

Generator Controlled Exclusion Guidance for the Reclamation of Hazardous Secondary Materials



**North Carolina Department of Environmental Quality
Division of Waste Management
Hazardous Waste Section**

Table of Contents

	<u>Page Number</u>
General Information	3
Definitions	4
Conditions for the Generator Controlled Exclusion	6
Appendix A - Legitimacy Criteria	9
Appendix B - Documentation of Legitimate Recycling	11
Appendix C – Notification Requirements for Facilities Managing Hazardous Secondary Materials under the Generator Controlled Exclusion	14
Appendix D - Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials (40 CFR 261 Subpart M)	22
Appendix E - Checklist for Hazardous Secondary Materials Managed Under the Generator Controlled Exclusion	27
Appendix F - Example Label for Hazardous Secondary Material Being Reclaimed	28
Appendix G – Hazardous Waste Section, Compliance Branch, Regional Inspector Map	29

General Information about the Generator Controlled Exclusion

- This exclusion was originally effective in North Carolina on December 1, 2015.
- This guidance document has been updated due to EPA revising parts of the 2015 Resource Conservation and Recovery Act (RCRA) definition of solid waste as ordered by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on July 7, 2017, as modified on March 6, 2018. The revisions to the definition of solid waste under RCRA were published in the Federal Register (83 FR 24664, May 30, 2018) and were effective May 30, 2018. Changes made in this guidance document were specific to the Legitimacy Factors.
- This exclusion is found at 15A North Carolina Administrative Code (NCAC) 13A .0106(a) where the federal regulation, 40 CFR 261.4(a)(23), is incorporated by reference. North Carolina adopted the entire federal regulation (40 CFR 261.4(a)(23)) except for the definition for "contained" which can be found at 15A NCAC 13A .0102(c). (See [Definitions](#), page 4)
- When all conditions of the exclusion are met, hazardous secondary material (specifically spent material, listed byproducts, and listed sludges) that are legitimately reclaimed are not solid waste.
- If any of the conditions of the exclusion are not met, the hazardous secondary material is considered a solid waste and discarded and the hazardous waste rules are again applicable.
- In order to claim the Generator Controlled Exclusion, there are specific conditions (requirements) that the generator of the material must meet and conditions the hazardous secondary material, itself, must meet. (See [Conditions for the Generator Controlled Exclusion](#))
- If the originating state has adopted this exclusion, but the receiving (or transfer) state has not adopted the exclusion, hazardous secondary material is subject to the hazardous waste requirements of the receiving state that has not adopted the rule upon reaching the border of that state (e.g., manifesting requirements).
- This exclusion is optional. Facilities in North Carolina may choose whether to manage hazardous secondary materials under the exclusion.
- This exclusion does not affect or replace any existing exclusion, exemption, or determination.
- Material that is otherwise subject to material-specific management conditions under 40 CFR 261.4(a) when reclaimed will not fall under this exclusion (e.g. lead acid batteries should be managed under 40 CFR 266.80 or 273.2).
- For questions or additional information about the Generator Controlled Exclusion, contact:
Jenny Patterson at 336-767-0031 or by email: jenny.patterson@ncdenr.gov
- Or contact your local Hazardous Waste Section Inspector for assistance with the Generator Controlled Exclusion and site-specific aspects of this exclusion. For more information on contacting your regional inspector, see the [Hazardous Waste Section, Compliance Branch, Regional Inspector Map](#).

Definitions

"Contained" for HSM (15A NCAC 13A .0102(c)): Held in a unit (including a land-based unit) that meets the following criteria:

- The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials or hazardous constituents originating from the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, windblown dust, fugitive air emissions, and catastrophic unit failures;
- The unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit; and
- The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.
- Hazardous secondary materials in units that meet the applicable requirements of 40 CFR parts 264 or 265 are presumptively contained.

Control (40 CFR 261.4(a)(23)(i)(B)): Control means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person as defined in 40 CFR 260.10 shall not be deemed to "control" such facilities. [Note: North Carolina did not adopt the 40 CFR 260.10 definition for "person." "Person" is defined at North Carolina General Statute (N.C.G.S.) 130A-290 (see below).]

Generating Facility for HSM (40 CFR 261.4(a)(23)(i)(A)): Generating facility means all contiguous property owned, lease or otherwise controlled by the hazardous secondary material generator.

