

3. Exemption for Scrap Metal Destined for Recycling Applies at Point of Generation

RCRA exempts from hazardous waste regulation scrap metal which is being recycled (40 CFR Section 261.6(a)(3)(ii)). In addition, RCRA excludes from the definition of solid waste, and thus the definition of hazardous waste, processed and certain other scrap metal being recycled (Section 261.4(a)(13)). A facility generates a scrap metal, which is not excluded under Section 261.4(a)(13), which exhibits the toxicity characteristic for lead (D008). The facility intends to send the scrap metal to a reclamation facility. Must the facility handle this scrap metal as a hazardous waste, including compliance with manifesting provisions, until the material is actually placed in the reclamation unit?

The facility would not need to manage as hazardous waste scrap metal destined for reclamation which is not otherwise excluded under Section 261.4(a)(13) before placement in the reclamation unit, and would not need to manifest shipments of the material off site. Scrap metal that is intended to be reclaimed is exempt from Subtitle C regulation at the point of generation. However, the mere intent to reclaim the material is not adequate for it to remain exempt. If the material is not reclaimed (e.g., if it is speculatively accumulated per Section 261.1(c)(8)), the exemption does not apply and the material remains subject to all applicable hazardous waste regulations from the point of generation. Only if the facility ensures that the material will be reclaimed will the hazardous waste regulations not apply.