

MAR 15 1988

TO: ALL NRC URANIUM RECOVERY LICENSEES

SUBJECT: WHETHER OR NOT URANIUM MILL TAILINGS MATERIAL IS A MIXED WASTE

On October 24, 1988, our office sent you a Federal Register notice issued by the U. S. Environmental Protection Agency (EPA) relative to radioactive mixed waste. Since then, a number of questions have been raised as to the applicability of this notice to uranium mill tailings.

Source, special nuclear, and byproduct material are specifically excluded from regulation under the Resource Conservation and Recovery Act (RCRA). Under Section 11(e)(2) of the Atomic Energy Act, byproduct material is defined to include "the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content." All tailings and wastes included in this definition, such as process fluids and nonradioactive ore residues, are thus byproduct material. Wastes from the decommissioning of buildings and equipment whose primary function was to conduct the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, are considered to be byproduct material. These byproduct material wastes generated by uranium recovery licensees are not mixed wastes and are not subject to EPA regulation under RCRA.

However, byproduct material could become "mixed waste" if it is mixed with hazardous waste. For example, if a licensee had waste that was not byproduct material under the AEA, that was a listed hazardous waste under Subpart D of 40 CFR Part 261, and disposed of this waste by mixing it with Section 11(e)(2) byproduct material (e.g., uranium mill tailings), then the entire mixture would become subject to EPA's RCRA regulations because it contained hazardous waste. In this hypothetical situation uranium mill tailings would indeed be a mixed waste.

Because of the potential regulatory impacts, we suggest that you be certain that you do not introduce any waste into tailings that is a hazardous waste under EPA's RCRA regulations.

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In summary: (1) uranium tailings material that is byproduct material is not mixed waste, provided it is not mixed with non-AEA material which is hazardous waste; and (2) care should be taken not to mix hazardous waste with tailings material.

If there are questions about this please contact me at (301) 492-0553. You may also wish to contact EPA through their RCRA Hotline, at 1-800-424-9346.

Sincerely,

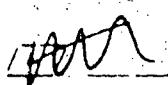
(SIGNED) PAUL H. LOHAUS

Paul H, Lohaus, Chief
Operations Branch
Division of Low-Level Waste Management
and Decommissioning, NMSS

cc: R. Dale Smith, NRC/URFO

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PDR/NUDOCS Yes No ACNW Yes No 

SUBJECT ABSTRACT: WHETHER MILL TAILINGS ARE MIXED WASTE

OFC : LLRB : LLRB : OGC : LLOB :

NAME: *DMartin* / ec: *TJohnson* : RFonner : PLohaus :

DATE: 3/8/89 : 3/8/89 : / /89 : / /89 :

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In summary: (1) tailings or waste that is byproduct material is not mixed waste, provided it is not mixed with non-AEA material which is hazardous waste; and (2) care should be taken not to mix hazardous waste with tailings material.

If there are questions about this please contact me at (301) 492-0553. You may also wish to contact EPA through their RCRA Hotline, at 1-800-424-9346.

Sincerely,

Paul H. Lohaus, Chief
Operations Branch
Division of Low-Level Waste Management
and Decommissioning, NMSS

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PDR/NUDOCS Yes No

ACNW Yes No

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* See Previous Concurrence

OFC :LLRB*	:LLRB*	:OGC	:LLOB <i>PAH</i>	:LLWM	:NMSS	:NMSS
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