HSM = Hazardous Secondary Material(s)

Person (N.C.G.S. 130A-290): Person means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.

Speculatively accumulated (40 CFR 261.1(c)(8)): A material is "speculatively accumulated" before being recycled. A material is not accumulated speculatively if the person accumulating it can show the material is

- Potentially recyclable and has a feasible means of being recycled and
- 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 % by weight or volume of the amount of the material accumulated at the beginning of the period
 - In calculating the percentage of turnover, the 75% requirement is to be applied to each material of the same type that is recycled in the same way.
 - Materials accumulating in units that would be exempt from regulation under 40 CFR 261.4(c) [Hazardous waste generated from a product tanks] 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.
- Materials must be placed in a storage unit
- Materials must be labeled indicating the first date the material began to be accumulated
 - If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method.

Definitions (continued)

Tolling Contractor (40 CFR 261.4(a)(23)(i)(C)): Tolling contractor means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer.

Toll Manufacturer (40 CFR 261.4(a)(23)(i)(C)): Toll manufacturer means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

Note: Other hazardous waste definitions can be found at N.C.G.S. 130A-290, 15A NCAC 13A .0102, and 40 CFR 260.10 as adopted in 15A NCAC 13A .0102.

Conditions for the Generator Controlled Exclusion

HSM managed under the Generator Controlled Exclusion must meet all of the listed conditions:

- 1) **The HSM must be generated and reclaimed by one of the following:**
 - Is generated and reclaimed at the "Generating Facility" ([see Definitions, page 4](#)), or
 - Is generated and then reclaimed at a different facility *controlled* ([see Definitions, page 4](#)) by the generator, or
 - Both the generating and the reclaiming facility are controlled by a "Person" ([see Definitions, page 4](#)) as defined in N.C.G.S. 130A-290, or
 - Generated pursuant to a written contract between a *tolling contractor* and a *toll manufacturer* and is reclaimed by the tolling contractor ([see Definitions, page 5](#)).

- 2) **All facilities managing HSM under the Generator Controlled Exclusion must provide notification under 40 CFR 260.42.**
 - Notification must be submitted *prior* to managing any HSM and by March 1 of each even-numbered year thereafter.
 - Notification must be submitted when the facility stops managing HSM.
 - To notify of the HSM activity, the facility must electronically submit the EPA 8700-12 form through EPA's RCRAInfo database in the Industry Application - myRCRAid.
 - Link to EPA's RCRAInfo database: <https://rcrainfo.epa.gov/rcrainfoprod/action/secured/login>
 - ~ If you are already registered in RCRAInfo (or CDX), sign in using your username and password. If you are not already registered for RCRAInfo or CDX, see the below tutorial.
 - Link to a tutorial with information on how to register and use RCRAInfo Industry Application: <https://files.nc.gov/ncdeq/Waste%20Management/DWM/HW/8700-guidelines/Electronic-Filing-of-EPA-Notifications.pdf>
 - Tips and screen shots for completing HSM sections (to notify of HSM activity) of the electronic EPA 8700-12 form can be found at [Appendix C](#) of this document.

- 3) **HSM must be *contained* as defined in 15A NCAC 13A .0102(c) – [See Definitions, page 4](#)**
 - HSM released to the environment is discarded and is a solid waste unless it is immediately recovered for the purpose of reclamation.
 - HSM managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and is a solid waste.
 - One of the requirements of meeting the definition of "contained" is that the HSM unit must be properly labeled or otherwise have a system (such as a log) to immediately identify the hazardous secondary materials in the unit. See [Appendix F](#) for an example of a label for HSM being reclaimed.

- 4) **HSM must not be *speculatively accumulated* as defined in 40 CFR 261.1(c)(8) – [See Definitions, page 4](#)**

- 5) **Persons performing the recycling of HSM must maintain, on-site, documentation of legitimacy determination** - See [Appendix A](#) for the legitimacy factors in 40 CFR 260.43
 - Documentation must be a written description of how the recycling meets all three factors in 40 CFR 260.43(a) and how the factor in 40 CFR 260.43(b) was considered. See [Appendix B](#) for a Template for Documenting Legitimacy.
 - Documentation must be maintained for three years after the recycling operation has ceased.

