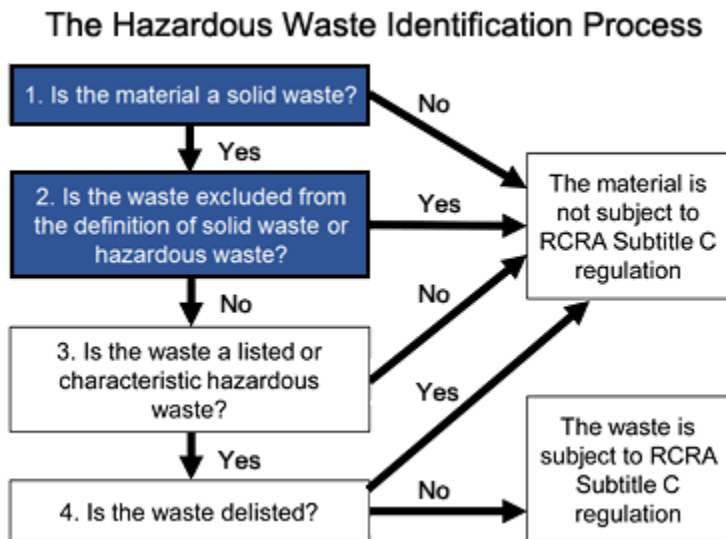




Criteria for the Definition of Solid Waste and Solid and Hazardous Waste Exclusions



Background

Proper waste management is an essential part of society's public and environmental health. The Resource Conservation and Recovery Act (RCRA), passed in 1976, created the framework for America's hazardous and non-hazardous waste management programs. Materials regulated by RCRA are known as "solid wastes." Only materials that meet the definition of solid waste under RCRA can be classified as hazardous wastes, which are subject to additional regulation. EPA developed detailed regulations that define what materials qualify as solid wastes and hazardous wastes. Understanding the definition of a solid waste is an important first step in the process EPA set up for generators to hazardous waste to follow when determining if the waste they generated is a regulated hazardous waste.

Some of the materials that would otherwise fit the definitions of a solid or hazardous waste under waste identification are specifically excluded from the definitions. EPA concluded that these materials should not be regulated as solid or hazardous wastes for a number of reasons. Many exclusions are mandated in RCRA. EPA selected other exclusions to provide an incentive to recycle certain materials, because there was not enough information on the material to justify its regulation as a solid or hazardous waste, or because the material was already subject to regulation under another statute.



What is a Solid Waste?

State regulatory requirements for generators may be more stringent than those in the federal program. Be sure to [check your state's policies](#).

RCRA states that "solid waste" means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, resulting from industrial, commercial, mining, and agricultural operations, and from community activities. Nearly everything we do leaves behind some kind of waste.

It is important to note that the definition of solid waste is not limited to wastes that are physically solid. Many solid wastes are liquid, semi-solid, or contained gaseous material.

A solid waste is any material that is discarded by being:

- **Abandoned:** The term abandoned means thrown away. A material is abandoned if it is disposed of, burned, incinerated, or sham recycled.
- **Inherently Waste-Like:** Some materials pose such a threat to human health and the environment that they are always considered solid wastes; these materials are considered to be inherently waste-like. Examples of inherently waste-like materials include certain dioxin-containing wastes.
- **A Discarded Military Munition:** Military munitions are all ammunition products and components produced for or used by the U.S. Department of Defense (DOD) or U.S. Armed Services for national defense and security. Unused or defective munitions are solid wastes when:
 - abandoned (i.e., disposed of, burned, incinerated) or treated prior to disposal;
 - rendered nonrecyclable or nonusable through deterioration; or
 - declared a waste by an authorized military official.Used (i.e., fired or detonated) munitions may also be solid wastes if collected for storage, recycling, treatment, or disposal.
- **Recycled in Certain Ways:** A material is recycled if it is used or reused (e.g., as an ingredient in a process), reclaimed, or used in certain ways (used in or on the land in a manner constituting disposal, burned for energy recovery, or accumulated speculatively). Specific exclusions to the definition of solid waste are listed in the Code of Federal Regulations (CFR) at [40 CFR section 261.4\(a\)](#). Many of these exclusion are related to recycling.

Materials that do not meet this definition are not solid wastes and are not subject to RCRA regulation.

Wastes Excluded from Solid Waste Regulation

The 2018 Definition of Solid Waste Final Rule updates some the exclusions found in the table below. [Learn more](#).



