

Paul H. Lohaus, Director
Office of State Programs
U. S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Mr. Lohaus:

I need clarification on the classification of certain process waste. Is the radioactive waste from a plant that converts U_3O_8 to UO_2 considered to be 11.e.(2) waste or source material waste and therefore low-level radioactive waste? Similarly, is the radioactive waste from a UO_2 to uranium fluoride conversion facility 11.e.(2) waste or low-level radioactive waste?

Is the Nuclear Regulatory Commission (NRC) aware of any conventional uranium mill or in situ recovery facility that ever processed beyond the U_3O_8 stage?

Thank you for assistance in providing this information.

EDB

William J. Almas
Manager of Environmental and Regulatory Affairs
Molycorp Inc.
P. O. Box 124
Mountain Pass, California 92366

Dear Mr. Almas:

I am very sorry for the delay in responding to your request for a determination of whether or not the wastes coming from the processing of rare earth ores containing source material would be considered as regulated under the federal Atomic Energy Act (AEA) and the regulations promulgated under its authority by the U. S. Nuclear Regulatory Commission (NRC).

While the subject ores are source material, they were not and are not being processed primarily for their source material content; therefore, the wastes generated by this processing are not byproduct material as defined in Title 10 Code of Federal Regulations Part 40 section 4 (10CFR40.4) and are not regulated by the NRC as byproduct material.

Furthermore, the NRC has recently determined that wastes containing less than 0.05% by weight of source material fall under the exemption contained in 10 CFR 40.13(a), and that the NRC would not regulate the disposal of these wastes. While several states have objected to this determination by the NRC for the particular waste stream that prompted the determination, it is nevertheless the current policy of the NRC. Therefore, it appears that the wastes from your operations would not be subject to NRC regulation if you were located in a state where the NRC retains jurisdiction.

Please be advised that California is not limited in its jurisdiction over radioactive materials/wastes to the same extent the NRC is by federal law. Likewise, other states have more over-reaching radiation control laws than the NRC. Prior to shipping your wastes for disposal, it would be prudent to get written affirmation from the cognizant state radiation control agency in the state where the disposal is to occur that the disposal is acceptable at the selected disposal site.

EDB

Alice Hamilton Rogers, P. E., Manager
Radioactive Waste Section
Texas Natural Resource Conservation Commission
P. O. Box 13087
Austin, Texas 78711-3087

Dear Ms. Rogers:

Attached is a copy of a letter that is being sent to Molycorp, Inc. regarding the classification of some radioactive wastes that were generated at its facility in Mountain Pass, California.

This waste resulted from the cleanup of contamination from spills that occurred due to breaks in a pipeline carrying waste waters between the plant and evaporation/infiltration treatment ponds located about 14 miles away. The wastes consist primarily of soil contaminated with the scale which builds up on the inside of the pipes. This waste contains isotopes of radium resulting from the decay of thorium and uranium.

It is my understanding that this waste will be disposed of at the Waste Control Specialists (WCS) site in Texas with the approval of your agency. I know that there have been some questions about what WCS can and cannot take for disposal so I am alerting you to actions we are taking with regard to a potential disposal in a site your agency regulates.

If I can provide additional information or answer any questions, please let me know.

I look forward to seeing you at the Agreement States Meeting in Austin.

EDB