Conditions for the Generator Controlled Exclusion (cont'd)

- 6) **Must meet emergency preparedness and response requirements described in 40 CFR 261 Subpart M ([See Appendix D of this document](#)).**
- Accumulates 6,000 kg or less HSM - must comply with 40 CFR 261.410 and 261.411 (essentially equivalent to small quantity generator of hazardous waste requirements for emergency preparedness and prevention)
 - Accumulates more than 6,000 kg of HSM – must comply with 40 CFR 261.410 and 261.420 (essentially equivalent to large quantity generator of hazardous waste requirements for contingency plan and emergency preparedness and prevention)
- 7) **If the HSM is generated and reclaimed at different facilities (controlled by the generator or by a Person as defined in N.C.G.S. 130A-290), the following is required:**
- The generator must provide one of the certifications:
 - "On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary materials to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert name of either facility] has acknowledge full responsibility for the safe management of the hazardous secondary material," or
 - "On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material."
 - The generating and receiving facilities must both maintain at their facilities for no less than three years, records of HSM sent or received under the exclusion.
 - Records must contain:
 - ~ The name of the transporter,
 - ~ The date of the shipment, and
 - ~ The type and quantity of the HSM shipped or received under the exclusion.(These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations))
- 8) **If the HSM is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, the following is required:**
- The tolling contractor must certify the following:

"On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name]. I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any release of hazardous secondary materials that occur during the manufacturing process."
 - Records required by tolling contractor and tolling manufacturer:
 - The tolling contractor must maintain at its facility for no less than three years records of HSM received pursuant to its written contract with the tolling manufacturer. Records must contain:
 - ~ The name of the transporter,
 - ~ The date of the shipment, and
 - ~ The type and quantity of the HSM shipped or received pursuant to the written contract.

Conditions for the Generator Controlled Exclusion (cont'd)

These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations)).

- The tolling manufacturer must maintain at its facility for no less than three years records of HSM shipped pursuant to its written contract with the tolling contractor. Records must contain:
 - ~ The name of the transporter,
 - ~ The date of the shipment, and
 - ~ The type and quantity of the HSM shipped or received pursuant to the written contract.These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations).

Appendix A

Legitimacy Criteria

Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste. In determining whether recycling is legitimate, persons must address all the requirements of 40 CFR 260.43(a) and must consider the requirements of 40 CFR 260.43(b).

Persons performing the recycling of HSM under the Generator Controlled Exclusion (40 CFR 261.4(a)(23)), must maintain documentation, on-site, of the legitimacy determination. Documentation must be a written description of how the recycling meets all three factors in 40 CFR 260.43(a) and how the factor in 40 CFR 260.43(b) was considered. Documentation must be maintained for three years after the recycling operation ceased.

The three Legitimacy Factors in 40 CFR 260.43(a) that must be met are:

- 1) Legitimate recycling must involve a HSM that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The HSM provides a useful contribution if it:
 - Contributes valuable ingredients to a product or intermediate; or
 - Replaces a catalyst or carrier in the recycling process; or
 - Is the source of a valuable constituent recovered in the recycling process; or
 - Is recovered or regenerated by the recycling process; or
 - Is used as an effective substitute for a commercial product.
- 2) The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if it is:
 - Sold to a third party; or
 - Used by the recycler or the generator as an effective substitute for a commercial product or used an ingredient or intermediate in an industrial process
- 3) The generator and the recycler must manage the HSM as a valuable commodity when it is under their control.
 - Where there is an analogous raw material, the HSM must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner.
 - Where there is no analogous raw material, the HSM must be contained.
 - HSM that are released to the environment and are not recovered immediately are discarded.

The requirements of 40 CFR 260.43(b) *must be considered* in making a determination as to the overall legitimacy of a specific recycling activity is as follows:

- 1) The product of the recycling process does not:
 - Contain significant concentrations of any hazardous constituents found in appendix VIII of 40 CFR 261 that are not found in analogous products; or
 - Contain concentrations of hazardous constituents found in appendix VIII of 40 CFR 261 at levels that are significantly elevated from those found in analogous products, or
 - Exhibit a hazardous characteristic (as defined in 40 CFR 261 subpart C) that analogous products do not exhibit.
- 2) In making a determination that a HSM is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor

Legitimacy Criteria (cont'd)

in 40 CFR 260.43(b) is not met, then this fact may be an indication that the material is not legitimately recycled. However, the factor in 40 CFR 260.43(b) does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.

