

US EPA ARCHIVE DOCUMENT

## Chapter I: Introduction

### A. INTRODUCTION TO HAZARDOUS WASTE IDENTIFICATION

The Resource Conservation, and Recovery Act (RCRA) regulates hazardous waste from its point of generation until its ultimate disposal. RCRA defines hazardous waste using a four-step process described in §262.11:

- 1) Is the material a solid waste?
- 2) Is the waste excluded from regulation?
- 3) Is the waste a listed hazardous waste in 40 CFR Part 261, Subpart D?
- 4) Does the waste exhibit a characteristic in Part 261, Subpart C?

A material can not be a hazardous waste under RCRA without also being a solid waste. If it is determined that a waste is a solid waste, the person or persons responsible for the waste must then determine if any solid or hazardous waste exclusions apply. If no solid or hazardous waste exclusions apply, then the person or persons evaluating the material must determine whether the waste fits into the category of listed hazardous wastes, and/ or characteristic hazardous wastes. Wastes that are listed hazardous wastes and/ or exhibit a characteristic of hazardous waste are subject to all applicable RCRA hazardous waste regulation.

#### 1. Solid Waste Determination

The first step in the four-step process is determining whether a given waste material is a solid waste. EPA uses the term "solid waste" to officially describe solid, semi-solid, liquids or contained gaseous material. A solid waste is any discarded material that is discarded by being abandoned, inherently waste-like (i.e., certain dioxin-containing listed wastes), recycled (i.e., used, reused, or reclaimed), or meets the definition of waste military munition. Materials that do not fall within one of these categories are not subject to hazardous waste regulation.

Whether a material is defined as a solid waste depends on several factors. Section 261.2(c) designates as solid wastes certain materials that are recycled in particular manners (i.e., used in a manner constituting disposal, burned for energy recovery, reclaimed, and speculatively accumulated). Other materials that are recycled through use or reuse of the material may qualify for exemptions from the solid waste definition under §261.2(e). When a material is recycled, its regulatory classification (i.e., whether or not it is a solid waste, and potentially a regulated hazardous waste) depends on two factors: first, what type of secondary material is being recycled; and second, what type of recycling is occurring.

Used or residual waste-like materials that can potentially be solid and hazardous wastes are divided into five groups of secondary materials: spent materials, sludges, by-products, commercial chemical products (CCPs), and scrap metal.

- Spent materials are materials which can no longer serve the purpose for which they were intended to be used without being regenerated (e.g., spent solvents).
- Sludge is any solid, semisolid, or liquid waste generated from a wastewater treatment plant, water supply treatment plant, or air pollution control device.
- By-products are materials that are not one of the primary products of a production process and are not solely or separately produced by the production process (e.g., distillation column bottom). A by-product is a catch-all term, and includes most wastes that are not spent materials or sludges.
- Commercial chemical products (CCPs) include unused chemical intermediates, off-specification variants, and spill or container residues as well as commercial products even if they are not commonly considered chemicals.
- Scrap metal is bits and pieces of metal parts that are worn or superfluous (e.g., scrap turnings and wire).

Once the type of secondary material is known, the manner in which it will be recycled will determine whether or not the material is a solid waste. EPA asserts authority over three types of recycling: use constituting disposal, burning waste fuels, and reclamation.

- Use constituting disposal is directly placing wastes on the land or in products that will be placed on the land. This type of recycling subjects a material to being a solid waste, unless its normal manner of use is being placed on the land (e.g., pesticides).
- Burning hazardous waste for energy recovery and using waste to produce a fuel are both criteria that qualify a waste as a solid waste. However, CCPs are not solid wastes when burning is their intended use.
- Reclamation is waste regeneration which occurs when wastes are processed to remove contaminants in a way that restores them to their usable condition

In addition, in order to ensure that materials destined for recycling are actually recycled, EPA established a provision which penalizes facilities that recycle insufficient amounts of materials by designating as solid wastes certain materials that are accumulated speculatively. A material is accumulated speculatively if 75 percent or more of the material is not recycled in a calendar year (§261.1(c)(8)).

Table 1 contains a summary of the regulatory status of all secondary materials.

