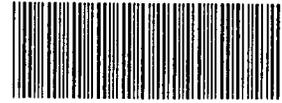




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SEP 14 1987

87-RF-3723

Albert E. Whiteman  
Area Manager  
DOE, RFAO

ROCKY FLATS POSITION CONCERNING REGULATORY AUTHORITY OF TRU MIXED RESIDUES AND TRU MIXED WASTE

On July 31, 1987, the United States Court of Appeals for the District of Columbia Circuit decided the case of American Mining Congress, et al. v. Environmental Protection Agency (Nos. 85-1206, 85-1208). In this case trade associations representing mining and oil refining interests argued that EPA's reuse and recycle rules, as embodied in the regulatory definition of solid waste and as applied to in-process secondary materials, exceed EPA's statutory authority because these materials are not "discarded." In a split decision (2-1) the Court decided in favor of the trade association and struck down the EPA reuse and recycling rules.

This favorable decision has far reaching application to many recycling activities at the Plant, most notably over plutonium recovery operations. Following is our position on how this decision would apply to plutonium activities.

At Rocky Flats, TRU-contaminated material which is co-contaminated with hazardous constituents is generated in all areas which handle plutonium. Solids are collected in cans or plastic bags, segregated by Item Description Code (IDC) (graphite, paper, plastic, etc.) and placed in 55-gallon drums. Each can or 55-gallon drum is assayed to determine the plutonium content. For each IDC there is an Economic Discard Level (EDL), i.e., the plutonium concentration below which it is not economically beneficial to recover the plutonium. The material which is above the EDL is considered a recoverable residue or scrap and is stored for plutonium recovery (see Figure 1). Per the Court decision, American Mining Congress et al. v. Environmental Protection Agency (Nos. 85-1206, 85-1208), recyclable residues clearly are not subject to RCRA. The material which is below the EDL is determined to be TRU waste and, if otherwise hazardous, would be subject to RCRA regulation. Certain categories of TRU waste, i.e., non-line-generated waste, are further assayed in a special assay system which can discriminate plutonium concentrations at the 100 nCi/g level. Those containers which exceed 100 nCi/g are considered TRU waste; those which are equal to or less than 100 nCi/g are identified as low level waste. (See Figures II and III.)

DIST	ITC	ERT
SANCHINI, D J	X	X
BADER, C P	✓	✓
CAMPBELL, G W	✓	✓
HOOD, R C	✓	✓
KINZER, J. E.	✓	✓
KIRBY, W. A.	✓	✓
MCNETT, J.F.	✓	✓
MEYERS, G.W.	✓	✓
SHANNON, W.M.	✓	✓
SMITH, R.E.	✓	✓
WEIDNER, C.W.	✓	✓
WESTON, W.F.	✓	✓
WILSON, G.L.	✓	✓
WOZNAK, S.D.	✓	✓
YOUNG, E.R.	✓	✓
BETCHER, D.H.	✓	✓
CARNIVAL, G.J.	✓	✓
HARMAN, L.K.	✓	✓
HEBERT, J.L.	✓	✓
HOEY, J.B.	✓	✓
HOFFMAN, R.B.	✓	✓
KRIEG, D.M.	✓	✓
LIM, B.W.	✓	✓
LOUDENBURG, G.E.	✓	✓
NAIMON, E.R.	✓	✓
NEWBY, R.L.	✓	✓
ROECKER, J.H.	✓	✓
VELASQUEZ, R.N.	✓	✓
McINNEY, E.B.	✓	✓
POTER, G.L.	✓	✓
CORRES. CONTROL	X	X
FICKE, R.C.	✓	✓
NIJSEN, J.H.	✓	✓
KENNART, W.D.	✓	✓
WICKLAND, C.E.	✓	✓
LERCHE, R.C.	✓	✓
CLASSIFICATION		
UNCLASSIFIED	✓	✓
CONFIDENTIAL		
SECRET		

AUTH. CLASSIFIER SIG.  
*A. K. Carter*

DATE 4-3-87  
IN REPLY TO LTR. NO.

REC #  
TR. APPROVALS  
KOM: *[Signature]* REL: *[Signature]*  
CAW: *[Signature]*  
JEM: *[Signature]*  
WFL: *[Signature]*

ORIG & EXPST. INITIALS  
CAW: skg  
REL  
#F. 10469 (Rev. 7/87)

ADMIN RECORD

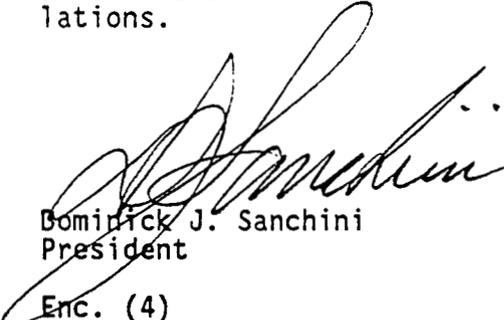
A.E. Whiteman  
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All liquids, both aqueous and organic, generated in plutonium processing areas are collected in critically safe tanks. A radiochemical analysis is performed on each tank to determine if the contents are above or below the EDL for the specific liquid. Above-EDL liquids are recycled for plutonium recovery, based on the holding of American Mining Congress, and are not subject to RCRA. Below discard liquids are transferred to one of the liquid waste treatment facilities, Building 374 or 774. (See Figure IV.) From the point that TRU liquids or solids are determined to be waste, the regulatory requirements of 40 CFR 260-266 and 6 CCR are applicable.

As a matter of information, due to the mixing of liquids in collection tanks and eventual processing and packaging requirements for solids, nearly all TRU wastes will be determined to be TRU mixed waste and subject to the RCRA regulations.

We hope this statement clarifies our position on the boundary where materials are determined to be solid waste, thus subject to RCRA regulations.



Dominick J. Sanchini  
President

Enc. (4)

Orig & 1 cc - A.E. Whiteman