

**Identification and Listing of Hazardous Waste 40 CFR  
§261.4(b): Exclusions: Solid Wastes which are Not  
Hazardous Wastes.**

**A User- Friendly Reference Document**

**Version 1: October 2009**

**Identification and Listing of Hazardous Waste . 40 CFR §261.4(b): Exclusions: Solid Wastes Which are Not Hazardous Wastes.**

**A User- Friendly Reference Document**

**Table of Contents**

<b>Introduction</b> .....	3
How to Navigate this Document.....	4
Hyperlink Use.....	4
Contact Information.....	4
General Hazardous Waste Resources.....	5
<b>Title 40: Protection of the Environment</b> .....	5
<b>40 CFR §261.4 Exclusions</b> .....	5
<b>(a) Materials which are not Solid Wastes</b> .....	5
<b>(b) Solid Wastes which are not Hazardous Waste</b> .....	5
§261.4(b)(1) Household Hazardous Waste.....	5
§261.4(b)(2) Agricultural Waste.....	7
§261.4(b)(3) Mining Overburden.....	8
§261.4(b)(4) Fossil Fuel Combustion Waste (Bevill).....	8
§261.4(b)(5) Oil, Gas, and Geothermal Wastes (Bentsen Amendment).....	10
§261.4(b)(6) Trivalent Chromium Wastes.....	11
§261.4(b)(7) Mining and Mineral Processing Wastes (Bevill).....	13
§261.4(b)(8) Cement Kiln Dust (Bevill).....	16
§261.4(b)(9) Arsenically Treated Wood.....	17
§261.4(b)(10) Petroleum Contaminated Media & Debris from Underground Storage Tanks.....	18
§261.4(b)(11) Injected Groundwater.....	19
§261.4(b)(12) Spent Chlorofluorocarbon Refrigerants.....	19
§261.4(b)(13) Used Oil Filters.....	20
§261.4(b)(14) Used Oil Distillation Bottoms.....	21
§261.4(b)(15) Landfill Leachate or Gas Condensate Derived from Certain Listed Wastes.....	21
§261.4(b)(17) §261.4(b)(18) Project XL Pilot Project Exclusions.....	22

## **Introduction**

This document describes the Environmental Protection Agency's (EPA's) exclusions to hazardous waste regulations under the authority of the Resource Conservation and Recovery Act (RCRA) Subtitle C<sup>1</sup> and includes hyperlinks to information that EPA has generated over the years to explain regulations specific to the solid wastes which are not hazardous waste (40 CFR 261.4(b)). The objective of this document is to consolidate and streamline the information on these exclusions to help Environmental Protection Agency (EPA) staff, state staff, industrial facilities, and the public understand the hazardous waste regulations.

This document is only a reference document and is not to be used as a substitute for the Code of Federal Regulations (CFR), itself, or the requirements contained in the CFR. This document is not a rulemaking. Most states are authorized to manage their own hazardous waste program. Therefore, states may have their own set of regulations that apply in lieu of federal regulations, and while most state 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 website to determine if the state regulatory program is different from the federal program: <http://www.epa.gov/epawaste/wyl/stateprograms.htm>

This document is organized in a manner similar to [40 CFR 261.4\(b\)](#). The document presents all the hazardous waste exclusions under this subsection.

Please note that the [Title 40 of the CFR at Part 261](#) information contained in this document is from the Government Printing Office's Electronic Code of Federal Register (e-CFR) website as it existed in April 2009. To help stakeholders better understand specific requirements, we also have provided, where applicable, hyperlinks to Federal Register notices, applicable [US Code](#) sections of [RCRA](#), [Frequently Asked Questions \(FAQs\)](#), [letters, and memoranda issued by EPA](#), documents referenced in the [Federal Docket](#) for promulgated rules; as well as guidance documents developed by EPA that help in understanding the exclusions to hazardous waste. The hyperlinks included in this document for Federal Register notices published prior to October 1994 are from [HeinOnline](#). By including this material, EPA does not endorse HeinOnline. We have also attempted to identify the relevant FAQs, letters, memoranda, etc. on each particular exclusion to hazardous waste. However, please note that it is possible that not every document developed over the years has been included in this reference document. Finally, once you have navigated to the regulatory "requirement" of interest, we have provided hyperlinks to the [e-CFR](#) website if the regulations cross-reference other relevant regulations.

Because regulations are promulgated throughout the year, EPA intends to update this document periodically to remain up-to-date with the exclusions to hazardous waste. Additionally, the Government Printing Office (GPO) frequently updates the [e-CFR](#) website to which this document is linked.

