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SCOPE OF BEVILL AMENDMENT AS IT APPLIES TO PHOSPHATE MINING, PHOSPHORIC ACID PRODUCTION, AND ANCILLARY

United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

May 15, 1992

Gary A. Santti, P.E.
Hazardous Waste Administrator
Division of Waste Management
Florida Department of Environmental
Regulation-Southwest District
4520 Oak Fair Boulevard
Tampa, Florida 33610-734

Dear Mr. Santti:

Thank you for your letter dated April 23, 1992, requesting assistance in interpreting the scope of the Bevill Amendment as it applies to phosphate mining, phosphoric acid production, and ancillary facilities. We will be pleased to take part in the site visits conducted by your office to assist you in determining which wastes produced by these facilities fall within the scope of the Bevill exemption. I understand that Bob Hall of my staff has been in contact with you and is arranging for our participation in your site visits. Bob will be accompanied by Van Housman.

In response to your request for guidance regarding the Bevill Amendment as it applies to this industry, I am including with this letter copies of the important and relevant Federal Register notices. The first of these two notices, published July 3, 1986, (51 FR 24496) permanently exempted mining extraction and beneficiation wastes from RCRA Subtitle C regulation.

The rule explains that in order to be an exempt mining extraction and beneficiation waste, the waste in question must be uniquely associated with these operations. This concept has been used consistently by the Agency as a factor in determining which wastes would remain under the Bevill Amendment. (See 45 FR 76619, November 19, 1980 and 54 FR 36616, September 1, 1989.) Wastes not uniquely associated with mineral extraction, beneficiation, or processing include discarded commercial chemicals such as finished mineral-derived products found to be off-specification), many cleaning wastes (such as a spent commercial solvent that was used

in cleaning production vessels) and used lubricating oils. Wastes that are uniquely associated with phosphate extraction and beneficiation include mine tailing, and sand and clay from beneficiation operations.

The second notice, published June 13, 1991, (56 FR 27300) permanently removed from the exemption all but 20 mineral processing wastes. Among those twenty mineral processing wastes retained within the exception are phosphogypsum and process wastewater from phosphoric acid production. All other mineral processing wastes, including all other mineral processing wastes generated at phosphoric acid plants, were removed from the exemption in that final rule. (It should be noted that while removed from the exceptions these wastes will only be subject to Subtitle C regulation if they are specifically listed or exhibit one or more of the hazardous waste characteristics.)

The end result of the two rulemakings is that all phosphate mining and extraction wastes are permanently exempt from RCRA Subtitle C regulation, but only phosphogypsum and process wastewater from phosphoric acid production remain within the exemption.

As you requested, a copy of the 1988 Report to Congress on Mineral Processing Wastes is included with this letter. Chapter 12 of the Report is of particular relevance to your current interests.

Once you have determined which sites you will visit in your upcoming inspections, notify us and we will be glad to share with you the information from our records concerning those specific facilities. Most of the data in our files was collected during preparation of the Report to Congress.

We are pleased to assist you in your analysis of the status of the wastes generated by the phosphate mining and phosphoric acid production industry. If you have any additional questions or concerns, please contact Bob Hall at (703) 308-8412.

Sincerely,
Sylvia K. Lowrance
Office of Solid Waste

Enclosures
cc: Alan Farmer, EPA-Region IV