OFFICE OF RESOURCE CONSERVATION AND RECOVERY
WASHINGTON, D.C. 20460

June 25, 2026

Mr. Angus E. Crane, Executive Vice President, General Counsel
North American Insulation Manufacturers Association (NAIMA)
109 Lake Cook Drive
Alexandria, Virginia 22304

Re: Clarification of EPA's July 17, 2015, letter on spent refractory bricks—applicability to reclamation versus direct reuse with incidental processing

Dear Mr. Crane:

Thank you for your May 14, 2026, letter requesting clarification of EPA's July 17, 2015, correspondence[1] concerning the regulatory status under the Resource Conservation and Recovery Act (RCRA) of spent refractory bricks that contain chromium. In the letter, NAIMA asks EPA to confirm that the analysis in the 2015 letter addressing spent refractory bricks being reclaimed does not also apply to bricks sent for direct reuse with only incidental processing.

As explained below, EPA agrees that the July 17, 2015, letter applies only to spent refractory bricks being reclaimed and does not apply to spent refractory bricks that will be legitimately reused with only incidental processing.

**Summary of the 2015 letter**

In 2015, EPA responded to Saint-Gobain SEFPRO/Corhart Refractories regarding spent chromium refractory 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(III)) either chemically or through high temperature fusion to regenerate the material used to make new trivalent chromium refractory bricks. Based on the facts presented, EPA explained that this activity is reclamation because the spent material is regenerated or processed to recover a usable product. See, e.g., 40 CFR 261.1(c)(3) (a material is "reclaimed" if it is processed to recover a usable product or is regenerated). As spent materials that are reclaimed are solid wastes under 40 CFR 261.2, generators must determine if the waste is hazardous under 40 CFR 262.11 (including potential

[1] EPA 2015. *RCRA Regulatory Status of Spent Refractory Brick* EPA memo from Besty Devlin, Director, Recovery Waste Management Division to Jody D. Ware, Sales and Marketing Manager, Saint-Gobain Ceramics & Plastics Inc, July 17, 2015. RCRA Online #14852

D007 for chromium under 40 CFR 261.24) and, if hazardous, manage the material in accordance with applicable Subtitle C requirements.

**Clarification: reclamation versus direct reuse with incidental processing**

EPA is clarifying that the analysis and conclusions in the July 17, 2015, letter apply only to spent refractory bricks that are being reclaimed (e.g., chemically or thermally treated to convert Cr(VI) to Cr(III)). The 2015 letter did not address situations in which spent refractory bricks are returned to legitimate use without reclamation, nor did EPA intend for it to apply to those situations.

When spent refractory bricks are legitimately used or reused 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 wastes 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. In such cases, Subtitle C hazardous waste requirements do not apply to the spent refractory bricks.

**Incidental processing**

EPA's 2005 guidance on incidental processing[2] explains that processing 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 of the material or its chemical composition; or (2) makes only a minor change to the mass of the material, which also may make a minor change to the material's chemical composition.

Consistent with that guidance, EPA agrees that the following activities, when performed solely to prepare spent refractory material for legitimate reuse, would be incidental processing:

- Visual inspection, sorting, grading, and palletizing.
- Removal of surficial foreign material (e.g., glass, dust, adherent residues) by physical or mechanical means.
- Removal of attached slag or mortar by mechanical means that does not change the brick's chemical composition.
- Trimming or resizing within normal commercial tolerances to ensure fitment.
- Crushing and sizing to meet product specifications where such processing does not change the chemical composition.
- Briquetting or agglomeration using minor binders to facilitate handling and feed consistency, where this does not alter the chemical composition or constitute regeneration.

Note that whether the specific processing steps are incidental depends on the facts. For example, a process that alters the chemical composition of the material will generally be considered reclamation;

[2] EPA 2005. *Guidance for Identifying Incidental Processing Activities.* EPA memo from Matt Hale, Director, Office of Solid Waste, to the Regional RCRA Waste Management Directors, October 4, 2005. RCRA Online # 14748

however, where such changes are limited and otherwise consistent with the 2005 Guidance's criteria for incidental processing, the activity would be incidental.

**Conclusion**

EPA agrees with NAIMA that the July 17, 2015, letter applies only to spent refractory bricks being reclaimed (e.g., conversion of Cr(VI) to Cr(III)) and does not apply to spent refractory bricks that will be directly reused with only incidental processing, as described above. When spent refractory bricks are legitimately returned to use without reclamation, they are not solid wastes under 40 CFR 261.2(e) and are not subject to Subtitle C hazardous waste regulations.

Note that states with authorized RCRA programs may have additional or more stringent regulations, and facilities should consult the relevant state implementing agency.

If you have any questions, please contact Tracy Atagi of my staff at atagi.tracy@epa.gov.

Sincerely,

ANDREW BACA Digitally signed by ANDREW BACA
Date: 2026.06.25 09:36:21 -04'00'

Andrew Baca, Director
Office of Resource Conservation and Recovery