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<sup>1</sup> Subtitle C of RCRA has been codified in the United States Code (U.S.C.) as the Solid Waste Disposal Act (SDWA), Subchapter III (Hazardous Waste Management), 42 U.S.C. §§ 6921 through 6939e

## **How to Navigate this Document**

This document is navigable in several ways. First, users can click through Adobe Acrobat “Bookmarks” located at the far left side of the screen. The bookmark frame will remain active and present on the screen while browsing the document. Second, users can take advantage of the Table of Contents (page 2 of the document) to navigate through the body of the document. Each of these two methods is organized based on the chronological organization present in 40 CFR 261.4(b). Lastly, users can browse through the document linearly as a document. The document has main headers which match up with the CFR organization. For example, “[§261.4\(b\)\(2\)](#)  
**Agricultural Waste”**

## **Hyperlink Use**

Links can be clicked (left click on multi-button mouse) and will open the referenced document in a new window. Such links are signified by underlined blue text. When “moused over” the pointer may turn into a pointer with a “w.”

## **Contact Information**

This document was developed by the Materials Recovery and Waste Management Division in the Office of Resource Conservation and Recovery (formerly known as the Office of Solid Waste. Name change effective as per [74 FR 30228](#), June 25, 2009.) Please send any questions concerning this document to the following email address: [helms.greg@epa.gov](mailto:helms.greg@epa.gov).

## General Hazardous Waste Resources

- [RCRA Superfund EPCRA Call Center Training Module, Updated October 2001.](#)
- [RCRA Call Center Training Module- Solid and Hazardous Waste Exclusions, Updated October 2001.](#)
- [Waste Identification Web Site: Hazardous Waste Identification.](#)
- [Website for RCRA Frequently Asked Questions Database.](#)

### General Federal Register Notices Relevant to this Section:

- Proposed Rule- Hazardous Waste Guidelines and Regulations.  
[43 FR 58946, December 18, 1978](#)
- Final Rule, Interim Final Rule and Request for Comments - Hazardous Waste Management System: Identification and Listing of Hazardous Waste.  
[45 FR 33084, 33120, May 19, 1980](#)

(SOURCE: [e-CFR April 13, 2009](#))

## Title 40: Protection of the Environment

### 40 CFR §261.4 Exclusions

#### (a) Materials which are not Solid Wastes

A similar web based document is available online at:

<https://www.epa.gov/hw/criteria-definition-solid-waste-and-solid-and-hazardous-waste-exclusions#tablehw>

#### (b) Solid Wastes which are not Hazardous Waste

The following solid wastes are not hazardous wastes:

### §261.4(b)(1) Household Hazardous Waste

(1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel) or reused. "Household waste" means any material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if such facility:

(i) Receives and burns only

(A) Household waste (from single and multiple dwellings, hotels,

motels, and other residential sources) and  
(B) Solid waste from commercial or industrial sources that does not contain hazardous waste; and  
(ii) Such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

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***Related resources for §261.4(b)(1):***

**Federal Register Notice(s):**

- Final Rule and Interim Final Rule - Hazardous Waste Management System: General.  
[45 FR 33066, 33099, 33120, May 19, 1980](#)
- Final Rule and Denial of Rulemaking Petition - Hazardous Waste Management System: Identification and Listing of Hazardous Waste.  
[49 FR 44978, November 13, 1984](#)
- Final Rule Hazardous Waste Management System; Final Codification Rule.  
[50 FR 28702, 28743, July 15, 1985](#)
- Notice of Statutory Interpretation - Determination of Point at Which RCRA Subtitle C Jurisdiction Begins for Municipal Waste Combustion Ash at Waste-to-Energy Facilities.  
[60 FR 6666, February 3, 1995](#)
- Proposed Rule - Temporary Suspension of Toxicity Characteristic Rule for Specified Lead-Based Paint Debris.  
[63 FR 70233, 70241, December 18, 1998](#)
- Final Rule - Criteria for Classification of Solid Waste Disposal Facilities and Practices and Criteria for Municipal Solid Waste Landfills: Disposal of Residential Lead-Based Paint Waste.  
[66 FR 53535, October 23, 2001](#)

