

40 CFR 261.2 Table 1
Table for Determining whether Recycled Materials are Solid Wastes

	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), 261.4(a)(23), 261.4(a)(24) or 261.4(a)(27)	Speculative Accumulation (261.2(c)(4))
Spent Materials	Solid Waste (*)	Solid Waste (*)	Solid Waste (*)	Solid Waste (*)
Sludges (listed in 40 CFR 261.31 or 261.32)	Solid Waste (*)	Solid Waste (*)	Solid Waste (*)	Solid Waste (*)
Sludges exhibiting a characteristic of HW	Solid Waste (*)	Solid Waste (*)	Not a Solid Waste -	Solid Waste (*)
By-products (listed in 40 CFR 261.31 or 261.32)	Solid Waste (*)	Solid Waste (*)	Solid Waste (*)	Solid Waste (*)
By-product exhibiting a characteristic of HW	Solid Waste (*)	Solid Waste (*)	Not a Solid Waste -	Solid Waste (*)
Commercial Chemical Products listed in 40 CFR 261.33	Solid Waste (*)	Solid Waste (*)	Not a Solid Waste -	Not a Solid Waste -
Scrap metal that is not excluded under 40 CFR 261.4(a)(13)	Solid Waste (*)	Solid Waste (*)	Solid Waste (*)	Solid Waste (*)

Definitions for 40 CFR 261.2 Table 1

Types of Materials:

Spent Material: A spent material is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing. (40 CFR 261.1(c)(1))

Sludge: A sludge means any solid, semi-solid, or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other waste having similar characteristics and effects. (N.C.G.S. 130A-290)

By-product: A by-product is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process. (40 CFR 261.1(c)(3))

Commercial Chemical Products: A commercial chemical product is a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. (40 CFR 261.33(d))

Scrap Metal: Scrap metal is the bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces which may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled. (40 CFR 261.1(c)(6))

Types of Processes:

Use Constituting Disposal: Use Constituting Disposal means the material is placed on the land in a manner that constitutes disposal or used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to the or placed on the land (in which cases the product itself remains a solid waste). Commercial chemical products listed in 40 CFR 261.33 are not solid wastes if they are applied to the land and that is their ordinary manner of use. (40 CFR 261.2(c)(1))

Burning for Energy Recovery: Materials are burned for energy recovery when they are burned to recover energy or used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste). Commercial chemical products listed in 40 CFR 261.33 are not solid wastes if they are themselves fuels. (40 CFR 261.2(c)(2))

Reclaimed: A material is reclaimed if it is processed to recover a usable product, or if it is regenerated. (40 CFR 261.1(c)(4))

Accumulated Speculatively: A material is accumulated speculatively if it is accumulated before being recycled. (40 CFR 261.1(c)(8))