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## Hotline Questions and Answers

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### 4. Definition of Formerly Bevill Exempt Wastes

According to 40 CFR 268.1(e)(3), wastes identified or listed as hazardous waste after November 8, 1984, are not subject to land disposal restrictions (LDR) until EPA promulgates prohibitions or treatment standards. For purposes of LDR, certain mineral processing wastes which were formerly exempt under the Bevill Amendment, but lost that exemption are considered to be newly identified and therefore not subject to LDR until EPA promulgates standards specific to this category of wastes. What wastes are included within this category of formerly exempt Bevill wastes?

On November 19, 1980, EPA promulgated an exclusion from regulation under RCRA Subtitle C for, "solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal), including phosphate rock, and overburden for the mining of uranium ore" (45 FR 76618, 76620). This is one of the exclusions commonly referred to as a Bevill exclusion. In this Federal Register, EPA clarified that the exclusion covered "...solid waste from the exploration, mining, milling, smelting and refining of ores and minerals" (45 FR 76619). On September 1, 1989, EPA published a final rule that narrowed the scope of the exclusion as it applies to mineral processing (54 FR 36592). Specifically, EPA finalized the exclusion for five mineral processing wastes and conditionally excluded twenty wastes pending additional studies. After completing a study of the twenty wastes, EPA removed five of the wastes that had been subject to the September 1, 1989, conditional exclusion, bringing the total number of excluded mineral processing wastes to twenty (55 FR 2322; January 23, 1990). On June 13, 1991, EPA finalized this list of twenty exempt mineral processing wastes in 261.4(b)(7) (56 FR 27300). All other mineral processing wastes are subject to RCRA Subtitle C. Wastes from the extraction/beneficiation of ores and minerals remain covered by the exclusion generally, and are not subject to Subtitle C.

EPA considers all mineral processing wastes which are not currently listed in 261.4(b)(7), to be newly identified wastes and therefore not subject to LDR requirements until treatment standards are promulgated. Treatment standards for these wastes are currently being developed as part of the court-ordered LDR Phase IV Proposed Rule.