**Letters/Memoranda and Related Resources:**

- [RCRA Subtitle C Requirements Applicable to Household Hazardous Waste Collection Programs Collecting CESQG Waste.](#)
- [Household Hazardous Waste Collection Programs, Clarification of Issues.](#)
- [Household Hazardous Waste Collection Programs, CERCLA and RCRA Liability of Municipal Sponsors.](#)
- [Applicability of Household Hazardous Waste Exclusion to Natural Gas Regulators Containing Mercury.](#)
- [Applicability of the Household Waste Exclusion to Arsenic-Contaminated Plants.](#)
- [Regulatory Status of Municipal Waste Combustor Ash from Combustor that Burns Only Household Hazardous Waste and Does not Recover Energy.](#)

- [Household Hazardous Waste Exclusion.](#)
- [Clarification Regarding the "Rebuttable Presumption" Provisions Contained in the Recycled Used Oil Management Standards.](#)
- [Regulatory Status of Waste Generated by Contractors and Residents From Lead-Based Paint Activities Conducted in Households.](#)
- [Do RCRA Requirements Apply to the Handling, Shipment and Disposal of Household Appliance Components?](#)
- [Proper Disposal of Old Medications.](#)
- [Dry Cleaning and Maintenance Services Waste not Excluded as Household \[Hazardous\] Waste.](#)

### **Web Resources:**

See the following EPA web resource for more information:

- [US EPA - Wastes, Resource Conservation Household Hazardous Waste.](#)

## **§261.4(b)(2) Agricultural Waste**

(2) Solid wastes generated by any of the following and which are returned to the soils as fertilizers:

- (i) The growing and harvesting of agricultural crops.
- (ii) The raising of animals, including animal manures.

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### ***Related resources for §261.4(b)(2):***

#### **Federal Register Notice(s):**

- Final Rule and Interim Final Rule - Hazardous Waste Management System: General.  
[45 FR 33066, 33099, May 19, 1980](#)

#### **Letters/Memoranda and Related Resources:**

- [EPA Actions Regarding Fertilizer Contaminants.](#)
- [Recycling of Hazardous Wastes to Make Fertilizers.](#)
- [Regulation of Fertilizers Made from Recycled Hazardous Waste.](#)
- [Toxic Waste in Fertilizer.](#)
- [Environmental Fact Sheet: Waste-Derived Fertilizers.](#)
- [Exemption for Commercial Fertilizers Once the Fertilizer is Produced.](#)

### **See Also**

- Recyclable Materials Used in a Manner Constituting Disposal.  
[40 CFR 266.20\(d\)](#)

## **§261.4(b)(3) Mining Overburden**

(3) Mining overburden returned to the mine site.

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### ***Related resources for §261.4(b)(3):***

#### **Federal Register Notice(s):**

- Final Rule and Interim Final Rule - Hazardous Waste Management System: General.  
[45 FR 33066, 33099, May 19, 1980](#)

## **§261.4(b)(4) Fossil Fuel Combustion Waste (Bevill)**

(4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided by [Sec. 266.112](#) of this chapter for facilities that burn or process hazardous waste.

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### ***Related resources for §261.4(b)(4):***

#### **Federal Register Notice(s):**

- Notice of Availability - Report to Congress on Wastes From the Combustion of Coal by Electric Utility Power Plants.  
[53 FR 9976, March 28, 1988](#)
- Notice of Availability - Additional Information on Wastes Studied in the Report to Congress on Wastes from the Combustion of Coal by Electric Utility Power Plants.  
[58 FR 8273, February 12, 1993](#)
- Final Regulatory Determination - Final Regulatory Determination on Four Large-Volume Wastes From the Combustion of Coal by Electric Utility Power Plants.  
[58 FR 42466, 42472, August 9, 1993](#)
- Notice of Availability - Availability of [Report to Congress on Wastes from the Combustion of Fossils Fuels, \[Part II\]](#) March 31, 1999 Addressing the remaining wastes not addressed in the February 1988 Report to Congress.  
[64 FR 22820, April 28, 1999](#)



- Proposed Rule - EPA Report to Congress on Fossil Fuel Combustion.  
[64 FR 50788, September 20, 1999](#)
- Notice of Regulatory Determination - Wastes From the Combustion of Fossil Fuels.  
[65 FR 32214, May 22, 2000](#)
- Advanced Notice of Proposed Rule - Placement of Coal Combustion Byproducts in Active and Abandoned Coal Mines.  
[72 FR 12025, March 14, 2007](#)
- Notice of Data Availability - Disposal of Coal Combustion Waste in Landfills and Surface Impoundments.  
[73 FR 6723, August 29, 2007](#)
- Notice of Data Availability - Disposal of Coal Combustion Wastes in Landfills and Surface Impoundments; Reopening of Comment Period.  
[72 FR 49714, February 5, 2008](#)