**Table 1: Regulatory Status of Recycled Secondary Materials**

	Use Constituting Disposal §261.2(c)(1)	Energy Recovery/ Fuel §261.2(c)(2)	Reclamation §261.2(c)(3)	Speculative Accumulation §261.2(c)(4)
Spent Materials	Yes	Yes	Yes	Yes
Listed Sludges	Yes	Yes	Yes	Yes
Characteristic Sludges	Yes	Yes	No	Yes
Listed By-products	Yes	Yes	Yes	Yes
Characteristic By-products	Yes	Yes	No	Yes
CCPs	Yes	Yes	No	No

## **2. Exclusions**

The second step in the hazardous waste identification process is determining whether a solid or hazardous waste exclusion in §261.4 of the regulations applies to a given material. If such an exclusion applies, then the material is released from RCRA jurisdiction and is not subject to regulation as a hazardous waste, unless a material is only temporarily excluded under a conditional exclusion. All exclusions are discussed in detail in Appendix A of this document, however, the three types of exclusions are:

- Exclusions from the definition of solid waste that remove a waste completely from RCRA solid and hazardous waste regulation.
- Exclusions from the definition of hazardous waste that remove wastes from RCRA hazardous waste regulations but do not release a waste from solid waste regulation.
- Conditional exclusions that provide a certain set of conditions under which a material is excluded from RCRA regulation.

## **3. Listed Hazardous Wastes**

The next step in the hazardous waste identification process is determining whether the waste is a listed hazardous waste. A hazardous waste listing is a narrative description of a specific type of waste that EPA considers dangerous enough to warrant regulation. Only knowledge of a waste's origin is needed to determine if it is listed; laboratory analysis is unnecessary. The three categories of listed hazardous wastes are the F, K,

and P and U listed wastes.

- The F list designates as hazardous particular wastes from certain common industrial or manufacturing processes. Because the processes producing these wastes can occur in different sectors of industry, the F list wastes are known as wastes from nonspecific sources (e.g., spent solvent wastes or wood preserving wastes).
- The K list designates as hazardous particular wastestreams from certain specific industries. When determining whether a solid waste qualifies for a K-listing description, two primary questions about the waste material must be answered: 1) Is the facility that created the waste within one of the 17 different industrial or manufacturing categories on the K list? 2) Does the waste match one of the specific K-list waste descriptions?
- The P list and the U list are similar in that both list as hazardous pure or commercial grade formulations of certain specific unused chemicals. P listed wastes are acutely hazardous and U listed wastes are toxic unless otherwise specified as hazardous for another reason (e.g., hazardous for ignitability, corrosivity, and reactivity). For a waste to qualify as a P or U listed waste, the waste must meet the following three criteria:
  - The waste must contain one of the chemicals on the P or U list
  - The chemical in the waste must be unused
  - The chemical in the waste must be in the form of a “commercial chemical product,” as EPA defines the term in the comment in §261.33(d).

#### **4. Characteristic Hazardous Waste**

The person or persons responsible for evaluating a waste must also determine whether a given waste material exhibits one or more of the four hazardous waste characteristics (ignitability, corrosivity, reactivity and toxicity). The facility may determine if a waste exhibits a characteristic either by testing the waste with one of EPA’s prescribed test methods or by using their knowledge of the process that generated the waste.

##### **Ignitable Hazardous Waste (D001)**

Ignitable wastes are wastes which can readily catch fire and sustain combustion. Many paints, cleaners, and other industrial wastes pose such a fire hazard. For liquids, EPA selected a flash point test as the method for determining whether a liquid waste is combustible enough to deserve regulation as hazardous. A non-liquid waste is only hazardous due to ignitability if it can spontaneously catch fire under normal handling conditions and can burn so vigorously that it creates a hazard (§261.21).

##### **Corrosive Hazardous Waste (D002)**

Corrosive wastes are acidic or alkaline wastes which can readily corrode or dissolve

flesh, metal, or other materials. Waste sulfuric acid from automotive batteries is an example of corrosive waste. EPA uses two criteria to identify corrosive hazardous wastes:

- Aqueous wastes with a pH greater than or equal to 12.5 or less than or equal to 2 are corrosive under EPA's rules
- A waste may also be corrosive if it has the ability to corrode steel at a certain rate determined using a specific EPA-approved test protocol (§261.22).

