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Definition of Solid Waste Compendium



Volume G: Speculative Accumulation

U.S. Environmental Protection Agency
Office of Resource Conservation and Recovery
Materials Recovery and Waste Management Division



Navigation Tips

To improve document navigation:

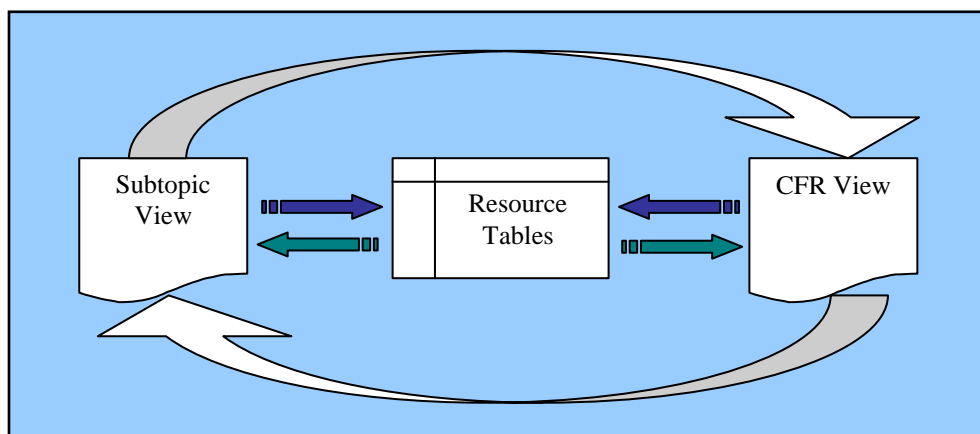
Using Microsoft Word

1. Use the  (back) and  (forward) buttons to navigate between document locations accessed via hyperlinks. These buttons can be accessed from the Navigation toolbar (View > Toolbars > Navigation). Alternatively, use ALT + Left (back) and ALT + Right (forward).
2. Use the Document Map. To show the Document Map, go to View > Document Map.

Using Adobe Reader (PDF)

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2. Use the Bookmarks listed in the Bookmarks tab (located on the left-hand side of the document window).

Document Layout (arrows represent hyperlinks):



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Introduction

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About the Compendium

The Definition of Solid Waste Compendium serves as a user-friendly reference to assist Environmental Protection Agency (EPA) and state staff, industrial facilities generating and managing solid and hazardous wastes, as well as the general public, in locating resources addressing specific regulatory issues within the federal Definition of Solid Waste regulations. Please note that this reference is designed to be web-based; therefore, the usefulness of the document is maximized when it is viewed on a computer that is connected to the internet.

A frequently mentioned comment from stakeholders is the need for EPA to improve the user-friendliness of the existing regulations. Commenters note that the applicable Definition of Solid Waste regulations and relevant guidance materials are difficult to locate and use. As a result, stakeholders have difficulty in understanding the regulations and identifying solid waste. The objective of this document is to address some of the commenters' concerns by consolidating and streamlining the Definition of Solid Waste into a helpful reference tool that features a user-friendly format, including references to EPA FAQs (Frequently Asked Questions), letters, memoranda, and guidance documents that EPA has provided to the public through the years to help stakeholders interpret the Definition of Solid Waste. This document does not change any of the existing solid or hazardous waste requirements.

The resources referenced in the Compendium may include Federal Register (FR) notices, documents from [Resource Conservation and Recovery Act \(RCRA\) Online](#) (e.g., RCRA Hotline Q&A's, letters, and memoranda issued by EPA), and other resources, as well as relevant Code of Federal Regulations (CFR) language. We have attempted to identify the relevant resources for each Compendium volume topic. However, please note that EPA could have inadvertently overlooked a relevant document and did not reference it. Certain available resources, such as superseded RCRA Online documents and items that were judged to be not pertinent, have not been referenced. Most of the referenced resources are not included or reproduced in the Compendium; instead, hyperlinks to the resources are provided. As an exception, we have included a version of relevant sections of the most current CFR language (as of the date on the cover of the Compendium) that we have reformatted to make it easier to read and find citations of interest. In addition, we also provide links to the [Government Printing Office's Electronic Code of Federal Regulations Web site](#) (e-CFR), which is updated almost daily.

Please note that this document is also not a rulemaking in any way. As well, the included reformatted CFR language is not a substitute for the CFR itself or the requirements in the CFR. The Government Printing Office frequently updates the e-CFR

Web site; where appropriate, hyperlinks to the respective CFR section at the e-CFR Web site are provided.