### **Letters/Memoranda and Related Resources:**

- [Regulation of Coal Fly Ash and Bottom Ash Waste.](#)
- [Regulation of Fossil Fuel Combustion Wastes and Clean Air Act Controls for Utilities.](#)
- [Tire Derived Fuel and Regulation of Fossil Fuel Combustion Wastes.](#)
- [Precipitation Which Is Corrosive Due to Contact with Exempt Wastes \(Coal Gasification Ash\).](#)
- [Fossil Fuel Combustion Waste Exclusion.](#)
- [Coal/Fossil Fuel Combustion Wastes Excluded From Subtitle C Pending Further Study.](#)
- [Aqueous Solution From Coal Flue Gas Emissions are Exempt.](#)
- [Environmental Fact Sheet: Large-Volume Wastes from Coal-Fired Electric Utilities Exempt as Hazardous Waste.](#)
- [Environmental Fact Sheet: EPA Guideline for Purchasing Cement and Concrete Containing Fly Ash.](#)
- [Environmental Fact Sheet: EPA Determines that Ash From Waste-To-Energy Facilities is Subject to Hazardous Waste Regulations Upon Exiting Combustion Building.](#)
- [Coal Ash as a Solid Waste.](#)
- [EPA Regulation of Utility Waste.](#)

### **Web Resources:**

See the following EPA web resources for more information:

- [Bevill Amendment Questions.](#)
- [Bevill Amendment Issues Training.](#)
- [Fossil Fuel Combustion \(FFC\) Waste Legislative and Regulatory Timeline.](#)
- [Risks Posed by Bevill Wastes, Updated 1997.](#)

- [Fossil Fuel Combustion Waste.](#)
- [Regulatory Resources: Regulatory Determinations on the Management and Use of Coal Combustion Products.](#)
- [Press release by Office of Surface Mining on Placement of Coal Combustion Byproducts in Active and Abandoned Coal Mines.](#)
- [Hazardous Waste: Treatment & Disposal Comparable Fuel Exclusion and Expansion Rules.](#)
- [National Academy of Sciences Report, March 1, 2006 - Managing Coal Combustion Residues in Mines.](#)

**See Also:**

- Comparable/ Syngas Fuel Exclusion.  
[40 CFR 261.38](#)
- Exclusions of comparable fuels, emission-comparable fuels, or comparable syngas fuels that meet the requirements of [40 CFR 261.38](#)
- Subpart H—Hazardous Waste Burned in Boilers and Industrial Furnaces; Regulation of Residues.  
[40 CFR 266.112](#)
- Land Disposal Restrictions - “National regulations under subtitle D of RCRA are warranted for coal combustion wastes when they are disposed in landfills or surface impoundments, and that regulations under subtitle D of RCRA.” (citing [65 FR 32213, May 22, 2000](#))  
[40 CFR 268](#)
- Expansion of RCRA Comparable Fuel Exclusion.  
[73 FR 77953, December 12, 2008](#)

**§261.4(b)(5) Oil, Gas, and Geothermal Wastes (Bentsen Amendment)**

(5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

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***Related resources for §261.4(b)(5):***

**Federal Register Notice(s):**

- Notice of Availability, Report to Congress - “[Management of Wastes from the Exploration Development and Production of Crude Oil, Natural Gas and Geothermal Energy.](#)”  
[53 FR 81, January 4, 1988](#)

- Regulatory Determination - Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes.  
[53 FR 25446, 25453-4, July 6, 1988](#)
- Clarification - Clarification of the Regulatory Determination for Wastes from the Exploration, Development and Production of Crude Oil, Natural Gas and Geothermal Energy.  
[58 FR 15284, March 22, 1993](#)
- Final Rule - Oil recovered from petroleum refining wastewater.  
[59 FR 38536, July 28, 1994](#)

**Letters/Memoranda and Related Resources:**

- [Status of Brine Residue from Emit Process.](#)
- [Drilling Operations, Exemption of Certain Waste From.](#)
- [Subtitle C Exclusion Of Drilling Fluids And Produced Waters.](#)
- [Oil And Gas Exploration Exclusion.](#)
- [Natural Gas Condensate: Regulatory Status.](#)
- [Produced Waters From Natural Gas Exploration - Exclusion.](#)
- [Undetonated Explosives, Disposal of Off-Specification.](#)
- [Classification of Waste Fluids Associated With Clean Up of Crude Oil Leaks in Active Oil Fields.](#)
- [Regulatory Status of Waste from Oil Gathering Pipelines.](#)