Appendix B

Documentation of Legitimate Recycling

Persons performing the recycling of hazardous secondary material (HSM) under the Generator Controlled exclusion of 40 CFR 261.4(a)(23) and/or the Transfer Based exclusion of 40 CFR 261.4(a)(24) must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all three factors in 40 CFR 260.43(a) and how the requirements of 40 CFR 260.43(b) were considered. Documentation must be maintained for 3 years after the recycling operation has ceased. The template below is a suggested format for documenting legitimacy. A facility may choose to create its own format for documenting legitimate recycling. Any type of document is acceptable as long as it addresses the three legitimacy factors in 40 CFR 260.43(a) and describes how the requirements of 40 CFR 260.43(b) were considered.

Suggested Template for the Legitimacy Documentation

Provide a brief narrative description describing how the hazardous secondary material (HSM) is recycled by the generator.

For example: Spent solvents are reclaimed in an on-site distillation system in order to remove the contaminant and return the solvent back to commercial-grade.

Next, check the box under each factor that most appropriately describes how the recycling meets the factor. Then add a brief narrative description explaining how the recycling meets the factor.

Factor 1:

Explain how the HSM provides a useful contribution:

- Contributes valuable ingredients to a product or intermediate
- Replaces a catalyst or carrier in the recycling process
- Is the source of a valuable constituent recovered in the recycling process
- Is recovered or regenerated by the recycling process
- Is used as an effective substitute for a commercial product

For example: Spent solvents reclaimed on site to commercial grade are "recovered or regenerated by the recycling process." Check the fourth line.

Provide a written description of how the hazardous secondary material provides a useful contribution to the recycling process or to a product or intermediate of the recycling process:

For example, the facility could identify what spent solvents are being regenerated in the recycling process.

Factor 2:

Describe how the product or intermediate made from the HSM is valuable:

- Sold to a 3rd party
- Used by the recycler or generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process

For example: Spent solvents reclaimed on site and then used by the generator are "used as an effective substitute for a commercial product." Check the second line.

Provide a written description of how the product or intermediate is valuable:

For example, the facility could identify the commercial product for which their reclaimed solvents are substituting.

Factor 3:

Describe how the HSM is managed as a valuable commodity:

- There is an analogous raw material and the HSM is managed, at a minimum, in a manner consistent with the raw material, or in an equally protective manner.
- There is no analogous raw material and the HSM is contained per 15A NCAC 13A .0102(c).

For example: There are analogous raw materials to the spent solvents. Check the first line.

Provide a written description of how the hazardous secondary material is managed prior to being recycled:

For example, the facility should include a brief description of how the spent solvents are stored and managed prior to reclamation. The facility must manage their spent solvents before they are reclaimed in the same manner (or equally protective manner) as the original commercial solvents.

The requirements of 40 CFR 260.43(b) must be considered in making a determination as to the overall legitimacy of a specific recycling activity.

The product of the recycling process does not:

- Contain significant concentrations of any hazardous constituents found in appendix VIII of 40 CFR 261 that are not found in analogous products; or
- Contain concentrations of hazardous constituents found in appendix VIII of 40 CFR 261 at levels that are significantly elevated from those found in analogous products, or
- Exhibit a hazardous characteristic (as defined in 40 CFR 261 subpart C) that analogous products do not exhibit.

- The product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate as outlined above but the recycling is still legitimate¹.

Provide a written description of how the product made with HSM is comparable to a legitimate product or intermediate:

¹In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in 40 CFR 260.43(b) is not met, then this fact may be an indication that the material is not legitimately recycled. However, the factor in 40 CFR 260.43(b) does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.

Appendix C

Notification Requirements for Facilities Managing HSM under the Generator Controlled Exclusion

Facilities managing HSM under the Generator Controlled Exclusion (40 CFR 261.4(a)(23)) must electronically submit the EPA 8700-12 form (through EPA's RCRAInfo database Industry Application - myRCRAid) to notify *prior* to operating under this regulatory exclusion, *and* by March 1 of each even-numbered year, or when they stop operating under this regulatory exclusion. This Appendix offers tips and screen shots for completing the HSM sections (to notify of HSM activity) of the electronic EPA 8700-12 form.

