

Regulatory Guidance Letter 88-10

SUBJECT: Regulation of Waste Disposal from In-Stream Placer Mining

DATE: July 28, 1990

EXPIRES: December 31, 1990

Paragraph B.5. in the Army's 23 Jan 86 Memorandum of Agreement (MDA) with EPA, concerning the regulation of solid waste discharges under the Clean Water Act, states that discharges that result from in-stream mining activities are subject to regulation under Section 402 and not under Section 404.

Dredged material is that material which is excavated from the waters of the United States. However, if this material is subsequently processed to remove desired elements, its nature has been changed; it is no longer dredged material. The raw materials associated with placer mining operations are not being excavated simply to change their location as in a normal dredging operation, but rather to obtain materials for processing, and the residue of this processing should be considered waste. Therefore, placer mining waste is no longer dredged material once it has been processed, and its discharge cannot be considered to be a "discharge of dredged material" subject to regulation under Section 404.

This guidance expires 31 Dec 90 unless sooner revised or rescinded.