**Web Resources:**

See the following EPA web resources for more information:

- [Crude Oil and Natural Gas Waste.](#)
- [Special Wastes.](#)

**§261.4(b)(6) Trivalent Chromium Wastes**

(6) (i) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in subpart D due to the presence of chromium, which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

- (A) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and
- (B) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

- (C) The waste is typically and frequently managed in non-oxidizing environments.
- (ii) Specific wastes which meet the standard in paragraphs (b) (6) (i) (A), (B), and (C) (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:
- (A) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
  - (B) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
  - (C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.
  - (D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
  - (E) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
  - (F) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.
  - (G) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.
  - (H) Wastewater treatment sludges from the production of TiO<sub>2</sub> pigment using chromium-bearing ores by the chloride process.

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***Related resources for §261.4(b)(6):***

**Federal Register Notice(s):**

- Final Rule, Interim Final Rule and Request for Comments - Hazardous Waste Management System: Identification and Listing of Hazardous Waste.  
[45 FR 33084, 33120, May 19, 1980](#)
- Proposed Rule - Hazardous Waste Management System; Identification and Listing of Hazardous Wastes.  
[45 FR 72029, 72035, 72037, October 30, 1980](#)

- Corrections to Interim Final and Final Rules - Hazardous Waste Management System; Corrections.  
[46 FR 27473, 27476, May 20, 1981](#)
- Hazardous Waste Management System: Identification and Listing of Hazardous Waste, Reopening of Comment Period (October 30, 1980)  
[48 FR 22170, May 17, 1983](#)
- Final Rule - Hazardous Waste Management System; Identification and Listing of hazardous Waste; Toxicity Characteristics Revisions.  
[55 FR 11798, 11862, March 29, 1990](#)
- Final Regulatory Determination and final rule— for Special Wastes from Mineral Processing (Mining Waste Exclusion.)  
[56 FR 27300, 27318, June 13, 1991](#)
- Corrections - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics.  
[57 FR 30657-30658 July 10, 1992](#)
- Final Rule - Zinc Fertilizers Made from Recycled Hazardous Secondary Materials.  
[67 FR 48393, 48413 July 24, 2002](#)

**Letters/Memoranda and Related Resources:**

- [Chromium Wastes, Exclusion for Certain.](#)
- [Petition Process for the Trivalent Chromium Exclusion.](#)
- [Use of Waste Leather Trimmings in the Manufacture of Absorbed Materials.](#)
- [SW-846 Test Method 3060.](#)

**§261.4(b)(7) Mining and Mineral Processing Wastes (Bevill)**

(7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by Sec. 266.112 of this chapter for facilities that burn or process hazardous waste.

(i) For purposes of Sec. 261.4(b)(7) beneficiation of ores and minerals is restricted to the following activities; crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting (and/or autoclaving and/or chlorination)/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching.

(ii) For the purposes of Sec. 261.4(b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:

- (A) Slag from primary copper processing;
  - (B) Slag from primary lead processing;
  - (C) Red and brown muds from bauxite refining;
  - (D) Phosphogypsum from phosphoric acid production;
  - (E) Slag from elemental phosphorus production;
  - (F) Gasifier ash from coal gasification;
  - (G) Process wastewater from coal gasification;
  - (H) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
  - (I) Slag tailings from primary copper processing;
  - (J) Fluorogypsum from hydrofluoric acid production;
  - (K) Process wastewater from hydrofluoric acid production;
  - (L) Air pollution control dust/sludge from iron blast furnaces;
  - (M) Iron blast furnace slag;
  - (N) Treated residue from roasting/leaching of chrome ore;
  - (O) Process wastewater from primary magnesium processing by the anhydrous process;
  - (P) Process wastewater from phosphoric acid production;
  - (Q) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
  - (R) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
  - (S ) Chloride process waste solids from titanium tetrachloride production;
  - (T) Slag from primary zinc processing.
- (iii) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under paragraph (b) of this section if the owner or operator:
- (A) Processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and,
  - (B) Legitimately reclaims the secondary mineral processing materials.

