

US EPA ARCHIVE DOCUMENT

RCRA REVISION CHECKLIST 233A

**Checklist A – Changes affecting all non-waste determinations and variances
More stringent for all state programs**

Revisions to the Definition of Solid Waste
80 FR 1694-1814
January 13, 2015
(RCRA Cluster XXIV, Non-HSWA)

Name of State: _____

State Statutory Authority: _____

Title of Regulations: _____ Effective Date: _____

Date Checklist Completed: _____

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:					
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE		
PART 260 HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL								
SUBPART C RULEMAKING PETITIONS								
STANDARDS AND CRITERIA FOR VARIANCES FROM CLASSIFICATION AS A SOLID WASTE								
Revise paragraph to read: The Administrator may grant requests for a variance from classifying as a solid waste those hazardous secondary materials that have been partially reclaimed, but must be reclaimed further before recovery is completed, if the partial reclamation has produced a commodity-like material. A determination that a partially-reclaimed material for which the variance is sought is commodity-like will be based on whether the hazardous secondary material is legitimately recycled as specified in § 260.43 of this part and on whether all of the following decision criteria are satisfied:	260.31(c)							

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Whether the degree of partial reclamation the material has undergone is substantial as demonstrated by using a partial reclamation process other than the process that generated the hazardous waste;	260.31(c)(1)					
Whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;	260.31(c)(2)					
Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;	260.31(c)(3)					
Whether there is a market for the partially-reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales and/or contracts and evidence of subsequent use, such as bills of lading);	260.31(c)(4)					
Whether the partially-reclaimed material is handled to minimize loss.	260.31(c)(5)					
Revise section heading by adding "or for non-waste determinations."	260.33 section heading					

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Add or revise paragraph (c): In the event of a change in circumstances that affect how a hazardous secondary material meets the relevant criteria contained in § 260.31, § 260.32, or § 260.34 upon which a variance or non-waste determination has been based, the applicant must send a description of the change in circumstances to the Administrator. The Administrator may issue a determination that the hazardous secondary material continues to meet the relevant criteria of the variance or non-waste determination or may require the facility to re-apply for the variance or non-waste determination.	260.33(c)					
Add new paragraph 260.33(d): Variances and non-waste determinations shall be effective for a fixed term not to exceed ten years. No later than six months prior to the end of this term, facilities must re-apply for a variance or non-waste determination. If a facility re-applies for a variance or non-waste determination within six months, the facility may continue to operate under an expired variance or non-waste determination until receiving a decision on their re-application from the Administrator.	260.33(d)					
Add new paragraph 260.33(e): Facilities receiving a variance or non-waste determination must provide notification as required by § 260.42 of this chapter.	260.33(e)					
1 Add or revise new section 260.42; section heading: Notification requirement for hazardous secondary materials.	260.42 section heading					

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Hazardous secondary material generators, tolling contractors, toll manufacturers, reclaimers, and intermediate facilities managing hazardous secondary materials which are excluded from regulation under §261.2(a)(2)(ii), §261.4(a)(23),(24), or (25) must send a notification prior to operating under the exclusion(s) and by March 1 of each even numbered year thereafter to the Regional Administrator using EPA Form 8700-12 that includes the following information:	260.42(a)					
1 The name, address, and EPA ID number (if applicable) of the facility;	260.42(a)(1)					
1 The name and telephone number of a contact person;	260.42(a)(2)					
1 The NAICS code of the facility;	260.42(a)(3)					
Add or revise to read: The regulation under which the hazardous secondary materials will be managed;	260.42(a)(4)					
Add or revise to read: When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;	260.42(a)(5)					
Add or revise to read: A list of hazardous secondary materials that will be managed according to the regulation (reported as the EPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);	260.42(a)(6)					
Add or revise to read: For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;	260.42(a)(7)					

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Add or revise to read: The quantity of each hazardous secondary material to be managed annually; and	260.42(a)(8)					
Add or revise to read: The certification (included in EPA Form 8700-12) signed and dated by an authorized representative of the facility.	260.42(a)(9)					
Remove this paragraph	260.42(a)(10)					
Add or revise to read: If a facility managing hazardous secondary materials has submitted a notification, but then subsequently stops managing hazardous secondary materials in accordance with the regulation(s) listed above, the facility must notify the Regional Administrator within thirty (30) days using EPA Form 8700-12. For purposes of this section, a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages and/or reclaims hazardous secondary materials under the regulation(s) above and does not expect to manage any amount of hazardous secondary materials for at least 1 year.	260.42(b)					

1 These provisions were promulgated under the 2008 DSW rule (October 30, 2008, 73 FR 64668), and are unchanged. States which did not adopt that rule must adopt these provisions.