### **Reactive Hazardous Waste (D003)**

A reactive waste is one that readily explodes or undergoes violent reactions. Common examples are discarded munitions or explosives. In many cases, there is no reliable test method to evaluate a waste's potential to explode or react violently under common handling conditions. Therefore, EPA uses narrative criteria to define most reactive wastes and allows waste handlers to use their best judgment. A waste is reactive if it meets any of the criteria detailed in §261.23.

### **Toxicity Characteristic Wastes (D004-D043)**

The toxicity characteristic is based on leachate derived from a lab procedure known as the Toxicity Characteristic Leaching Procedure (TCLP). If leachate from the TCLP contains any of 39 toxic chemicals above the regulatory levels listed in §261.24, then the waste is toxic for those given chemicals. Though the TCLP is the EPA's designated test method for determining whether a waste is toxic, a generator may also apply knowledge of a waste's origin and contaminants of concern to determine whether or not the waste is hazardous.

## **5. Other Considerations**

There are several other EPA regulations and policies that affect the identification of hazardous waste and therefore need to be discussed. These policies are the mixture rule, derived-from rule, and the contained in policy.

### **Mixture Rule**

The mixture of a characteristic waste with a solid waste will be regulated as a hazardous waste provided that the mixture exhibits a characteristic. In general, the mixture of a listed hazardous waste with a solid waste simply results in a larger volume of fully regulated listed waste. However, the mixture of a solid waste with a waste that is listed for exhibiting a characteristic (i.e., a waste with a hazard code of I, C, R, or E) is only regulated if the resultant mixture exhibits a characteristic. In addition, there are several exemptions to the mixture rule for specific situations. For example, *de minimis* wastewater mixtures (mixtures with very small amounts of listed waste) that are discharged under Sections 402 or 307(b) of the CWA are not regulated.



### **Derived-From Rule**

The derived-from rule states that all wastes that are produced as the result of treatment, storage, or disposal of a listed waste are regulated as that listed waste (§261.3(c)(2)(i)). Waste produced from the treatment storage or disposal of a characteristic waste is also hazardous unless the resulting waste does not exhibit a hazardous waste characteristic (§261.3(d)(1)). One major exception exists to both the listed and characteristic derived-from rules for materials reclaimed from hazardous waste that are used beneficially provided they are not burned or used in a manner constituting disposal. These materials are viewed as products and although they are "derived-from" hazardous waste, are not hazardous waste when used in a manner consistent with a product (e.g., a hazardous waste sludge from a chemical company used in roofing materials) (§261.3(c)(2)(i))

### **Contained-in Policy**

The contained-in policy is a flexible version of the mixture and derived-from rules created to apply to environmental media (i.e., soil, groundwater, sediment and surface water) and debris. Though EPA does not consider environmental media and debris to be hazardous waste in and of themselves, EPA requires that these materials be regulated as hazardous waste during the time that they exhibit one or more hazardous waste characteristic or "contain" listed waste. Once the generator has shown that the media or debris no longer contain hazardous waste the media or debris is no longer subject to RCRA. The contained-in policy is not codified.

## **B. APPLICABILITY OF IMPORT & EXPORT REQUIREMENTS**

RCRA establishes regulations for all handlers of hazardous waste, from those persons that first produce the waste or first subject the waste to regulation to those persons that treat, store, or dispose of hazardous waste. These regulations include the generator requirements in Part 262, the standards for transporting hazardous waste in Part 263, and the general operating conditions, unit standards, and permitting requirements for treatment, storage, and disposal facilities (TSDFs) in Parts 264, 265, and 270. Importers and exporters of hazardous waste also have special requirements under the RCRA program. These regulatory requirements vary depending on the type of waste managed, the foreign country receiving or shipping the waste, and the manner in which the waste will be managed. Much like the hazardous waste identification process, there are a series of questions importers and exporters must answer to determine their applicable regulatory requirements. The RCRA import and export regulations apply only when the following two statements are true.

### **1) The waste must be a hazardous waste under RCRA**

Importers and exporters must know if the waste they handle is hazardous under RCRA.

