



**DIRECTIVE NUMBER:** 9441.09(84)

**TITLE:** Status of Mining Laboratory Wastes Under 40 CFR  
261.4(b)(7)

**APPROVAL DATE:** 5-9-84

**EFFECTIVE DATE:** 5-9-84

**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: Mining Waste

Regulations: 40 CFR 261.4(b)(7)

Subject: Status of Mining Laboratory Wastes Under 40 CFR 261.4(b)(7)

Addressee: Thomas J. Fronapfel, P.E., State of Nevada, Department of  
Conservation and Natural Resources, Division of Environmental  
Protection, Capitol Complex, Carson City, NV 89710

Originator: John Lehman, Director, Waste Management and Economics Division

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Summary:

The nitric acid waste and the fire assay cupels resulting from the extraction, beneficiation, and processing of ores and minerals are currently not regulated under RCRA because of the mining waste exclusion [40 CFR 261.4(b)(7)].

MAY 9 1984

Mr. Thomas J. Fronapfel, P.E.  
State of Nevada  
Department of Conservation  
and Natural Resources  
Division of Environmental Protection  
Capitol Complex  
Carson City, Nevada 89710

Dear Mr. Fronapfel:

I am writing in response to your memorandum of April 19, 1984 regarding the status of mining laboratory wastes under the exclusion of 40 CFR 261.4(b)(7).

Based upon the information submitted in your memorandum, the Agency has determined that both the nitric acid waste and the fire assay cupels are solid waste from the extraction, beneficiation and processing of ores and minerals. As such, the wastes temporarily are excluded by 3001 (b)(3)(A) of the Resource Conservation and Recovery Act (RCRA) from regulation as hazardous wastes under Subtitle C of RCRA. The exclusion is effective until at least six months after the date of submission to Congress of the mining waste study being conducted under Sections 8002(f) and (p) of RCRA and after promulgation of regulations in accordance with Section 3001 (b)(3)(C) of RCRA. These wastes are excluded regardless of whether they are generated by mining operations or commercial laboratories.

The Agency is now in the process of re-evaluating its November 19, 1980 interpretation (See 45 FR 76618) of the mining waste exclusion to define more accurately the wastes that Congress intended to exclude from regulation under Subtitle C pending completion of the mining waste study. If the Agency modifies its interpretation, we will notify you.

If you have any questions or require any further information on this matter, please contact James Antizzo of my staff at (202) 382-7926.

Sincerely,

John P. Lehman  
Director  
Waste Management & Economics Division