and representing a variety of disabling conditions from across the United States.

*Opening Meeting:* This advisory committee meeting/teleconference of the National Council on Disability will be open to the public. Those interested in participating in the meeting/teleconference should contact the appropriate staff member listed above. Due to limited resources, only a few telephone lines will be available.

Records will be kept of all Youth Advisory Committee meetings/teleconferences and will be available after the meeting for public inspection of the National Council on Disability.

Signed in Washington, DC., on November 9, 2001.

**Ethel D. Briggs,***Executive Director.*

[FR Doc. 01-28615 Filed 11-14-01; 8:45 am]

**BILLING CODE 6820-MA-M****NUCLEAR REGULATORY COMMISSION****[Docket No. 70-7005]****Waste Control Specialists, LLC (WCS);  
Order to Exempt Waste Control  
Specialists, LLC From Requirements  
Relative to the Possession of Special  
Nuclear Material (SNM)****I**

In a letter dated September 25, 2000, Waste Control Specialists, LLC (WCS) requested an exemption for certain U.S.

Nuclear Regulatory Commission (NRC) regulations relative to the possession of special nuclear material (SNM). A license pursuant to 10 CFR part 70 issued by NRC is required for quantities of SNM in excess of the limits in 10 CFR 150.11. WCS is requesting an exemption from licensing under part 70 for possession of greater than the part 150 SNM limits. NRC issued a similar exemption to Envirocare of Utah, Inc. in May 1999.

WCS operates a low level waste (LLW) and mixed waste (MW) storage and treatment facility in Andrews County, Texas. The facility also disposes of hazardous waste. Texas is an NRC Agreement State. This facility is licensed by the State of Texas Department of Health (TDH) under a 10 CFR Part 30 equivalent radioactive materials license (RML). The facility is also licensed by the Texas Natural Resource Conservation Commission (TNRCC) to treat and dispose of hazardous waste. In 1997, WCS began accepting Resource Conservation and Recovery Act (RCRA) and Toxic Substance Control Act (TSCA) wastes for treatment, storage, and disposal. Later that year, WCS received a license from TDH for treatment and storage of MW and LLW. The MW and LLW streams may contain quantities of SNM.

WCS receives wastes by rail and truck. All of the waste received by truck and some of the waste received by rail are in containers. These containers vary in size from 55-gallon drums to 70 cubic yard intermodal containers. Bulk waste received by rail is placed in large (90 cubic yard) roll-off containers. Separate storage and treatment facilities exist for the RCRA and TSCA waste and the MW and LLW. Storage of the MW and LLW occurs in two buildings and an adjacent outside area. WCS treats mixed waste using several technologies including (1) chemical stabilization, (2) shredding, (3) deactivation, (4) neutralization, and (5) macro encapsulation with cement. WCS is also permitted by TDH to perform compaction using a Ramflat compactor. WCS is also considering adding a solvated electron technology (SET) system and macro encapsulation using low density polyethylene. The SET is authorized in the TDH license for pilot testing. 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, WCS is currently limited by NRC regulation to possess SNM in quantities set out in 10 CFR 150.10 and 150.11. The State of Texas has a similar possession limit in the license it issued to WCS. WCS requested the exemption because it expects that the current limits set forth in 10 CFR part 150 will severely impact its ability to compete in the mixed waste treatment market. The exemption proposed to apply concentration-based limits rather than mass-based limits.

**III**

The staff believes that the appropriate action is to issue WCS an exemption. Specifically, WCS 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 WCS’s site, provided that:

1. Concentrations of SNM in individual waste containers and/or during processing must not exceed the following values:

SNM isotope	Operational Limit (gram SNM/gram waste)	Measurement Uncertainty (gram SNM/gram waste)
U-233	4.7E-04	7.1E-05
U-235 (10 percent enriched)	9.9E-04	1.5E-04
U-235 (100 percent enriched)	6.2E-04	9.3E-05
Pu-239	2.8E-04	4.2E-05
Pu-241	2.2E-04	3.2E-05

When mixtures of these SNM isotopes are present in the waste, the sum-of-the-

fractions rule, as illustrated below, should be used.

$$\frac{\text{U-233 conc}}{\text{U-233 limit}} + \frac{100\text{wt}\% \text{U-235 conc}}{100\text{wt}\% \text{U-235 limit}} + \frac{10\text{wt}\% \text{U-235 conc}}{10\text{wt}\% \text{U-235 limit}} + \frac{\text{Pu-239 conc}}{\text{Pu-239 limit}} + \frac{\text{Pu-241 conc}}{\text{Pu-241 limit}} \leq 1$$

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 600 kilograms.

2. Waste must 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. The presence of the above materials will be determined and documented by the generator, based on process knowledge or testing.