This reference document presents only the federal Definition of Solid Waste. Most states are authorized to manage their own solid and hazardous waste generator regulatory program. Therefore, states may have their own set of regulations that apply in lieu of federal regulations, and while most state solid and hazardous waste regulations are based on the federal requirements, some states have developed regulations more stringent than the federal program. We direct you to the following Web site to determine if the state regulatory program is different from the federal program:

<http://www.epa.gov/epawaste/wyl/stateprograms.htm>.

The Definition of Solid Waste includes multiple subtopics, and is codified under 40 CFR. To help users of the Compendium more quickly identify the information they need, and to make the Compendium more user-friendly in an electronic environment, the Compendium has been divided into multiple volumes. These volumes are available through EPA's Definition of Solid Waste Web site at <http://www.epa.gov/epawaste/hazard/dsw/compendium.htm>. Because regulations are promulgated throughout the year, EPA intends to update the Compendium volumes periodically to remain up-to-date with regulations relating to the Definition of Solid Waste.

About the Speculative Accumulation Volume

This volume of the Compendium lists resources pertaining to the speculative accumulation provision that appears in the Definition of Solid Waste regulations at 40 CFR 261.2(c)(4). This part indicates which materials are solid wastes, and those that are not, when accumulated speculatively prior to recycling. The definition of "accumulated speculatively" is found at 40 CFR 261.1(c)(8).

This document is organized into three main sections:

- *Subtopic View* – lists subtopics for resources
- *Resources* – lists resources for each subtopic
- *CFR View* – CFR language we've reformatted for easy reading

The *Subtopic View* section lists the subtopics among the speculative accumulation resources. The *Resources* section is comprised of a table, arranged by subtopic, that provides basic details about and a hyperlink to each resource. The *CFR View* section provides reformatted versions of the relevant CFR language. As noted previously, this reproduced language is not a substitute for the CFR itself or the requirements in the CFR. Additionally, the Government Printing Office frequently updates the e-CFR Web site to which the document is linked; where appropriate, hyperlinks to the respective CFR section at the e-CFR Web site are provided. These three main sections are cross-referenced, where each section includes hyperlinks to the other sections. Please see the "Navigation Tips" section for document navigation guidance.

This reference document does not provide guidance on solid waste or hazardous waste regulations beyond issues concerning the speculative accumulation provision in the Definition of Solid Waste regulations. For more information regarding the various regulations applied to facilities generating or managing hazardous waste, see [Hazardous Waste Generators: A User Friendly Reference Document](#).

The Compendium volumes are also available in Microsoft Word format from EPA upon request. For more information on these versions and any other questions or comments concerning this document, please contact EPA's Office of Resource Conservation and Recovery:

Amanda Geldard
geldard.amanda@epa.gov
(703) 347-8975

Subtopic View

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Speculative Accumulation [§§261.1(c)(8), 261.2(c)(4)]

Resource Index:

- [Resources applicable to all subtopics](#)
- Resources specific to subtopic:
 - [Applicability](#)
 - [Purpose and applicability](#)
 - [Other](#)

Resources by Subtopic

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Subtopic	Resource	Document Date	Type	Topic is Focus?	Link to EPA Summary	Link to Resource
Resources applicable to all subtopics	1. 48 FR 14472 - Amendments to Definition of Solid Waste (Proposed) [pp. 14489-14490]	4/4/1983	Federal Register	Yes	N/A	PDF
	2. 50 FR 614 - Amendments to Definition of Solid Waste (Final) [pp. 617, 634-637, 650, 654]	1/4/1985	Federal Register	Yes	N/A	PDF
	3. Guidance Manual on the RCRA Regulation of Recycled Hazardous Materials [pp. 23-24] ¹	3/1/1986	Guidance	Yes	N/A	PDF
	4. §261.1(c)(8) - Definition of "accumulated speculatively"	N/A	Code of Federal Regulations	Yes	N/A	e-CFR
	5. §261.2(c)(4) - Definition of solid waste	N/A	Code of Federal Regulations	Yes	N/A	e-CFR
Return to: Subtopic View CFR View (CFR text) Main Index						
Applicability	1. SPENT SULFURIC ACID ACCUMULATED SPECULATIVELY	5/26/1988	Letter	Yes	Summary	PDF
	2. SPENT LEAD-ACID BATTERIES MANAGEMENT	10/19/1989	Letter	No	Summary	PDF
Return to: Subtopic View CFR View (CFR text) Main Index						
Purpose and applicability	1. CLARIFICATION OF THE TERM ""WHEN"" IN 40 CFR 261.2(C)	5/6/1993	Letter	No	Summary	PDF
	2. PURPOSE AND APPLICABILITY OF SPECULATIVE ACCUMULATION PROVISION	8/1/1995	Q&A	Yes	Summary	PDF
Return to: Subtopic View CFR View (CFR text) Main Index						
Other	1. LABORATORIES, RCRA REGULATION IMPACT	11/28/1990	Letter	No	Summary	PDF

¹ **Note:** This manual was published in 1986 and thus portions may have been superseded by more recent regulatory changes or policy memorandums. See other resources in this [compendium volume](#) for more information regarding specific topics.

