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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

FEB 5 1991

Thomas E. Linson  
Hazardous Waste Management Branch Chief  
Indiana Department of Environmental Management  
105 South Meridian Street  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015

Dear Mr. Linson:

This letter responds to your January 4, 1991 request for a regulatory interpretation regarding the export of hazardous wastes utilized for precious metals reclamation. Specifically, you question whether Federal regulations require compliance with 40 CFR Part 262 Subpart E (which regulates hazardous waste exports) when a precious metal-bearing sludge is exported for reclamation. You request this interpretation because the export requirements of Part 262 Subpart E are not specifically referenced in either section 261.6(a)(2) or 266.70. However, as Mr. Glenn Sternard of U.S. EPA's Region V office has indicated, the preamble to the August 8, 1986 rulemaking (51 FR 28664), which promulgated the export requirements for hazardous wastes, implies that the export requirements do, in fact, apply to any generator required to prepare a manifest under Subpart B of Part 262.

Mr. Sternard is correct. The export requirements of Part 262 Subpart E are applicable for precious metal-bearing sludges that are exported for reclamation. EPA agrees that a specific reference to Part 262 Subpart E in section 266.70 would clarify this requirement and we will keep this in mind during any future rule changes. As the preamble to the August 8, 1986 rulemaking discusses in depth (while not specifically referring to hazardous wastes used for precious metals recovery), the determining factor in applying the export requirements is whether or not the transportation of a particular hazardous waste requires a hazardous waste manifest. (Indeed, the preamble actually explains the Agency's position that the export requirements applies only to hazardous wastes which require a manifest, rather

than to any hazardous waste, which is how some of the commenters on the proposal to this rulemaking interpreted Section 3017 of RCRA.)

Therefore, in the absence of any specific exemption from the export requirements for a hazardous waste that requires a manifest, the export requirements apply. Hazardous wastes which are subject to Part 266 Subpart F are not specifically exempt from the export requirements.

I hope this clarifies the applicability of the export requirements for the situation you must resolve. If you have any further questions, you may contact Mike Petruska, Chief of the Regulatory Development Branch, at (202) 475-8551.

Sincerely,

Original Document signed

Sylvia K. Lowrance  
Director  
Office of Solid Waste