- Link to EPA's RCRAInfo database: <https://rcrainfo.epa.gov/rcrainfoprod/action/secured/login>
 - If you are already registered in RCRAInfo (or CDX), sign in using your username and password. If you are not already registered for RCRAInfo or CDX, see the below tutorial.
- Link to a tutorial with information on how to register and use RCRAInfo Industry Application: <https://files.nc.gov/ncdeq/Waste%20Management/DWM/HW/8700-guidelines/Electronic-Filing-of-EPA-Notifications.pdf>

Question 16 on the EPA 8700-12 form is the place to notify of HSM activity. Below is a screen shot of the electronic notification.

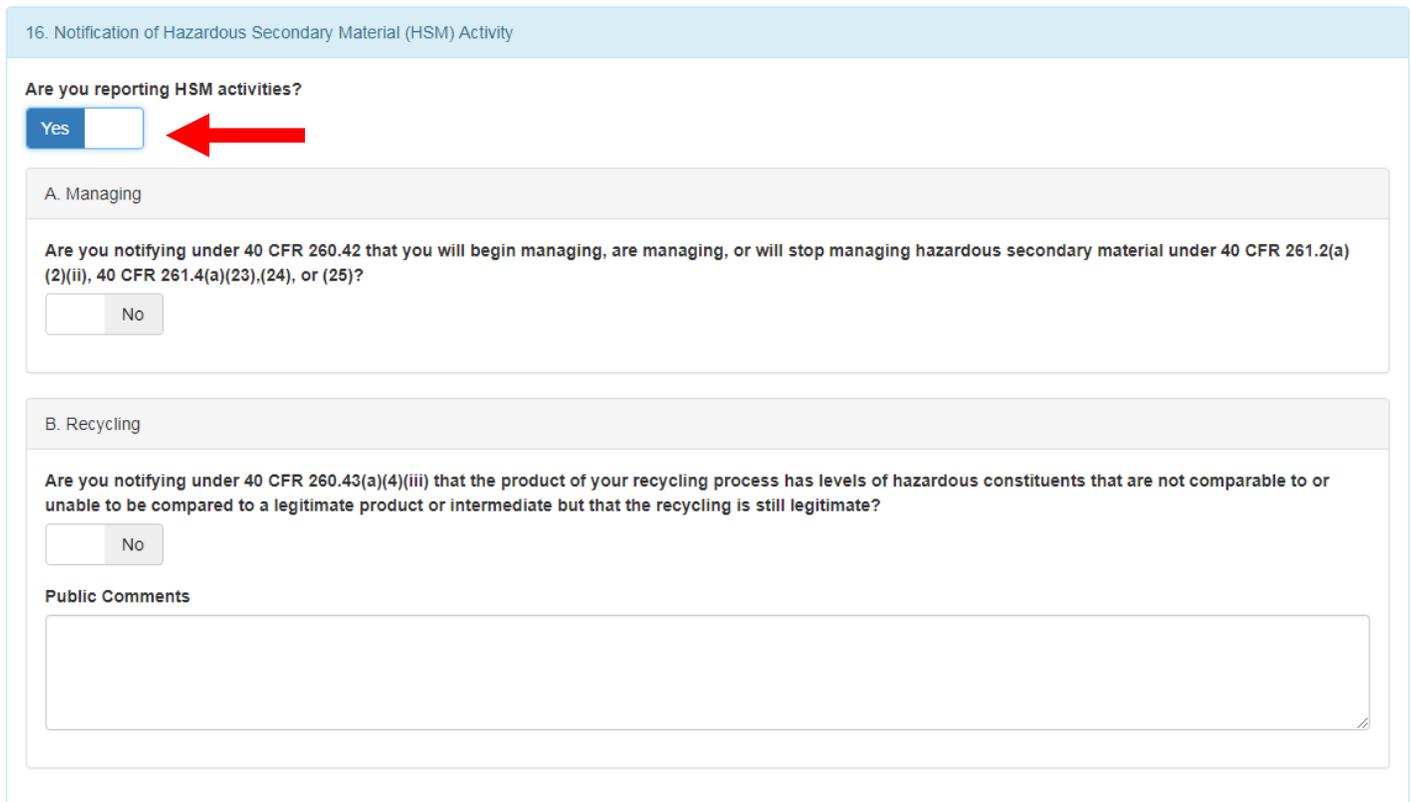


16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?

No

Slide the button to "Yes" if the facility will claim the hazardous secondary material exclusion. When "Yes" is selected, the Addendum questions will appear depending on how questions are answered (see below).



16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?

Yes

A. Managing

Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23),(24), or (25)?

No

B. Recycling

Are you notifying under 40 CFR 260.43(a)(4)(iii) that the product of your recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate but that the recycling is still legitimate?