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Subtopic	Resource	Document Date	Type	Topic is Focus?	Link to EPA Summary	Link to Resource
2.	SPECULATIVE ACCUMULATION CALCULATION	2/1/1992	Q&A	Yes	Summary	PDF
3.	INTERACTION OF SPECULATIVE ACCUMULATION AND GENERATOR ACCUMULATION PROVISIONS	4/6/1998	Letter	Yes	Summary	PDF
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CFR View Index

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NOTE: The CFR links in the below index are internal to this document.

CFR Location	Title/Topic
261.1	Purpose and scope.
261.1(c)	Definitions for the purposes of §§261.2 and 261.6.
261.2	Definition of solid waste.
261.2(c)	Materials are solid wastes if they are <i>recycled</i> .

CFR View

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NOTE: The CFR language outline has been formatted

§261.1: Purpose and scope.

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[****Preceding section text omitted****]

(c) For the purposes of §§261.2 and 261.6:

[****Preceding part text omitted****]

(8) A material is “accumulated speculatively” if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (*i.e.*, from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under §261.4(c) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

[****Remaining section text omitted****]

§261.2: Definition of solid waste.

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[****Preceding section text omitted****]

(c) Materials are solid wastes if they are *recycled* —or accumulated, stored, or treated before recycling—as specified in paragraphs (c)(1) through (4) of this section.

(1) *Used in a manner constituting disposal.*

(i) Materials noted with a “*” in Column 1 of Table 1 are solid wastes when they are:

§261.2: Definition of solid waste (*cont.*).

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(A) Applied to or placed on the land in a manner that constitutes disposal;
or

(B) Used to produce products that are applied to or placed on the land or
are otherwise contained in products that are applied to or placed on the
land (in which cases the product itself remains a solid waste).

(ii) However, commercial chemical products listed in §261.33 are not solid wastes
if they are applied to the land and that is their ordinary manner of use.

(2) *Burning for energy recovery.*

(i) Materials noted with a “*” in column 2 of Table 1 are solid wastes when they
are:

(A) Burned to recover energy;

(B) Used to produce a fuel or are otherwise contained in fuels (in which
cases the fuel itself remains a solid waste).

(ii) However, commercial chemical products listed in §261.33 are not solid wastes
if they are themselves fuels.

(3) *Reclaimed.* Materials noted with a “*” in column 3 of Table 1 are solid wastes when
reclaimed (except as provided under §261.4(a)(17)). Materials noted with a “—” in
column 3 of Table 1 are not solid wastes when reclaimed. (4) *Accumulated speculatively.*
Materials noted with a “*” in column 4 of Table 1 are solid wastes when accumulated
speculatively.

(4) *Accumulated speculatively.* Materials noted with a “*” in column 4 of Table 1 are
solid wastes when accumulated speculatively.

§261.2: Definition of solid waste (cont.).

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Table 1

	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) for mineral processing secondary materials)	Speculative accumulation (§261.2(c)(4))
	1	2	3	4
Spent Materials	(*)	(*)	(*)	(*)
Sludges (listed in 40 CFR Part 261.31 or 261.32)	(*)	(*)	(*)	(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	—	(*)
By-products (listed in 40 CFR 261.31 or 261.32)	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic of hazardous waste	(*)	(*)	—	(*)
Commercial chemical products listed in 40 CFR 261.33	(*)	(*)	—	—
Scrap metal other than excluded scrap metal (see 261.1(c)(9))	(*)	(*)	(*)	(*)

Note: The terms “spent materials,” “sludges,” “by-products,” and “scrap metal” and “processed scrap metal” are defined in §261.1.

[***Remaining section text omitted***]

*****End of Speculative Accumulation CFR Excerpts*****

Glossary of Acronyms

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Acronym	Meaning
CFR	Code of Federal Regulations
e-CFR	electronic Code of Federal Regulations
EPA	Environmental Protection Agency
FR	Federal Register
RCRA	Resource Conservation and Recovery Act