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BLAST SLAG TESTING PROCEDURES

NOV 3 1989

Mr. Robert N. Steinwurtzel
Counsel to the Secondary Lead
Smelters Association, Inc.
Andrews and Kurth Attorneys
Suite 200
1701 Pennsylvania Avenue, N.W.
Washington, DC 20006

Dear Mr. Steinwurtzel:

This letter is in response to your letter of September 22, 1989, discussing the issue of waste testing procedures for blast slag generated by lead recycling facilities. I appreciate your bringing this matter to our attention. While this type of issue, particularly in the enforcement context, is one in which the Regional offices generally have the lead, I can give you some idea of our thinking at Headquarters in response to your concerns.

With respect to the technical aspects of the proper application of the Extraction Procedure (EP) Toxicity test, we at EPA Headquarters are in agreement with the discussion presented by Mr. James Scarbrough of our Region IV office in his September 27, 1989, letter to you (copy enclosed). Specifically, we believe the sampling procedure used by the Secondary Lead Smelters Association (SLSA) is inadequate because: 1) the sample is not taken from the actual waste material at the point of generation and 2) the physical characteristics and chemical composition of the sample are likely to be different from those of the waste material. Given the actual nature of the waste as described in Mr. Scarbrough's letter, we also agree with his conclusion that the structural integrity procedure and the stirring procedure for agitation are not appropriate for this type of waste. Furthermore, we understand that the Region, in consultation with EPA's National Enforcement Investigation Center, has always taken these positions with respect to sampling and analysis of smelter slag waste.

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We recognize that your clients may be in the position of having to defend against an enforcement action at this point. However, I believe that if you look at Mr. Scarbrough's letter of September 21, 1989, he indicates a willingness to attempt a proper disposition of this matter without extensive and expensive litigation. I encourage you to explore this suggestion directly with the Regional Office.

Thank you for communicating your concerns to me. If I can provide any further clarification on the role of Headquarters on this type of issue, please feel free to contact me.

Sincerely,

Original Document signed

Jeffery Denit
Deputy Director
Office of Solid Waste

Enclosure