EXCLUSIONS & EXEMPTIONS

ENVIRONMENTAL QUALITY
WASTE MANAGEMENT & RADIATION CONTROL
Overview

- Definition of “Solid Waste”
- Recycling
- Exemptions
- Exclusions
- Documentation
RCRA Hazardous Waste Regulations

- 260 HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL
- 261 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE
- 262 STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE
- 263 STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE
- 264 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES
- 265 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES
- 266 STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES
- 267 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT
- 268 LAND DISPOSAL RESTRICTIONS
- 270 EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM
- 273 STANDARDS FOR UNIVERSAL WASTE MANAGEMENT
- 279 STANDARDS FOR THE MANAGEMENT OF USED OIL
“any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include…”
Definition of Solid Waste R315-261

Any discarded material that is:
1) Abandoned,
2) Inherently-waste-like,
3) Military munitions, or
4) Recycled.

Does not include material that is:
- Excluded under R315-261-4(a).
DISCARDED MATERIALS

* Abandoned R315-261-2(a)(2)(i)
  - Disposed of.
  - Burned or Incinerated.
  - Accumulated, stored, or treated before or in lieu of being abandoned by being disposed of, burned, or incinerated.

* Inherently Waste-like Materials
* Military Munitions
* Recycled Materials R315-261-2(c)
  - Used in a manner constituting disposal
  - Burned for energy recovery of used as a fuel
  - Reclaimed
  - Used/reused
Use/Reuse Exclusions
R315-261-2(e)

- Directly using or reusing a material:
  - As an ingredient in an industrial process,
  - As an effective substitute for a commercial chemical product,
  - In the original process from which it was generated.

- Materials must be used, reused, or returned to original process directly without first being reclaimed to qualify for this exclusion from being a solid waste.

- These exclusions do not apply to materials used in a manner constituting disposal or burned for energy recovery.
# Solid Wastes

<table>
<thead>
<tr>
<th></th>
<th>Use constituting disposal (261-2(c)(1))</th>
<th>Energy Recovery/fuel (261-2(c)(2))</th>
<th>Reclamation (261-2(c)(3)) except as provided in 261-4(a)(17), 261-4(a)(23), 261-4(a)(24) or 261-4(a)(27)</th>
<th>Speculative accumulation (R315-261-2(c)(4))</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spent materials</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
</tr>
<tr>
<td>Sludges (listed in R315-261-31 or 261-32)</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
</tr>
<tr>
<td>Sludges exhibiting a characteristic of hazardous waste</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>NOT SOLID WASTE</td>
<td>SOLID WASTE</td>
</tr>
<tr>
<td>By-products (listed on 261-31 &amp; 261-32)</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
</tr>
<tr>
<td>By-products exhibiting a characteristic of hazardous waste</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>NOT SOLID WASTE</td>
<td>SOLID WASTE</td>
</tr>
<tr>
<td>Commercial chemical products listed in 261-33</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>NOT SOLID WASTE</td>
<td>NOT SOLID WASTE</td>
</tr>
<tr>
<td>Scrap metal that is not excluded under 261-4(a)(13)</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
<td>SOLID WASTE</td>
</tr>
</tbody>
</table>
What is a Hazardous Secondary Material

*Hazardous secondary material* means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste under part 261 of this chapter.
Generator: Any person whose act or process produces hazardous secondary materials at the generating facility.

Generating Facility - all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.

Intermediate facility: any facility that stores hazardous secondary materials for more than 10 days
Materials are not solid waste if:

- Recycling must be feasible.
- 75% of material stored at the beginning of the year must actually be recycled or sent for recycling by the end of the year.

* If materials are speculatively accumulated, they are solid wastes.
Speculative accumulation does not apply

2013 EPA Guidance

- Not waste if appropriately stored for use, legitimately recycled, or managed for legitimate reclamation
- Is solid waste if abandoned
- Checklist to evaluate status
By-Products vs. Co-Products

**By-Product**
- Residual in nature
- Not intentionally produced
- Not separately produced
- Needs further processing

**Co-Product**
- Highly processed
- Intentionally produced
- Ordinarily used as a commodity
- No further processing necessary
Processing to recover a usable product.
- Wastes are processed to recover usable products when distinct components of the material that are of value are recovered.

Regeneration
- Wastes are regenerated when they are processed to remove contaminants in a way that restores them to their usable original condition.
Recycling must be legitimate - Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste.

