

9441.1986 (81)

MINING WASTE EXCLUSION INCLUDING PRIMARY PROCESSING BUT
NOT SUBSEQUENT STEPS

NOV 3 1986

Mr. Robert D. Schlemmer
President
United States Ceramic Tile Company
10233 Sandyville Road, S.E.
East Sparta, Ohio 44626

Dear Mr. Schlemmer:

In your letter of October 14, 1986 you asked whether the exclusion from hazardous waste regulation under the Resource Conservation and Recovery Act (RCRA) embodied in 40 CFR 261.4(b)(7) applies to your operations. As you noted, this exclusion, also known as the Bevill Amendment, covers "solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal) including phosphate rock and overburden from the mining of uranium ore".

Since 1980, EPA has consistently maintained that the Bevill exclusion applies only to mining, beneficiation, and primary processing of ores or minerals, not to subsequent shaping, alloying, or fabrication of materials derived from ores and minerals. See 50 Federal Register 40293 (October 2, 1985).

The minerals you use in the production of tiles undergo varying degrees of primary processing before being shipped to your facility. For example, ball clay is processed by shredding, drying, pulverizing, and air separation or slurring. Pyrophyllite and talc are processed by crushing, screening, and air or water classification. The wastes generated by these primary processing stages are covered by the exclusion.

Your operation uses materials produced by the primary processing of various minerals, including talc, pyrophyllite, ball clay, and wollastonite. As you indicated in your letter,

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the tile production sequence includes alloying (blending), fabrication (pressing), coating and firing stages. As stated earlier these steps are not considered "processing or ores and minerals" as the phrase is used in RCRA and the Code of Federal Regulations. Therefore, wastes generated by your tile production operation are not within the scope of the exclusion.

It also should be noted that the industrial waste water exclusion (40 CFR 261(a)(2)) "does not exclude industrial waste waters while they are being collected, stored or treated before discharge."

If you have any further questions, please contact Dan Derkics (202) 382-3608, in the Special Wastes Branch.

Sincerely,

Original Document signed

Marcia E. Williams
Director
Office of Solid Waste

bcc: Bill Constantelos, Region V