

EXCLUSIONS & EXEMPTIONS



**ENVIRONMENTAL
QUALITY**

WASTE MANAGEMENT & RADIATION CONTROL

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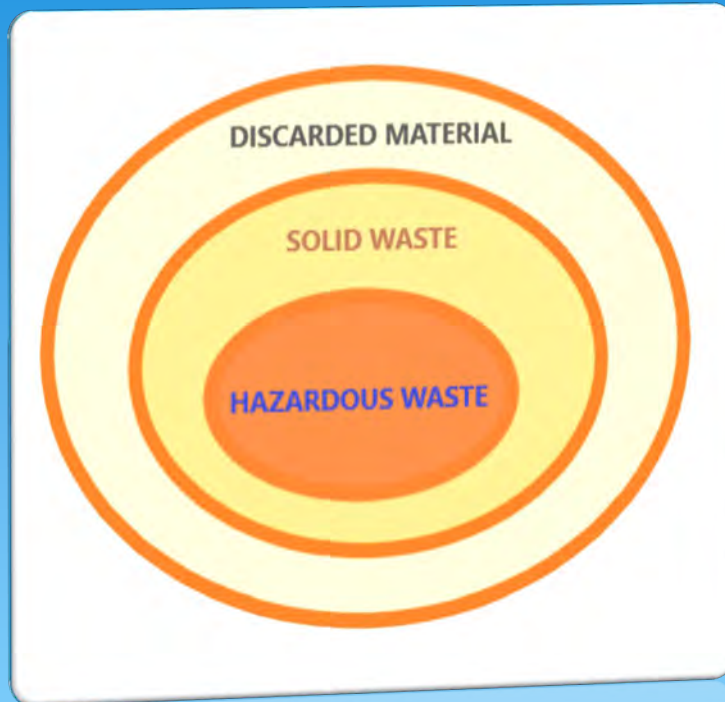
Definition of Solid Waste RCRA Section 1004(27)

“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...”



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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).
- Granted a variance under R315-260-30 and 260-31.



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 or 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

	Use constituting disposal (261-2(c)(1))	Energy Recovery/fuel (261-2(c)(2))	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)	Speculative accumulation (R315-261-2(c)(4))
Spent materials	SOLID WASTE	SOLID WASTE	SOLID WASTE	SOLID WASTE
Sludges (listed in R315-261-31 or 261-32)	SOLID WASTE	SOLID WASTE	SOLID WASTE	SOLID WASTE
Sludges exhibiting a characteristic of hazardous waste	SOLID WASTE	SOLID WASTE	NOT SOLID WASTE	SOLID WASTE
By-products (listed on 261-31 & 261-32)	SOLID WASTE	SOLID WASTE	SOLID WASTE	SOLID WASTE
By-products exhibiting a characteristic of hazardous waste	SOLID WASTE	SOLID WASTE	NOT SOLID WASTE	SOLID WASTE
Commercial chemical products listed in 261-33	SOLID WASTE	SOLID WASTE	NOT SOLID WASTE	NOT SOLID WASTE
Scrap metal that is not excluded under 261-4(a)(13)	SOLID WASTE	SOLID WASTE	SOLID WASTE	SOLID WASTE

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.



Hazardous Secondary Material terms

- 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



Speculative Accumulation

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.



Commercial Chemical Product Storage

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



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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



RECLAMATION

- * **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.



Legitimate Recycling

R315-260-43

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



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Sham Recycling

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.



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Documentation of Claims

R315-261-2(f)

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 R315-261-4(a)(1)

- * **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

R315-261-4(a)(2)

- * **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.



Used Cathode Ray Tubes (CRTs) R315-261-4(a)(22)

- * 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



Generator-Controlled Exclusion

R315-261-4(a)(23)

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.



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Transfer-Based Exclusion

R315-261-4(a)(24)

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



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Transfer-Based Exclusion R315-261-4(a)(24)

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



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Exempt Scrap Metal R315-261-6(a)(3)(ii)

Scrap metal that is not already excluded from the definition of solid waste is exempt from hazardous waste regulations if sent for recycling/reclamation



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Exemptions

R315-261-4(b)

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 Wipes

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



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