1. Useful contribution
2. Valuable product or intermediate
3. Managed in protective manner
A hazardous secondary material found to be sham recycled is considered discarded and a solid waste. Sham recycling is recycling that is not legitimate recycling as defined in R315-260-43.
What are you claiming?
- Not a solid waste
- Conditionally exempt

How do you demonstrate the claim?
- Contracts
- Equipment
Solid Waste Exclusions
R315-261-4(a)

* Domestic sewage and mixtures of domestic sewage (261-4(a)(1))
* Industrial point source discharges (261-4(a)(2))
* Irrigation return flows (261-4(a)(3))
* Certain radioactive secondary materials (261-4(a)(4))
* In-situ mining materials (261-4(a)(5))
* Pulping liquors (261-4(a)(6))
* Spent sulfuric acid (261-4(a)(7))
* Secondary materials reclaimed in a closed-loop process in tanks (261-4(a)(8))
* Spent wood preservatives (261-4(a)(9))
* Coke by-product wastes (261-4(a)(10))
* Splash condenser dross residues (261-4(a)(11))
* Oil-bearing hazardous secondary materials generated and recycled within the petroleum refining industry (261-4(a)(12))
* Excluded scrap metal (261-4(a)(13))
* Shredded circuit boards (261-4(a)(14))
Solid Waste Exclusions
R315-261-4(a)

* Pulping condensates derived from Kraft mill steam strippers (261-4(a)(15))
* Comparable fuels or syngas fuels (261-4(a)(16))
* Mineral processing spent materials being recycled (261-4(a)(17))
* Petrochemical recovered oil (261-4(a)(18))
* Spent caustic solutions from petroleum refining (261-4(a)(19))
* Hazardous secondary materials used to make zinc fertilizers (261-4(a)(20))
* Zinc fertilizers made from hazardous secondary materials (261-4(a)(21))
* Used cathode ray tubes (CRTs) (261-4(a)(22))
* Hazardous secondary materials generated and reclaimed under the control of the generator (261-2(a)(2)(ii) and 261-4(a)(23))
* Hazardous secondary materials transferred to another person for the purpose of reclamation (261-4(a)(24))
* Hazardous secondary material exported and reclaimed in a foreign country (261-4(a)(25))
* Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation (261-4(a)(26))
Domestic Sewage Exclusion: Any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly-owned treatment works (POTW)

This *does not* apply to privately-owned treatment facilities.

The exclusion applies at the discharge point.
Industrial point source discharges: Industrial wastewater discharges that are point source discharges under §402 of the CWA.

- Does not apply while wastewaters are being collected, stored or treated.
- Does not include any sludges generated as a result of treatment of industrial waste waters.
Excluded Scrap Metal
R315-261-4(a)(13)

* Excluded Scrap metal: Excluded scrap metal is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

* Baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type.

* Home and prompt are turnings, cuttings, punchings, and borings generated by steel mills, foundries, metal refineries, and metal-working/fabrication industries.
Provided that used, intact CRTs are not disposed of or speculatively accumulated;

They are exported for recycling provided they meet certain requirements;

Used, broken CRTs and glass removed from CRTs that meet certain storage, segregation, labeling and other requirements
Hazardous secondary materials generated and reclaimed under the control of the generator are not solid wastes:

* May not be speculatively accumulated
* Must be contained in units
* The reclamation is under control of generator
  1. Generated and reclaimed at generating facility
  2. Generated and reclaimed at different facilities that are controlled by generator
  3. Generated and reclaimed per tolling agreement
* Emergency Preparedness and Response requirements are met
* Recycling is legitimate (4-part test)
* Records are kept for 3 years
* Initial and biennial notification required.

Generator-Controlled Exclusion
R315-261-4(a)(23)
Hazardous secondary materials transferred to another person for the purpose of reclamation are not solid wastes provided that:

- The material is not speculatively accumulated
- The material may be handled only by the generator, transporter, any intermediate facility and reclaimers
- The reclamation of the material is legitimate

Generator satisfies the following:

- Materials must be contained in units
- Generator must arrange of materials to a verified reclamation facility
- Maintains 3 years records of all off-site shipments of the materials
- Maintain 3 years records of confirmation of receipts from reclaimers
- Maintain emergency preparedness and response requirements
Reclaimers and intermediate facilities must satisfy the following:
- Maintains 3 years records of all off-site shipments of the materials
- Send confirmation of receipts to generators
- Manage the material in a manner that is at least as protective as for an analogous raw material
- Must maintain financial assurance as required under 261 Subpart H
- Must notify as a HSM intermediate or reclaimer
Scrap metal that is not already excluded from the definition of solid waste is exempt from hazardous waste regulations if sent for recycling/reclamation.
Solid wastes which are not hazardous wastes. The following solid wastes are not hazardous wastes:

- Household hazardous waste
- Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of oil, gas, or geothermal energy.
- Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems when the refrigerant is reclaimed
- Non-terne plated used oil filters that have been gravity hot-drained.
- Solvent-contaminated wipes that are disposed of
- Samples
Solvent-contaminated wipes sent for cleaning or disposal are conditionally excluded from hazardous waste regulation.

- Labeling
- Closed containers
- No free liquids
- Accumulation Time - 180 days
- Recordkeeping
- Laundering or Disposal
Questions?

Deborah ng
dng@utah.gov
(801)-536-0218

Judy Moran
jmoran@utah.gov
(801)-536-0255