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TITLE Clarification of Mining Waste Exclusion

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ORIGINATING OFFICE Office of Solid Waste

☒ **FINAL**

☐ **DRAFT**

LEVEL OF DRAFT

- ☐ A — Signed by AA or DAA
- ☐ B — Signed by Office Director
- ☐ C — Review & Comment

REFERENCE (other documents)

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Key Words: Leachate, Mining Waste, Exclusion

Regulations: 40 CFR 261.4(b)(7)

Subject: Clarification of Mining Waste Exclusion

Addressee: Harry Seraydarian, Chief, Toxics and Waste Management Division

Originator: John H. Skinner, Director, Office of Solid Waste

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Summary:

The memo states that leachate derived from slag and clinker wastes falls under the mining waste exclusion because it is not subject to further processing. If, however, a listed or characteristic waste resulted from slag or clinker used as a raw material for some extractive process, it would be regulated under Subtitle C.

MAY 16 1985

MEMORANDUM**SUBJECT: Clarification of Mining Waste Exclusion****FROM: John H. Skinner, Director
Office of Solid Waste****TO: Harry Seraydarian, Chief
Toxics and Waste Management Division
Region 9**

In your memorandum of April 4, 1985, and a telephone call from Bill Wilson on April 15, 1985, you have asked whether leachate derived from smelter waste, in this case pyritic cinders and fragmented slag, is subject to regulation under the mining waste exclusion in RCRA Section 3001(b)(3)(A)(ii) and 40 CFR Section 261(b)(7).

The leachate is under the exclusion because it is derived from slag and clinker wastes, i.e., excluded wastes, and moved through the groundwater into the impoundments. It has not been subject to further processing and, therefore, is still a waste from "processing of ores and minerals."

The situation would be different if the slag or clinker were used as a raw material for some extractive process and a listed or characteristic waste resulted. Under this scenario, the hazardous waste would fall outside the mining waste exclusion, even as it is now broadly applied, and could be regulated under Subtitle C, because it is derived from processing slag or clinker, not an ore or mineral.

The mining waste exclusion has, since November 19, 1980, been interpreted as including "solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals". The Agency is planning to propose a reinterpretation of this exclusion before December 31, 1985, which would narrow its scope but slag would remain within the exclusion because it is a large

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volume, relatively inert, and generally non-hazardous waste. The pyritic clinkers, which are produced in the roaster used to prepare ore for smelting, also would remain exempt. Leachates from the clinkers and slag would remain excluded after the reinterpretation.

Slag, and other large volume primary ore processing wastes, will be addressed in a Report to Congress, to be submitted as a sequel to Report to Congress on mining and beneficiation scheduled for submission December 31, 1985. In the Report to Congress on ore processing wastes, problems such as the one described in your memorandum will be addressed and appropriate recommendations will be made.

Meanwhile, the facility should manage the disposal of sludges from the impoundment in a prudent fashion, preferably sending them to a RCRA secure landfill.

If you have further questions, please call Dexter Hinckley at 382-3388.