No

Public Comments

If the facility is notifying of HSM activities under the Generator Controlled Exclusion (40 CFR 261.4(a)(23)), mark Question 16.A "Yes" (see the screen shot below). When "Yes" is selected, the "Reason for Notification and Date" (Question 16.A.1) and "Description of the HSM Activity" (Question 16.A.2) will appear.

16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?
 Yes

A. Managing

Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23),(24), or (25)?
 Yes

1. Reason for Notification and Date

Notification Reason *

Notifying that the facility will begin managing hazardous secondary material

2. Description of hazardous secondary material (HSM) activity. *

Facility Code	Waste Codes	Estimated Short Tons	Actual Short Tons	Land-based Unit

Add

If the facility is notifying of managing HSM under the Generator Controlled Exclusion (40 CFR 261.4(a)(23)), click the "o" in front of "Notifying that the facility will begin managing hazardous secondary material" and enter the date the facility will begin managing HSM. (Remember that the notification must occur prior to the management of HSM at the facility).

16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?
 Yes

A. Managing

Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23),(24), or (25)?
 Yes

1. Reason for Notification and Date

Notification Reason *

Notifying that the facility will begin managing hazardous secondary material

Effective Date of Notification *

MM/DD/YYYY

2. Description of hazardous secondary material (HSM) activity. *

Facility Code	Waste Codes	Estimated Short Tons	Actual Short Tons	Land-based Unit

Add

For Question 16.A.2. click "Add" to enter the description of the HSM activity.

16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?
 Yes

A. Managing

Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23),(24), or (25)?
 Yes

1. Reason for Notification and Date

Notification Reason *
 Notifying that the facility will begin managing hazardous secondary material

Effective Date of Notification *
MM/DD/YYYY

2. Description of hazardous secondary material (HSM) activity. *

Facility Code	Waste Codes	Estimated Short Tons	Actual Short Tons	Land-based Unit
<input type="button" value="Add"/>				



Once "Add" is clicked, another window will open to enter the required description of HSM activity. Go to the next page for guidance on "Facility Code", "Estimated Short Tons", and "Land-based Unit".

Add HSM Activity

Facility Code *
Select Facility Code
This field is required.

Hazardous Waste Codes * **Selected**
None selected ▾

Estimated Short Tons *

Land-based Unit *
Select Land-based Unit ▾
This field is required.

In the HSM Activity window, select the appropriate facility code, each waste code for the HSM that is managed, the estimated and actual quantities, in short tons, for the HSM, and the appropriate land-based code for how the HSM is managed. Do not include any information regarding any hazardous wastes in this section (only HSM activity information is entered in this window).

Facility Code: From the nationally-defined Facility Codes for the Generator Controlled Exclusion (below) select the appropriate 2-digit code that correctly describes the facility. Facility codes describe the specific regulation a facility uses to manage its hazardous secondary material (HSM) and the type of activity the facility performs under the regulation (e.g., generator, reclaimer).

Under Generator Exclusion ((40 CFR 261.4(a)(23))	
Code	Facility Code Description
01	HSM Generator reclaiming HSM "on-site": This code applies if you generate and reclaim hazardous secondary material at your generating facility.
02	HSM Generator transferring HSM to reclaimer within the "same company": This code applies if you generate hazardous secondary material and send the material for reclamation to a different facility that is either controlled by you or controlled by the same person that controls your generating facility.
03	Reclaimer receiving HSM from HSM generator within the "same company": This code applies if you receive and reclaim hazardous secondary material from a different facility that either controls you or is controlled by the same person that controls you.
04	Tolling Contractor reclaiming HSM pursuant to a tolling contract: This code applies if you are a tolling contractor that reclaims hazardous secondary material pursuant to a written contract with a toll manufacturer.
05	Toll Manufacturer managing HSM pursuant to a tolling contract: This code applies if you generate and send hazardous secondary material for reclamation to a tolling contractor pursuant to a written contract.

Waste Code(s) for HSM: Select the appropriate 4-digit hazardous waste code(s) that would apply to your hazardous secondary material if it was managed as hazardous waste (i.e., the waste code(s) that would apply if you did not manage your material in accordance with the Generator Controlled Exclusion (40 CFR 261.4(a)(23)).