If the waste is not a hazardous waste or is exempt from regulation, the RCRA import and export regulations do not apply. Therefore, RCRA import or export regulations do not apply to the following materials:

- 1) Materials that are not defined as solid wastes in '261.2
- 2) Materials that are not defined as hazardous waste in '261.3
- 3) Materials that are specifically excluded from the definition of solid and hazardous waste in §261.4

(See Appendix A for a list of materials that are not subject to import and export requirements.)

For example, suppose a U.S. generator produces a characteristic sludge that will be reclaimed in Canada. In this case, the generator need not comply with the export requirements because the sludge is not a solid waste. (See Table 1 earlier in this Chapter.) RCRA excludes characteristic sludges that are reclaimed from the definition of solid waste in §261.2, whether the reclamation occurs within or outside of the United States. EPA discusses this concept in the *Federal Register* from April 12, 1996:

"The Agency wishes to point out that a relatively narrow set of hazardous secondary materials are not defined as solid wastes and, therefore, are not hazardous wastes when recycled in a particular manner (e.g., listed commercial chemical products that are to be reclaimed). Thus, these materials would not be subject to the export requirements. Exporters of such materials, nevertheless, should keep in mind that they have the burden of proof to show that such materials are to be recycled in a manner bringing them outside the scope of solid waste (61 *FR* 16290, 16307; April 12, 1996)."

In a different scenario, suppose a U.S. generator produces a listed hazardous waste that is destined for a laboratory in Germany. The laboratory will conduct a treatability study on this waste and the U.S. generator will comply with all applicable requirements for handling and shipping the samples in §261.4(e). Is the generator required to comply with the export regulations? Section 261.4(e) exempts generators and sample collectors from the RCRA regulations provided that the generator complies with the conditions listed in this section. Therefore, the U.S. generator shipping the sample to Germany



under the conditions in §261.4(e) need not comply with the export requirements (Memo, Lowrance to Seeger; May 24, 1992).

**2) The waste must be subject to Federal RCRA manifesting procedures or to Federal (or State equivalent) universal waste management standards under Part 273.**

In order for the import or export regulations to apply, materials must be a hazardous waste under RCRA *and* must be subject to manifesting. Note that although shipments of universal wastes do not require a hazardous waste manifest, they are still subject to applicable import and export requirements. (Currently, the Federal universal wastes include hazardous batteries, thermostats, pesticides, and lamps.)

Typically, generators must prepare a hazardous waste manifest to accompany shipments of hazardous waste during transportation and delivery to a facility designated on the manifest. However, a subset of hazardous wastes are not subject to manifesting. (For a list of hazardous wastes not subject to manifesting requirements, see Appendix A.) EPA provides examples of hazardous wastes that are not subject to the import or export requirements because shipments of these wastes do not require a manifest.

"Thus, exports of any hazardous wastes that are exempt from the manifest requirements of Part 262, Subpart B would not be subject to any of the export requirements. Accordingly, such hazardous wastes as samples, residues in empty containers, wastes generated in transport vehicles, certain wastes when recycled, and wastes generated by small quantity generators of less than 100 kg/mo would be excluded from the export requirements (51 FR 28664, 28669, August 8, 1986)."

One exception to this rule is for industrial ethyl alcohol that is shipped to a foreign country for reclamation. Although shipments of industrial ethyl alcohol do not require a manifest, exporters of this material must comply with the primary exporter requirements (§261.6(a)(3)).

Once importers and exporters determine that they handle a hazardous waste subject to manifesting requirements, they are subject to the import and export requirements. But where are these requirements located in the regulations? Part 262 designates the requirements for generators of hazardous waste and special requirements for imports and exports of hazardous waste. Part 262, Subparts E and F establish regulations for exports and imports, respectively. In addition, Part 262, Subpart H establishes regulations for imports and exports of hazardous waste within the OECD. How do importers and exporters decide which requirements to follow? The next section discusses this matter in more detail.

### C. OECD VS. PART 262, SUBPARTS E & F

Prior to the OECD agreement in 1992 covering transboundary shipments of hazardous waste between OECD members for recovery purposes, U.S. importers and exporters exclusively followed the procedures outlined in Part 262, Subparts E and F. When the United States adopted the OECD decision governing transboundary movements of hazardous waste destined for recovery, EPA was tasked with developing applicable regulations for U.S. importers and exporters. These regulations were codified in Part 262, Subpart H on April 12, 1996. So how do importers and exporters determine whether Subparts E and F or Subpart H applies?

