

RCRA, SUPERFUND & EPCRA HOTLINE MONTHLY REPORT  
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**2. Laboratory Samples and the Bevill Exclusion (§261.4(b)(7))**

*One of the exclusions commonly referred to as the Bevill exclusion exempts “solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal)” from RCRA Subtitle C regulation (40 CFR §261.4(b)(7)). In the November 19, 1980, Federal Register, the scope of the exclusion was clarified to include only solid wastes that are “uniquely associated” with the extraction, beneficiation, and processing of ores and minerals (45 FR 76619). A coal mining facility conducts laboratory sampling and testing of coal for quality control purposes. The testing procedures require the coal to be mixed with perchloroethylene. Once the testing is completed, the sample exhibits a hazardous characteristic for perchloroethylene (D039), which was not present in the coal prior to testing. Would the sample meet the §261.4(b)(7) exclusion for wastes which are produced from the extraction, beneficiation, and processing of ores?*

The waste laboratory samples would not be exempt under §261.4(b)(7) because the exclusion applies only to wastes produced in, and unique to, the extraction, beneficiation, and processing of ores and minerals (45 FR 76620; November 19, 1980). The exclusion does not apply to wastes such as spent solvents, pesticide wastes, and discarded commercial chemical products that are not unique to the extraction, beneficiation, and processing of ores and minerals. The first step in establishing whether a waste is uniquely associated is determining if the waste results from an operation that is ancillary to mineral processing operations. Wastes from ancillary operations are not uniquely associated because they are not viewed as being “from” mining or mineral processing (63 FR 281556, 28591; May 26, 1998). Wastes from non-ancillary operations are evaluated on the extent to which the waste originates or derives from processes that serve to remove mineral values from the ground, concentrate or otherwise enhance their characteristics or remove impurities, and the extent to which the mineral recovery process imparts its chemical characteristics on the waste. The greater the extent to which these two factors occur, the more likely the waste is uniquely associated. Laboratory activities are considered to be ancillary operations (63 FR 28593). Therefore, quality control wastes associated with laboratory operations are not excluded under §261.4(b)(7) because they are not uniquely associated with the extraction, beneficiation, and processing of ores and minerals.