3. Waste accepted must not contain total quantities of beryllium, hydrogenous material enriched in deuterium, or graphite above one tenth of one percent of the total weight of the waste. The presence of the above materials will be determined and

documented by the generator, based on process knowledge, or testing.

4. Waste packages must not contain highly water soluble forms of SNM greater than 350 grams of U-235 or 200 grams of U-233 or 200 grams of Pu. The sum of the fractions rule will apply for mixtures of U-233, U-235, and Pu. When multiple containers are processed in a larger container, the total quantity of soluble SNM shall not exceed these mass limits. Highly soluble forms of SNM include, but are not limited to: uranium sulfate, uranyl acetate, uranyl chloride, uranyl formate, uranyl fluoride, uranyl nitrate, uranyl potassium carbonate, uranyl sulfate, plutonium chloride, plutonium fluoride, and plutonium nitrate. The presence of the above materials will be determined and documented by the generator, based on process knowledge or testing.

5. Processing of mixed waste containing SNM will be limited to chemical stabilization using the following chemicals: ferrous sulfate, ferrous sulfide, portland cement, sodium hypochlorite, sodium tripolyphosphate, Metaplex II (attapulgate-type clay), hexaderyl mescaptan, lime, sodium hydroxide, Metaplex III, hydrogen peroxide, sodium

metabisulfate, sodium sulfide, and sodium hydrosulfide.

Prior to shipment of waste, WCS shall require generators to provide a written certification containing the following information for each waste stream:

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

b. *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.

c. *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.

d. *Manifest Concentration.* The generator must 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 must

describe the uncertainty associated with sampling and testing used to obtain the manifest concentrations.

WCS 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 WCS 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, WCS shall review this information and determine when testing is required to provide additional information in assuring compliance with the Conditions. WCS shall retain this information as required 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, that the measurement uncertainty does not exceed the uncertainty value 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 at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 600 kg, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 6,000 kg, and (c) if the concentrations are below one hundredth of the SNM limits, once per 60,000 kg.

If the waste is determined to be not homogeneous (i.e., maximum, which cannot exceed the limits in Condition 1, and minimum testing values performed by the generator are greater than five times the average value), the generator shall sample and determine the SNM concentration once per 600 kg thereafter, regardless of SNM concentration. In this case, samples shall be a composite consisting of four uniformly sampled aliquots.

The certifications required under these conditions shall be made in writing and include the statement that the signer of the certification understands that this information is required to meet the requirements of the U.S. Nuclear Regulatory Commission and must be complete and accurate in all material respects.

7. WCS shall sample and determine the SNM concentration for each waste stream at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 1,500 kg for the first shipment and every 6,000 kg thereafter, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 20,000 kg for the first shipment and every 60,000 kg thereafter, and (c) if the concentrations are below one hundredth of the SNM limits, once per 600,000 kg. This confirmatory testing is not required for waste to be disposed of at DOE's WIPP facility.

If the waste is determined to be not homogeneous (i.e., maximum and minimum testing values performed by the generator are greater than five times the average value), WCS shall sample and determine the SNM concentration once per 1,500 kg for the first shipment and every 6,000 kg thereafter, regardless of SNM concentration. In this case, samples shall be a composite consisting of four uniformly sampled aliquots.

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.

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 principal emphasis of part 70 is criticality safety and safeguarding SNM against diversion or sabotage. Staff considers that criticality safety can be maintained by relying on concentration limits, under the conditions specified above. Safeguarding SNM against diversion or sabotage is not considered a significant issue because of the diffuse form of the SNM in waste meeting the above conditions. These concentration limits are considered an alternative definition of quantities not sufficient to form a critical mass to the weight limits in 10 CFR 150.11, thereby assuring the same level of protection.

The Commission concludes that this proposed exemption will have no significant radiological or nonradiological environmental impacts. Accordingly, the Commission has determined, pursuant to 10 CFR 70.14, that the exemption of above activities 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 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 One White Flint North, Room 0-1F21, 11555 Rockville Pike, Rockville, MD 20852.

Dated at Rockville, Maryland, this 30th day of October 2001.

For the Nuclear Regulatory Commission.

**Martin J. Virgilio,**

*Director, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 01-28661 Filed 11-14-01; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards

#### Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on November 28, 2001, Room T-2B1, 11545 Rockville Pike, Rockville, Maryland.

Portions of the meeting may be closed to public attendance to discuss Electric Power Research Institute proprietary information per 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

*Wednesday, November 28, 2001—8:30 a.m. until the conclusion of business.*

The Subcommittee will: (1) Continue review of the NRC Office of Nuclear Regulatory Research activities pertaining to thermal-hydraulic phenomena in support of the ACRS annual report to the Commission on the NRC Safety Research Program, and (2) discuss a proposal by the licensees of the Point Beach and Beaver Valley plants to perform more-realistic analysis for containment design-basis accidents using the MAAP code. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the