First, Part 262, Subpart H applies only to waste shipments between **OECD countries**. For purposes of Subpart H, OECD countries include Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States (§262.58(a)(1)).

Secondly, the hazardous waste shipment must be destined for **recovery operations**. Recovery operations are defined in §262.81(k) as "activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses as listed in Table 2.B of the [Council Decision]."

Examples of recovery operations include solvent reclamation, recycling of organic substances or metal compounds, regeneration of acids or bases, and recovery of components from catalysts.

Imports and exports of hazardous waste that are either not within the OECD or are not destined for recovery operations are not subject to Subpart H. These hazardous waste exports are covered only by the regulations Part 262, Subpart E, while imports are subject to Subpart F. Table 2 summarizes the applicability for Part 262, Subparts E, F, and H. Chapters II, III, and IV discuss the regulations within each of these Subparts in more detail.

**Table 2: Subparts E and F v. Subpart H**

Handler	Is waste hazardous and subject to Federal manifesting or universal waste requirements?	Does the waste transaction occur with an OECD member country for recovery purposes?	Is the transacting country Canada, Mexico, Costa Rica, or Malaysia?	Applicable Subpart in Part 262
Importer	No	N/A	N/A	N/A
	Yes	Yes	No	H
	Yes	Yes	Yes	F
	Yes	No	No	None
Exporter	No	N/A	N/A	N/A
	Yes	Yes	No	H
	Yes	Yes	Yes	E
	Yes	No	No	None

Note: See Chapter V for information on prohibitions and restrictions of these shipments under the Basel Convention.

#### D. FREQUENTLY ASKED QUESTIONS

*Are wastes that are hazardous only under a more stringent State program subject to importing and exporting requirements?*

Wastes that are not hazardous under the Federal program, but are considered hazardous in an authorized State are not subject to the importing and exporting requirements. Only those wastes listed or identified under the Federal program that are subject to Federal manifesting requirements are subject to the U.S. requirements for importing and exporting (61 FR 16307; April 12, 1996).

*Are spent lead acid batteries exported for reclamation subject to the exporting requirements?*

Exporters sending spent lead acid batteries for reclamation under Part 266, Subpart G, are not subject to the export requirements. Under Part 266, shipments of spent lead acid batteries do not require a manifest. However, lead acid batteries managed as universal waste under Part 273 are subject to exporting requirements.

*Are characteristic by-products subject to exporting requirements?*

If characteristic by-products are exported for reclamation, they are not solid wastes and not subject to exporting requirements (§261.2). Generators exporting characteristic by-products for reclamation must document that the material is not a solid waste (Monthly Hotline Report Question; September 1986). If exporters send these materials for disposal, they are subject to the export regulations.

*Are primary exporters of hazardous recyclable materials containing precious metals subject to export regulations?*

Yes, generators of (hazardous) recyclable materials exported for precious metals recovery are subject to export regulations because they meet the definition of primary exporter (§262.51) and are required to prepare a manifest in accordance with Part 262 Subpart B (Memo, Lowrance to Linson; February 5, 1991 and Monthly Hotline Report Question; October 1986).

*Are lab samples imported from abroad subject to importing requirements?*

No, lab samples are conditionally exempt from the Federal hazardous waste regulations including the hazardous waste import regulations if the shipment complies with the sample exclusion in §261.4(d) (Memo, Straus to Rideout; April 27, 1989).

*Are treatability study samples subject to the export regulations?*

If the generator of the samples meets the requirements of §261.4(e), treatability study samples are exempt from export regulations. The sample must be shipped to a laboratory or testing facility which is exempt under §261.4(f) or has an appropriate RCRA permit or interim status. Persons who generate or collect samples for the purpose of conducting treatability studies outside the U.S. and who meet all of the requirements set forth in §261.4(e), except for §261.4(e)(2)(iv) and §261.4(e)(2)(v)(C)(2), meet the terms of the exemption (Memo, Lowrance to Seeger; May 4, 1992).

