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REGULATORY STATUS OF SOLID WASTE GENERATED FROM GOLD/MERCURY  
AMALGAM RETORTING

United States Environmental Protection Agency  
Washington, D.C. 20460  
Office of Solid Waste and Emergency Response

April 26, 1993

Ms. Kristen DuBois Goodwin  
Hazardous Waste Program Coordinator  
Alaska Department of Environmental Conservation  
Northern Regional Office  
1001 Noble Street, Suite 350  
Fairbanks, Alaska 99701-4980

Dear Ms. Goodwin:

This is in response to your March 16, 1993 letter regarding the regulatory status of solid waste generated from gold/mercury amalgam retorting. In particular, you requested that we concur with your interpretation that the solid waste generated from the retort process, including contaminated soils containing block sands, is beneficiation and extraction waste and subject to the exclusion found in 40 CFR 261.4(b)(7).

The operation that you described in your letter involves metal bearing materials that undergo retorting. Based upon EPA's September 1, 1989 final rule (54 FR 36618), and the information provided in your letter, EPA would interpret the retorting operation described in your letter to be mineral processing under EPA's regulations. Specifically,

. . . heating operations such as smelting (i.e., any metallurgical operation in which metal is separated by fusion from impurities) and fire-refining (e.g., retorting) are clearly and have always been considered within the realm of mineral processing. Here, the physical structure of the ore or mineral is destroyed, and neither the product stream nor the waste stream(s) arising from the operation bear any close physical/chemical resemblance to the ore or mineral

entering the operation (54 FR 36618).

Mineral processing wastes do not retain the Bevill exemption unless they are one of the 20 permanently exempt mineral processing waste listed in 40 CFR 261.4(b)(7)(i)-(xx). (No retorting wastes are among the 20 permanently exempt mineral processing wastes.) Therefore, EPA believes that any solid waste generated from the retorting operation is no longer covered by the Bevill exclusion in 40 CFR 261.4(b)(7).

According to your letter, the site ceased operations in the 1960s and cleanup of the site will involve removal of contaminated soil and debris. The September 1, 1989, rule does not impose Subtitle C requirements on mineral processing wastes disposed of in Alaska prior to March 1, 1990, unless those wastes are actively managed. Active management includes physical disturbance of the wastes (see 54 FR 36597). Therefore, if the retort wastes were actively managed (i.e., removed for disposal) after March 1, 1990, the wastes would be subject to Subtitle C control if they either exhibit a hazardous characteristic or are listed. If these wastes are not actively managed, Subtitle C requirements do not apply.

I hope this letter clarifies the regulatory status of the retort wastes you described. If we can be of further service, or if you have any questions, please do not hesitate to call Robert Tonetti, Chief, Special Wastes Branch at (703) 308-8424.

Sincerely,  
Sylvia K. Lowrance, Director  
Office of Solid Waste