Spent Refractory Bricks/Applicability to Reclamation vs. Direct Use Without Incidental Processing: US EPA RCRA Interpretive Letter

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The United States Environmental Protection Agency ("EPA") Office of Resource Conservation and Recovery issued a January 25, interpretive letter addressing the issue involving spent refractory bricks containing chromium.

The letter clarified EPA's Jully 17, 2015 letter on spent refractory bricks and applicability to reclamation vs. direct reuse with incidental processing.

The letter was transmitted from EPA Office of Resource Conservation and Recovery Director, Andrew Baca, to Angus E. Crane, Executive Vice President, General Counsel of the North American Insulation Manufacturers Association ("NAIMA").

NAIMA asked EPA to confirm through analysis in a 2015 letter did not apply to bricks sent for direct reuse with only incidental processing. In the prior interpretive letter, EPA addressed:

… spent chromium bricks that are removed by jackhammer and other demolition equipment during furnace rebuilds and then exported for processing that converts hexavalent chromium (Cr(VI)) to trivalent chromium (Cr(111)) either chemically or through high temperature fusion to regenerate the material used to make new trivalent chromium refractory bricks.

EPA stated that such activity constituted reclamation because the spent material is regenerated or processed to recover a usable product citing 40 CFR 261.1(c)(3).

In the June 25 interpretive letter, EPA states that it is clarified that the analysis and conclusions in the 2015 letter apply only to spent refractory bricks that are being reclaimed. The agency stated that the 2015 letter did not address situations in which spent refractory bricks are returned to legitimate use without reclamation. It further notes in part:

… when spent refractory bricks are legitimately used to reuse without reclamation, such as by being used as an ingredient to manufacture new refractory bricks or directly reused in their original function as refractory materials, they are not solid waste under 40 CFR 261.2 (e), provided that any processing of the bricks is incidental and the use meets the definition of legitimate recycling at 40 CFR 260.43.

EPA further cites its 2015 guidance on incidental processing stating that such activity performed solely to prepare a secondary material for legitimate reuse may be incidental where it either:

1. Changes the material's physical form without changing the mass or material or its chemical composition; or
2. Makes only a minor change to the mass or the material, which also makes a minor change to the material's chemical composition.

EPA's interpretive letter then outlines activities which it states when performed solely to prepare spent refractory material for legitimate use would be incidental processing.

A copy of the June 25 interpretive letter is attached.