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***Related resources for §261.4(b)(7):***

**Federal Register Notice(s):**

- Interim final amendment to rule with request for comments – Identification and Listing of Hazardous Waste. (Added exception on a temporary basis from mining facilities having to comply with Subtitle C)  
[45 FR 76618, November 19, 1980](#)
- Corrections - Hazardous Waste Management System; Corrections. Renumbering.  
[46 FR 27476, May 20, 1981](#)
- Notice of Proposed Rulemaking - Mining Waste Exclusion.  
[50 FR 40292, October 2, 1985](#)

- Notice of Availability of Report to Congress on Mining Waste, Announcement of Hearings. ([EPA530-SW-85-033](#))  
[51 FR 777, January 8, 1986](#)
- Final Rule - Hazardous Waste Management System; Identification and Listing of Hazardous Waste and Designation, Reportable Quantities, and Notification.  
[53 FR 35412, 35420, September 13, 1988](#)
- Notice of Proposed Rulemaking - Mining Waste Exclusion.  
[53 FR 41288, October 20, 1988](#)
- Notice of Proposed Rule Making - Mining Waste Exclusion.  
[54 FR 15316, April 17, 1989](#)
- Final Rule - Mining Waste Exclusion.  
[54 FR 36592, 36641, September 1, 1989](#)
- Final Rule - Mining Waste Exclusion; Section 3010 Notification for Mineral Processing Facilities; Designated Facility Definition; Standards Applicable to Generators of Hazardous Waste.  
[55 FR 2322, 2353, January 23, 1990](#)
- Notice of Availability - Report to Congress on Special Wastes from Mineral Processing. ([EPA530-SW-90-070A-C](#))  
[55 FR 32135, August 7, 1990](#)
- Final Rule - Technical Correction- Land Disposal Restrictions Phase IV: Treatment Standards for Wood Preserving Wastes, and Treatment Standards for Metal Wastes, and Zinc Micronutrient Fertilizers, and Carbamate Treatment Standards, and K088 Treatment Standards.  
[64 FR 25408, 25414, May 11, 1991](#)
- Final Rule and Final Regulatory Determination - Special Wastes from Mineral Processing.  
[56 FR 27300, 27318, June 13, 1991](#)
- Final Rule – Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters.  
[63 FR 28555, May 26, 1998](#)
- Final Rule - Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes and CERCLA Hazardous Substance Designation and Reportable Quantities.  
[66 FR 58257, November 20, 2001](#)
- Correction - Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities.  
[67 FR 17119, April 9, 2002](#)
- Final Rule - Criteria for the Safe and Environmentally Protective Use of Granular Mine Tailings Known as “Chat.”  
[72 FR 3931 April 4, 2006](#)

### **Letters/Memoranda and Related Resources:**

- [Mining Waste Exclusion Including Primary Processing but not Subsequent Steps.](#)
- [Ore and Mineral Extraction, Beneficiation and Processing Exclusion Applicability.](#)
- [Mineral Processing Residuals from Combustion Units Burning Hazardous Waste Fuel.](#)
- [1985 Report to Congress Report to Congress on Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden from Uranium Mining, and Oil Shale.](#)

### **Web Resources:**

See the following EPA web resources for more information:

- [Mining Waste Timeline](#)
- [Mineral Processing Wastes](#)
- [Federal Rules on the Regulation of Mineral Processing Wastes](#)

## **§261.4(b)(8) Cement Kiln Dust (Bevill)**

(8) Cement kiln dust waste, except as provided by [Sec. 266.112](#) of this chapter for facilities that burn or process hazardous waste.

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### ***Related resources for §261.4(b)(8):***

#### **Federal Register Notice(s):**

- Corrections to Interim Final and Final Rules - Hazardous Waste Management System; Corrections.  
[46 FR 27473, 27476, May 20, 1981](#)
- Final Rule - Mining Waste Exclusion.  
[54 FR 36592, September 1, 1989](#)
- Regulatory Determination on Cement Kiln Dust.  
[60 FR 7366, February 7, 1995](#)
- Proposed Rule - Standards for the Management of Cement Kiln Dust.  
[64 FR 45632, August 20, 1999](#)
- Extension of Period for Public Comment - EPA Standards for the Management of Cement Kiln Dust; Request for Comments.  
[64 FR 58022, October 28, 1999](#)



- Notice of Data Availability - Additional Data Available on Wastes Studied in the Report to Congress on Cement Kiln Dust.  
[67 FR 48648, July 25, 2002](#)
- Extension of Period for Public Comment - Additional Data Available on Wastes Studied in the Report to Congress on Cement Kiln Dust.  
[67 FR 68130, November 8, 2002](#)