Estimate Short Tons of Excluded HSM to be Managed Annually: Enter the estimated quantity (using short tons) of HSM expected to be managed annually. Convert all physical quantities (e.g., gallons, cubic yards, kilograms, metric tons, etc.) to short tons (1 short ton = 2,000 pounds) and round to the nearest ton (no decimals). Your estimated quantity should be for the entire amount of HSM to be reclaimed NOT just the quantity of constituent or product reclaimed.

Land-based Unit Code: From the nationally-defined Land-based Unit Codes (below), select the 2-digit code that best describes the land-based unit used or will be used to manage the HSM. If land-based units will not be used, enter "NA." If the code "OT" (Other), is used, describe the land-based unit in the Comments Section.

Code	Land-based Unit Code Description
NA	Do not use land-based units to manage hazardous secondary material.
SI	Use surface impoundment(s) to manage hazardous secondary material. A surface impoundment is a natural topographic depression, man-made excavation or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid hazardous secondary materials or materials containing free liquids and which is not an injection well.
PL	Use pile(s) to manage hazardous secondary material. Pile means any non-containerized accumulation of solid, non-flowing hazardous secondary material that is used for storage and is not a containment building.
OT	Use other land-based unit(s) to manage hazardous secondary material.

When information has been entered for the Facility Code, Hazardous Waste Codes, Estimated Short Tons and Land-based Unit, click on "Save Changes".

Add HSM Activity

Facility Code *
01 - HSM generator reclaiming HSM on-site

Hazardous Waste Codes * **Selected**
3 selected D001 x F003 x F005 x

Clear All

Estimated Short Tons *
550

Land-based Unit *
NA - Do not used land-based uni...

Save Changes **Close**

Once, you click "Save Changes", the pop up window will close and the information will be entered in the form for Question 16.A.2.

16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?
Yes

A. Managing

Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23),(24), or (25)?
Yes

1. Reason for Notification and Date

Notification Reason * **Effective Date of Notification ***
● Notifying that the facility will begin managing hazardous secondary material 06/29/2018

2. Description of hazardous secondary material (HSM) activity. *

Facility Code	Waste Codes	Estimated Short Tons	Actual Short Tons	Land-based Unit	
01	D001,F003,F005	550		NA	

Add **Delete All Activities**

If the facility is managing more than one HSM stream under the Generator Controlled Exclusion (40 CFR 261.4(a)(23)) or also managing HSM under the Transfer Based Exclusion (40 CFR 261.4(a)(24)), click on "Add" to include another HSM stream that is reclaimed under the Generator Controlled Exclusion or to describe HSM that is reclaimed under the Transfer Based Exclusion.

16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?
 Yes

A. Managing

Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23),(24), or (25)?
 Yes

1. Reason for Notification and Date

Notification Reason * Notifying that the facility will begin managing hazardous secondary material

Effective Date of Notification *

2. Description of hazardous secondary material (HSM) activity. *

Facility Code	Waste Codes	Estimated Short Tons	Actual Short Tons	Land-based Unit	
01	D001,F003,F005	550		NA	

If you do not need to add any other HSM Activity descriptions, go to Questions 16.B. Question 16.B. still appears on the electronic notification. However, 40 CFR 260.43(a)(4)(iii) has been vacated from the rule. **Answer this question "No."**

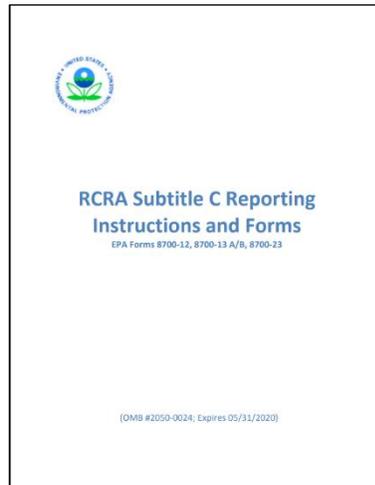
B. Recycling

Are you notifying under 40 CFR 260.43(a)(4)(iii) that the product of your recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate but that the recycling is still legitimate?
 No

Public Comments

For guidance on how to complete the HSM questions, refer to the "Notification of RCRA Subtitle C Activity Instructions and Form" found at this link:

https://rcrainfo.epa.gov/rcrainfoweb/documents/rcra_subtitleC_forms_and_instructions.pdf



Guidance for completing the HSM questions can be found starting on page 33 in the Notification of RCRA Subtitle C Activity Instructions and Form booklet. Examples for completing the HSM questions can be found on pages 36 through 38 in the Notification of RCRA Subtitle C Activity Instructions and Form booklet.