*Do export requirements apply to scrap metal exported for recycling?*

No, scrap metal that is recycled is not subject to manifesting requirements and is consequently not subject to export regulations (Memo, Lowrance to Burke; November 10, 1991 and Memo, Shapiro to Donovan; August 5, 1994).

*Are characteristic sludges exported for reclamation subject to export regulations?*

No, characteristic sludges that will be reclaimed are not solid wastes under §261.2(c)(3), and therefore are not considered hazardous wastes. Section 262.53 applies only to wastes that meet the RCRA definition of hazardous waste, and does not apply to characteristic sludges being reclaimed (Memo, Lowrance to Lowrance; March 23, 1993).

*Is coal ash by-product subject to importing regulations?*

No, coal ash byproduct that consist of fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated from the primary combustion of coal is exempt from regulation under the Bevill exclusion in §261.4(b)(4) (Memo, Bussard to Karlin; December 11, 1996). Therefore, this material is not a hazardous waste and is not subject to the importing regulations.

*Are household hazardous wastes regulated under U.S. import/export regulations?*

Domestically generated household waste is excluded from the definition of hazardous waste if (1) the waste is generated by individuals on the premises of a temporary or permanent residence for individuals; and (2) the waste stream is composed primarily of materials found in the wastes generated by consumers in their homes (§261.4(b)(1)). RCRA import and export requirements apply only to regulated hazardous waste and do not cover imports or exports of household hazardous wastes.

*Are Small Quantity Generators (SQGs) subject to the export regulations when exporting hazardous waste for reclamation under a tolling agreement?*

SQGs shipping hazardous waste under a reclamation agreement are not subject to export requirements, as no manifest is required for these shipments (§262.20(e), Monthly Hotline Report Question; September 1996).

## E. CHAPTER I: LIST OF REFERENCES

Reference	Topic	Description
8/1998 Monthly Report Question FB 14308	Import and hazardous waste identification	Imported household waste is excluded from the definition of solid waste in the same way as domestically generated household waste; U.S. importers may be required to fulfill certain obligations if the exporting country or the importer's contract with the exporter requires it; importers may want to keep records of the foreign exporter should questions arise as to the status of the waste
12/11/1996 Bussard to Karlin FB 14247	Excluded waste not subject to import requirements	Coal ash byproduct consisting of fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal that has not been mixed with any other material would be exempt under the Bevill exclusion; importation of such material would not be subject to the import requirements; ash with PCB levels below 50 ppm would not be subject to the TSCA PCB import requirements
9/1996 Monthly Report Question FB 14015	Hazardous waste not subject to manifesting are not covered by export requirements	Export standards apply only to primary exporters of waste; primary exporter is an exporter that requires manifest; SQGs with contractual reclamation agreements do not require manifest; SQGs shipping waste under reclamation agreement are not subject to export requirements because they are not primary exporter
12/1994 Monthly Report Question FB 13719	Hazardous waste not subject to manifesting are not covered by export requirements	Export regulations apply only to hazardous wastes that are subject to manifest requirements; generators of wastes which are nonhazardous in the U.S. but hazardous in the exporting country do not need to notify EPA of export
9/14/94 Bussard to Morishita FB 11871	Export requirements do not apply to materials that are not solid waste when reclaimed	Purity of phosphorus oxychloride remaining in bubbler canister indicates phosphorus oxychloride is unused, therefore, bubbler canister qualifies as a CCP being reclaimed and so is not a solid waste
8/9/94 Bussard to Honohan FB 11864	Export requirements do not apply to materials that are not hazardous	Medical waste is not regulated as a hazardous waste under RCRA unless it exhibits a characteristic or is listed; notification and consent for import or export of hazardous wastes is not required for medical wastes that are not hazardous