**Letters/Memoranda and Related Resources:**

- [Regulatory Determination of Cement Kiln Dust.](#)
- [Regulation of Hazardous Waste Burning Cement Kilns.](#)
- [Clarification of RCRA Regulatory Application to Soils Contaminated by Cement Kiln Dust.](#)
- [Cement Kiln Dust Waste Exclusion.](#)
- [Cement Kiln Dust Waste-Along with Acids.](#)
- [Clarification of RCRA Regulatory Application to Soils Contaminated by Cement Kiln Dust](#)
- [Mineral Processing Residuals from Combustion Units Burning Hazardous Waste Fuel.](#)
- [Cement Kiln Dust Waste Exclusion.](#)
- [Report to Congress on Cement Kiln Dust, December 31, 1993. Addressing eight study factors required by §8002\(o\).](#)

**Web Resources:**

See the following EPA web resource for more information:

- [Cement Kiln Dust \(Legislative History\).](#)
- [Legislative and Regulatory Timeline.](#)
- [Report to Congress on Cement Kiln Dust: Introduction.](#)

**§261.4(b)(9) Arsenically Treated Wood**

(9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

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*Related resources for §261.4(b)(9):*

**Federal Register Notice(s):**

- Interim Final Amendment to Rule with Request for Comments – Identification and Listing of Hazardous Waste.  
[45 FR 76618, November 19, 1980](#)
- Interim Final Amendment to Rule with Request for Comments – Hazardous Management System; Identification and Listing of Hazardous Waste.  
[45 FR 78530, November 25, 1980](#)
- Corrections to Interim Final and Final Rules - Hazardous Waste Management System; Corrections.  
[46 FR 27473, 27476, May 20, 1981](#)
- Final Rule - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics.  
[55 FR 11798, 11839, March 29 1990](#)
- Final Rule, corrections - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic.  
[57 FR 30657, July 10, 1992](#)

**Letters/Memoranda and Related Resources:**

- [Waste Derived from Treating Exempt or Excluded Wastes.](#)
- [Wood Mulch Derived from Waste Lumber Preserved with Chromated Copper Arsenate \(CCA\).](#)
- [Recommendation on the Disposal of Waste Lumber Preserved with Chromated Copper Arsenate \(CCA\).](#)
- [Current Status of CCA-Treated Wood Under RCRA.](#)
- [Options for CCA Wood Treatment Plants Converting to Preservatives that do not Generate Hazardous Waste.](#)
- [Wood Treated With Creosote, Disposal of.](#)
- [New Rule for Wood Preserving Wastes.](#)
- [Waste Derived from Treating Exempt or Excluded Wastes.](#) (Partially Superseded, see RCRA Online record for details.)
- [Regulatory Status of Wood Stickers Used for Wood Preserving Operations.](#)
- [Dripping in Wood Preserving Storage Yards.](#)

## **§261.4(b)(10) Petroleum Contaminated Media & Debris from Underground Storage Tanks**

(10) Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic of [Sec. 261.24](#) (Hazardous Waste Codes D018

through D043 only) and are subject to the corrective action regulations under part 280 of this chapter.

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***Related resources for §261.4(b)(10):***

**Federal Register Notice(s)**

- Final Rule - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic Revisions.  
[55 FR 11798, 11836, March 29, 1990](#)
- Final Rule, Corrections - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic Revisions.  
[55 FR 26986, 26987, June 29, 1990](#)
- Proposed Rule - Exemption of Petroleum- Contaminated Media and Debris from Underground Storage Tanks from RCRA Hazardous Waste Requirements.  
[58 FR 8504, February 12, 1993](#)

**Letters/Memoranda and Related Resources:**

- [UST Remediation Wastes Spent carbon filters from remediation do not qualify for the exclusion.](#)
- [Petroleum-Contaminated Debris From UST Closure.](#)
- [Regulatory Status of Environmental Media That has Entered a Leaking Underground Storage Tank.](#)
- [Contaminated Media and Debris from Residential Heating Oil Tanks.](#)

## **§261.4(b)(11) Injected Groundwater**

Previously under §261.4(b)(11), EPA excluded certain types of injected groundwater that was reinjected as part of a hydrocarbon recovery operation ([55 FR 46829, November 27, 1990](#)). This exclusion expired January 25, 1993.

