

SPECIAL CONSOLIDATED CHECKLIST
for
Bevill Exclusion for Mining Wastes as of **December 31**, 2002

Notes:

1) This checklist consolidates the changes to the Federal code addressed by the Bevill exclusion for mining wastes and subsequent revisions that have occurred through **December 31**, 2002 by the following checklists:

- Revision Checklist 53 [53 FR 35412 (September 13, 1988)];
- Revision Checklist 65 [54 FR 36592 (September 1, 1989)];
- Revision Checklist 71 [55 FR 2322 (January 23, 1990)];
- Revision Checklist 90 [56 FR 27300 (June 13, 1991)]; and
- Revision Checklist 167 E [63 FR 28556 (May 26, 1998)].

The "Checklist Reference" column indicates which of these checklists have affected each listed citation.

No final rules were promulgated between June 30, 1998 and **December 31**, 2002 that affected the Bevill Exclusion for Mining Wastes rule. Therefore, this consolidated checklist is identical to that of June 30, 1998.

2) Note that in the Federal Register notice addressed by Revision Checklist 90, a series of appendices follows the change made to 40 CFR 261.4(b)(7). These appendices were not included in this consolidated checklist because they will not appear in the Code of Federal Regulations and because the subjects of these appendices are the Public Comments on EPA's Report to Congress and the Notice of Data Availability.

3) See also Appendix N of SAM - Clarification of State Adoptions of Remanded Mining Waste Listings

FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE
PART 260 - HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL							
SUBPART B - DEFINITIONS							
DEFINITIONS							
1 revise "designated facility"	71	260.10					

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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTES							
SUBPART A - GENERAL							
DEFINITION OF HAZARDOUS WASTE							
2 add exception for mixture of a 261.4(b)(7) waste and a solid waste exhibiting a Subpart C characteristic unless resultant mixture meets certain characteristic conditions; mixture is hazardous relative to the EP toxicity characteristic; following "identified in subpart C", replace "except that" with "of this part. However,"; following "under subpart C", replace "of this part" with "is a hazardous waste"; in second sentence, insert a comma following "had not occurred"	65, 167E	261.3(a)(2)(i)					
3 add "of this part" after "Subpart D"; add language excepting mixtures of hazardous waste and solid waste excluded under 261.4(b)(7) and the mixture no longer exhibits hazardous characteristics for which the hazardous waste was listed in Subpart D	65	261.3(a)(2)(iii)					

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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
EXCLUSIONS							
4 define beneficiation; for purpose of 261.4(b)(7), solid waste from the processing of ores includes; revise 261.4(b)(7) as 261.4(b)(7), (b)(7)(i), & (b)(7)(ii); new 261.4(b)(7) is now unchanged first sentence of old 261.4(b)(7)	53,65, 71,90, †167E	261.4(b)(7) intro					
new 261.4(b)(7)(i) is second sentence of old 261.4(b)(7) with the following revisions: delete comma following “§261.4(b)(7)”;	53, 65, 71, 90, †167E	261.4(b)(7)(i)					
replace colon following “activities” with a semicolon; use lower case with “crushing”							
new 261.4(b)(7)(ii) is third sentence of old 261.4(b)(7) with the following revisions: replace “For the purpose” with “For the purposes”; insert “as generated” after “the following wastes”	53, 65, 71, 90, †167E	261.4(b)(7)(ii)					

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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE

SUBPART D - LISTS OF HAZARDOUS WASTES

HAZARDOUS WASTES FROM SPECIFIC SOURCES

add, after entries for "iron and steel" and before entries for "Secondary lead," the following:	53	261.32					
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Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
	* * * * *	
Primary aluminum:		
K088	Spent potliners from primary aluminum reduction	(T)
	* * * * *	

APPENDIX VII TO PART 261

BASIS FOR LISTING HAZARDOUS WASTE

add the following in the appropriate numerical sequence:	53	Appendix VII					
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FEDERAL REQUIREMENTS	CHECKLIST REFERENCE	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
				EQUIV-ALENT	LESS STRIN-GENT	MORE STRIN-GENT	BROADER IN SCOPE
EPA hazardous waste No.							
			Hazardous constituents for which listed				
	* * *	* * *		* * *	* * *	* * *	* * *
K088		Cyanide (complexes).					
	* * *	* * *		* * *	* * *	* * *	* * *

PART 262 - STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

SUBPART B - THE MANIFEST

USE OF THE MANIFEST

add new paragraph stating requirements when shipping hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous	71	262.23(e)					
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as of **December 31**, 2002 (cont'd)

- 1 Note that this definition in the Federal Register (55 FR 2353; January 23, 1990) contains a typographical error. The reference to 260.20 should be to 262.20. The CFR has reflected this error since July 1, 1990.
- 2 Note that on March 29, 1990 (55 FR 11798; Revision Checklist 74), EPA promulgated the Toxicity Characteristic (TC) Rule which replaced the EP Toxicity Characteristic with the Toxicity Characteristic Leaching Procedure. However, the March 29, 1990 rule and subsequent revisions to the TC Rule failed to correct the reference to the EP Toxicity characteristic at 261.3(a)(2)(i). This error has been corrected by the June 1, 1992 interim final rule (57 FR 23062; Revision Checklist 117B). Thus, States that have adopted the TC Rule must replace the reference to the EP Toxicity characteristic with a reference to the Toxicity Characteristic.
- 3 This provision, although reprinted in Revision Checklist 167 E (63 FR 28556; May 26, 1998), was not changed by Revision Checklist 167 E.
- 4 Note that the BIF Rule as addressed by Revision Checklist 85 (56 FR 7134; February 21, 1991) amended this paragraph by exempting facilities that burn or process hazardous waste, as provided by 266.112, from the exclusion. States which have adopted the Revision Checklist 85 provisions must also adopt the changes addressed by that checklist for this paragraph.

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- 5 The list of excluded wastes from the processing of ores and minerals, currently represented by 261.4(b)(7)(ii)(A)-(T) as per Revision Checklist 167E, has undergone extensive formatting changes over time. Revision Checklist 53 addressed a fairly short list of wastes numbered 261.4(b)(7)(i)-(vi). Revision Checklist 65 made significant changes in that 261.4(b)(7)(i)(A)-(E) represented five wastes retained under the exclusion, and 261.4(b)(7)(ii)(A)-(T) represented twenty wastes conditionally retained under the exclusion. Citations numbered (b)(7)(iii)-(vi) were omitted at that point in time. Revision Checklist 71 resulted in a list of 20 wastes retained under the exclusion, numbered 261.4(b)(7)(i)-(xx). This list of exclusions was redesignated as 261.4(b)(7)(ii)(A)-(T) by Revision Checklist 167E. Therefore, the references to Checklists 53, 65, and 71 in the "Checklist reference" column are relevant only insofar as the numbering format on the Federal RCRA citations are concerned, as opposed to the text of the citations. Many of the wastes addressed by Revision Checklist 65 under paragraphs (i) and (ii) and subsequently addressed by Revision Checklist 71 under paragraphs (i)-(xx) are addressed in paragraphs (ii)(A)-(T) in Revision Checklist 167E. Note that this change is also included in the Special Consolidated Checklist for the Land Disposal Restrictions Phases I-IV.