Reference	Topic	Description
5/16/94 Petruska to Andrews FB 11836	Import considerations	In most cases nickel-containing catalysts and stainless steel scrap that do not exhibit a characteristic may be imported for recovery because they are not hazardous wastes; Multilateral and Bilateral agreements which exist independently of RCRA, can effect a country's ability to export a waste to the U.S. (e.g., nickel catalysts and stainless steel scrap may not be able to be exported if the other country views the waste as hazardous even if the U.S. does not)
3/23/93 Lowrance to Jones FB 11734	Export requirements do not apply to materials that are not solid waste when reclaimed	Characteristic sludge exported for reclamation is not subject to export regulations because characteristic sludges are not solid wastes when reclaimed; §262.53(a)(2)(vi) refers to regulated hazardous wastes exported for recycling operations
1/28/93; Lowrance to Ross FB 11723	Batteries (historical) and exports	Used cell battery exemption §261.6(a)(3)(ii); request for comment on the applicability of the exemption to specific materials with regard to export
11/10/92 Lowrance to Burke FB 11710	Hazardous waste not subject to manifesting are not covered by export requirements	Generator is responsible for determining regulatory status of spent photoconductor drums removed from photocopying machines; spent photoconductor drums taken from photocopying machines meet the definitions of spent material and scrap metal; spent drums that are recycled qualify for scrap metal recycling exclusion; only wastes that qualify as hazardous are subject to Part 262 export regulations
5/4/92 Lowrance to Seeger FB 11667	Waste that is conditionally exempt and not subject to manifesting is not covered by export requirements	Treatability study samples that are exported qualify for exemption from export requirements; foreign lab does not need EPA ID number; Basel Convention may prohibit movement of treatability study samples between Parties and non-Parties; Organization of Economic Cooperation and Development Council Decision applies to transboundary movements of recyclables, not hazardous waste samples destined for treatability studies
2/5/91 Lowrance to Linson FB 11580	Precious metals sent for reclamation are subject to exporting	Part 266, Subpart F precious metals that are exported for reclamation are also subject to Part 262 export requirements; export requirements apply to wastes that require a manifest
2/16/1990 Lowrance to Sutherland FB 11493	Non-hazardous waste is not covered by import and export requirements	EPA has no authority to control export of municipal solid waste; export of hazardous waste is regulated; new requirements for municipal solid waste exports predicted as result of Basel Convention and pending legislation
6/27/89 Straus to Bronner FB 13298	Non-hazardous waste is not covered by import and export requirements	Exported petroleum wastes that are hazardous are subject to Part 262, Subpart E; if waste is not hazardous, no requirements under U.S. law; receiving country and any transit countries may have regulations that apply

Reference	Topic	Description
6/15/89 Straus to Lodick FB 11433	Hazardous waste that is subject to manifesting is subject to export requirements	Spent abrasives from sandblasting used as an ingredient in Portland cement are solid wastes because they are used to produce a product that "will be, or is likely to be, placed on the land," and are subject to hazardous waste regulation if characteristic, including manifesting and export notification
4/27/89 Strauss to Rideout FB 11428	Waste that is conditionally exempt and not subject to manifesting is not covered by export requirements	Lab samples shipped from Canada are exempt from Subtitle C, including import requirements, per §261.4(d)
9/17/87 Grieder to Dionne FB 11294	Batteries	Intact lead-acid batteries (battery) shipped to Canada are not subject to manifesting or export notification because no reclamation has taken place (SEE ALSO: Part 273)
8/87 Monthly Report Question FB 13001	Batteries	Uncracked lead-acid batteries (battery) sent to Canada for recycling are not subject to export requirements (§3017) because they are not subject to manifesting (SEE ALSO: Part 273)
6/19/87 Porter to Watkins FB 12950	Batteries and general export requirements	RCRA §3017 prohibits export of hazardous waste without prior notification to EPA; spent batteries (battery) sent to foreign country for recycling are exempt from export requirements if batteries are uncracked (SEE ALSO: Part 273); notification and consent can cover period of up to 12 months; 60-day waiting period for approval to export applies only to first shipment; bilateral agreements can take priority over written consent requirement
9/86 Monthly Report Question FB 12722	Export requirements do not apply to materials that are not solid waste when reclaimed	Characteristic by-product being exported for regulation is not solid waste and not subject to exporting requirements; generator exporting characteristic by-product for recycling is subject to 261.2(f) documentation that material is not solid waste; exporter should be able to demonstrate known market or disposition for material
5/86 Monthly Report Question FB 12638	Batteries	Spent lead-acid batteries (battery) sent to Taiwan for reclamation are exempt from hazardous waste exportation regulations since generator does not reclaim batteries; §266.80 exempts generator from 262 requirements (SEE ALSO: Part 273)