## **§261.4(b)(12) Spent Chlorofluorocarbon Refrigerants**

(12) 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 that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

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***Related resources for §261.4(b)(12):***

**Federal Register Notice(s):**

- Interim Final Rule - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic.  
[56 FR 5910, 5915, February 13, 1991](#)

**Letters/Memoranda and Related Resources:**

- [Filters Used to Reclaim CFC Refrigerant.](#)
- [Chlorofluorocarbons \(CFCs\) as Refrigerants, Recycling of Spent.](#)
- [Chlorofluorocarbon Recycling.](#)

## **§261.4(b)(13) Used Oil Filters**

(13) Non-terne plated used oil filters that are not mixed with wastes listed in subpart D of this part if these oil filters have been gravity hot-drained using one of the following methods:

- (i) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
- (ii) Hot-draining and crushing;
- (iii) Dismantling and hot-draining; or
- (iv) Any other equivalent hot-draining method that will remove used oil.

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***Related resources for §261.4(b)(13):***

**Federal Register Notice(s):**

- Final Rule - Hazardous Waste Management System; General; Identification and Listing of Hazardous Waste; Used Oil.  
[57 FR 21524, 21534, May 20, 1992](#)
- Final Rule, Correction - Hazardous Waste Management System; General; Identification and Listing of Hazardous Waste; Used Oil.  
[57 FR 29220, July 1, 1992](#)
- Final Rule; Technical Amendments and Corrections - Final rule, Correction - Hazardous Waste Management System; General; Identification and Listing of Hazardous Waste; Used Oil Management Standards.  
[58 FR 26420, May 3 1993](#)

**Letters/Memoranda and Related Resources:**

- [Applicability of the Toxicity Characteristic to Used Oil Filters.](#)
- [Questions on Final Used Oil Rule.](#)
- [Used Oil Filters.](#)

- [Applicability of Exclusion from the Definition of Solid Waste for Processed Scrap Metal to Used Oil Filters.](#)
- [Used Oil Filters - Regulation; Used Oil Filters, Regulatory Determination.](#) (Partially Superseded, see RCRA Online record for details.)
- [Used Oil Filters Classification.](#)

## **§261.4(b)(14) Used Oil Distillation Bottoms**

(14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

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### ***Related resources for §261.4(b)(14):***

#### **Federal Register Notice(s):**

- Final Rule – Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards. [57 FR 41566, September 10, 1992](#)
- Final Rule, Technical Amendments and Corrections– Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards. [58 FR 26420, May 3, 1993](#)

## **§261.4(b)(15) Landfill Leachate or Gas Condensate Derived from Certain Listed Wastes**

(15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, K178 and K181 if these wastes had been generated after the effective date of the listing;

(ii) The solid wastes described in paragraph (b)(15)(i) of this section were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.

(v) As of February 13, 2001, leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 is no

longer exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph (b) (15) (v) after the emergency ends.

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***Related resources for §261.4(b)(15):***

**Federal Register Notice(s):**

- Proposed Rule; Notice of Data Availability and Request for Comment - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities; Notice of Data Availability. [63 FR 42190, August 6, 1998](#)
- Final Rule – Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Exemption for Leachate from Non-Hazardous Waste Landfills; Final Rule. [64 FR 6806, February 11, 1999](#)
- Final Rule - Hazardous Waste Management System; Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities. [66 FR 58257, 58297, November 20, 2001](#)
- Final Rule - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Dyes and/or Pigments Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Designation of Five Chemicals as Appendix VIII Constituents; Addition of Four Chemicals to the Treatment Standards of F039 and the Universal Treatment Standards. [70 FR 9138, 9175, February 24, 2005](#)

**§261.4(b)(17) §261.4(b)(18) Project XL Pilot Project Exclusions**

Project XL provides some regulated entities an opportunity to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance. [Solid and Hazardous Waste Exclusions, Updated October 2001.](#)

**Two Project XL exclusions remain published in the FR:**

- [§261.4\(b\)\(17\)](#) Project XL Site-Specific Rulemaking for the Ortho-McNeil Pharmaceutical, Inc. Facility in Spring House, PA Involving On-Site Treatment of Mixed Wastes ([70 FR 36850, June 27, 2005](#)). Exemption expires June 27, 2010. [Project XL: Ortho-McNeil On-Site Treatment of Mixed Wastes](#)
- [§261.4\(b\)\(18\)](#) Final Rule - Project XL Site-Specific Rulemaking for the Autoliv ASP Inc. Facility in Promontory, UT. ([66 FR 23617, 23624, May 9, 2001](#)). Exemption withdrawn August 31, 2009. [74 FR 38107, July 31, 2009](#)