Several materials are excluded from the definition of solid waste. These materials are excluded for a variety of reasons, including public policy, economic impacts, regulation by other laws, lack of data, or impracticability of regulating the waste. The decision to exclude the following materials from the solid waste definition is a result of either Congressional action (embodied in the statute) or an EPA rulemaking.

A material cannot be a hazardous waste if it does not meet the definition of solid waste. Thus, wastes that are excluded from the definition of solid waste are not subject to RCRA subtitle C hazardous waste regulation.

The table below contains a description of wastes which are excluded from the definition of solid waste and the subsection of [40 CFR section 261.4\(a\)](#) where you can find more information about the exclusion.

Wastes Which Are Not Solid Wastes	40 CFR Citation for the Exclusion
Domestic Sewage and Mixtures of Domestic Sewage	§261.4(a)(1)
Point Source Discharge	§261.4(a)(2)
Irrigation Return Flow	§261.4(a)(3)
Radioactive Waste	§261.4(a)(4)
In-Situ Mining	§261.4(a)(5)
Pulping Liquors	§261.4(a)(6)
Spent Sulfuric Acid	§261.4(a)(7)
Reclamation in Enclosed Tanks	§261.4(a)(8)
Spent Wood Preservatives	§261.4(a)(9)
Coke By-Product Wastes	§261.4(a)(10)
Splash Condenser Dross Residue	§261.4(a)(11)
Hazardous Secondary Materials From the Petroleum Refining Industry	§261.4(a)(12)
Excluded Scrap Metal	§261.4(a)(13)
Shredded Circuit Boards	§261.4(a)(14)
Pulping Condensates Derived from Kraft Mill Steam Strippers	§261.4(a)(15)
Spent materials generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation	§261.4(a)(17)
Petrochemical recovered oil from an associated organic chemical manufacturing facility	§261.4(a)(18)
Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid	§261.4(a)(19)
Hazardous secondary materials used to make zinc fertilizers	§261.4(a)(20)
Zinc fertilizers made from hazardous wastes, or excluded	§261.4(a)(21)



Wastes Which Are Not Solid Wastes	40 CFR Citation for the Exclusion
hazardous secondary materials	
Used cathode ray tubes (CRTs)	§261.4(a)(22)
Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator	§261.4(a)(23)
Hazardous secondary material that is generated and then transferred for the purpose of reclamation is not a solid waste	§261.4(a)(24)
Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation	§261.4(a)(26)
Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste	§261.4(a)(27)

Wastes Excluded from Hazardous Waste Regulation

EPA excludes certain solid wastes from the definition of hazardous waste. If a material meets an exclusion from the definition of hazardous waste, it is not regulated as a hazardous waste, even if the material technically meets a [listing or exhibits a characteristic](#) that would normally meet this definition.

The table below contains a description of solid wastes which are excluded from the definition of hazardous waste and the subsection of [40 CFR section 261.4\(b\)](#) where you can find more information about the exclusion.

Solid Wastes Which Are Not Hazardous Wastes	CFR Citation for the Exclusion
Household Hazardous Waste	§261.4(b)(1)
Agricultural Waste	§261.4(b)(2)
Mining Overburden	§261.4(b)(3)
Fossil Fuel Combustion Waste (Bevill)	§261.4(b)(4)
Oil, Gas, and Geothermal Wastes (Bentsen Amendment)	§261.4(b)(5)
Trivalent Chromium Wastes	§261.4(b)(6)
Mining and Mineral Processing Wastes (Bevill)	§261.4(b)(7)
Cement Kiln Dust (Bevill)	§261.4(b)(8)
Arsenical-Treated Wood	§261.4(b)(9)
Petroleum Contaminated Media & Debris from Underground Storage Tanks	§261.4(b)(10)
Injected Groundwater	§261.4(b)(11)
Spent Chlorofluorocarbon Refrigerants	§261.4(b)(12)



Solid Wastes Which Are Not Hazardous Wastes	CFR Citation for the Exclusion
Used Oil Filters	§261.4(b)(13)
Used Oil Distillation Bottoms	§261.4(b)(14)
Landfill Leachate or Gas Condensate Derived from Certain Listed Wastes	§261.4(b)(15)
Project XL Pilot Project Exclusions	§261.4(b)(17)
Project XL Pilot Project Exclusions	§261.4(b)(18)