

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Don R. Clay
RCRA Policy Forum
1701 Pennsylvania Avenue, NW
Washington, D.C. 20006

Dear Mr. Clay:

This is in response to your letter to me dated September 8, 1997 in which you ask for clarification of the Agency's policy with respect to the mixture rule where Bevill wastes are mixed with non-hazardous, non-Bevill wastes. Specifically, you requested clarification of the applicability of the Agency's policy regarding mixtures of "oil and gas Bevill wastes" with non-exempt wastes.

First, I want to clarify that, although RCRA exempt oil and gas exploration and production (E&P) wastes are commonly referred to as Bevill exempt wastes, E&P wastes were not one of the wastes included in the Bevill Amendment to RCRA. In fact, E&P wastes were exempted from the hazardous waste regulations under RCRA Subtitle C through a separate amendment to RCRA proposed by then Senator Lloyd Bentsen.

Notwithstanding the January 25, 1996 Supplemental Proposal to Phase IV Land Disposal Restrictions, the Agency's position with respect to mixtures of exempt E&P wastes with other wastes, whether exempt or non-exempt, remains the same as that stated in the Agency publication you referenced titled "Crude Oil and Natural Gas Exploration and Production Wastes: Exemption from RCRA Subtitle C Regulation" (EPA530-K-95-003). For example, in the scenario you posed where an exempt E&P waste is mixed with a non-hazardous, non-exempt waste, the mixture would also be an exempt waste.

You also requested clarification on the intent of the Agency's statement in the publication that "[w]henver possible, avoid mixing non-exempt wastes with exempt wastes." This statement was not intended to impose a ban on mixing non-exempt wastes with exempt wastes. Instead, it was intended as a precaution since, as the publication points out, mixing a non-exempt hazardous waste with an exempt waste could result in a mixture that is non-exempt. For example, mixing a non-exempt characteristic hazardous waste with an exempt waste for the purpose of rendering the mixture non-characteristic, or less hazardous, could be considered waste treatment or

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impermissible dilution subject to RCRA Subtitle C regulations and permitting requirements.

I hope this answers any questions that you or your RCRA Policy Forum members might have regarding these issues. If you have additional questions or require further clarification, please contact either Dan Derkics or Steve Souders of my staff at 703-308-8409 and 703-308-8431 respectively.

Sincerely yours,

Elizabeth A. Cotsworth, Acting Director
Office of Solid Waste

RCRA POLICY FORUM

September 8, 1997

Ms. Elizabeth Cotsworth
Acting Director
Office of Solid Waste (5301)
U.S. Environmental Protection Agency
401 M. St., SW
Washington D.C. 20460

Dear Ms. Cotsworth,

I am writing this letter to request clarification of the Agency's policy with respect to the mixture rule where Bevill wastes are mixed with non-hazardous, non-Bevill wastes. In the January 25, 1996, Supplemental Proposal to the Phase IV Land Disposal Restrictions (LDR) rule, the Agency proposed to amend the mixture rule as it applies to mining and mineral processing wastes by requiring that any mineral processing hazardous waste, or any hazardous waste, disposed with, mixed with, or otherwise combined with a Bevill waste, the resulting mixture is regulated under RCRA Subtitle C, if hazardous, and the treatment activity would be subject to appropriate regulations. See 61 FR 2352, January 25, 1996.

Addressing Waste Policy Changes in an Era of Challenge

The preamble to this proposal, however, did not directly address the scenario where a Bevill mining or mineral processing waste is mixed with a non-hazardous waste. Because of this,

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some of our RCRA Policy Forum members wanted confirmation that the Agency's existing mixture rule position/policy with regard to oil and gas Bevill wastes has not changed. In particular, EPA published a pamphlet (commonly referred to as the Brown Book) in May 1995 entitled, "Crude Oil and Natural Gas Exploration and Production Wastes: Exemption from RCRA Subtitle C Regulation" (EPA53--K-95-003) that provides EPA's policy/position on mixing oil and gas Bevill wastes, including mixing of such wastes with non-exempt wastes. (See pp. 13 to 17 of attached pamphlet.) The document states that a Bevill exempt waste mixed with a non-hazardous, non-exempt waste is still a Bevill exempt waste (See, for example, pg. 17 of the Brown Book.)

Based upon informal discussions with your staff, we were informed that the position/policy stated in the Brown Book is still applicable and will continue to apply. We would appreciate it if you could confirm that this is still the Agency's policy and should be considered in implementing the RCRA regulations.

In addition, on pg. 13 of the Brown Book, it states that, "Whenever possible, avoid mixing non-exempt wastes with exempt wastes." Could you please verify our understanding that this statement is not intended to prevent mixing oil and gas Bevill wastes with non-exempt wastes. Rather, it is intended as guidance to the oil and gas industry to ensure that appropriate waste management practices are utilized. Put another way, mixing oil and gas Bevill wastes with non-exempt wastes that reflects appropriate management practices would not be discouraged by the Agency.

Thank you for your attention to this matter. Please feel free to give me or Matt Straus a call if you have any questions or need further clarification on our request,

Best regards,

Don R. Clay

cc: Bob Dellinger
Rich Kinch

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