For **Facilities Still Managing Excluded HSM and Renotifying as Required by March 1, of Each Even Numbered Year**, you will need to mark "Yes" to Question 16. Once you click "Yes", Question 16.A.1 will request information on whether you are re-notifying or have stopped managing HSM. Click "Renotifying that the facility is still managing hazardous secondary material."

16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?

Yes

A. Managing

Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23),(24), or (25)?

Yes

1. Reason for Notification and Date

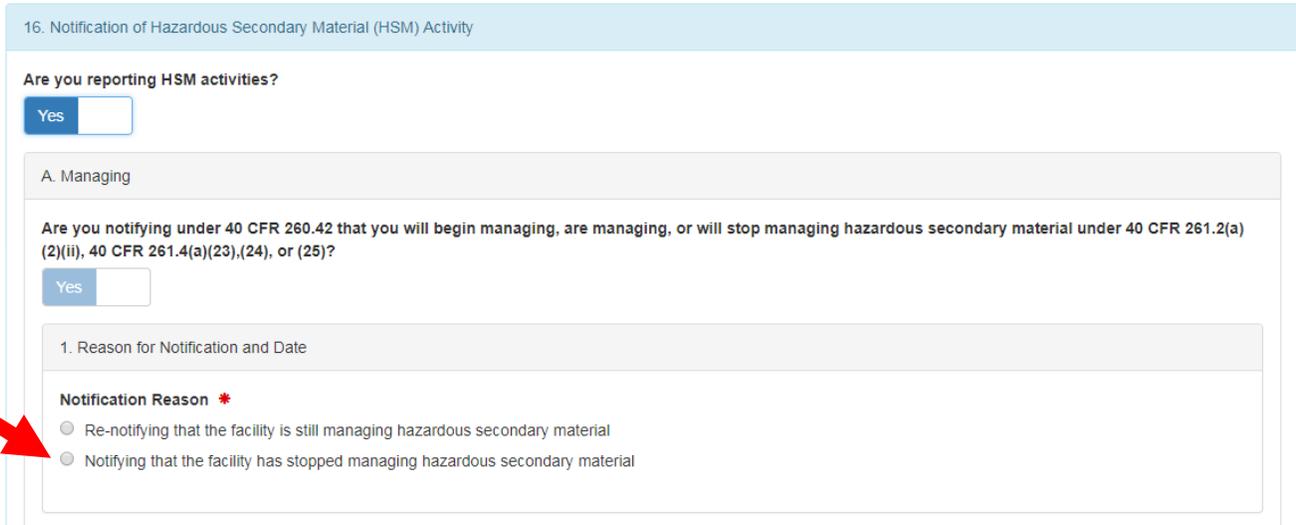
Notification Reason *

- Re-notifying that the facility is still managing hazardous secondary material
- Notifying that the facility has stopped managing hazardous secondary material

Actual Short Tons of Excluded HSM Managed During the Most Recent Odd-Numbered Year: Report the quantity (using short tons) of each HSM actually managed during the most recent odd-numbered year. For example, if you are submitting this notification on February 20, 2018, enter the amount you actually managed during 2017 (i.e., the quantity you managed from January 1, 2017 to December 31, 2017). Convert all physical quantities (e.g., gallons, cubic yards, kilograms, metric tons, etc.) to short tons (1 short ton = 2,000 pounds) and round to the nearest ton (no decimals). If this is your initial notification, enter "0." Your actual quantity should be for the entire amount of hazardous secondary material that was sent for reclamation NOT just the quantity of constituent or product reclaimed.

For **Facilities that have Stopped Managing Excluded HSM** (and do not expect to manage HSM for at least one year), you will need to mark "Yes" to Question 16. Once you click "Yes", Question 16.A.1 will request information on whether you are re-notifying or have stopped managing HSM. Click "Notifying that the facility has stopped managing hazardous secondary material."

Facilities must notify within 30 days of when they stopped managing hazardous secondary material. You are considered to have stopped managing hazardous secondary material if: (1) you stop managing hazardous secondary material completely (e.g., you cease operations); (2) you choose to manage the hazardous secondary material as hazardous waste; (3) you undergo closure and request release from financial assurance per 40 CFR 261.143(h) or 40 CFR 264.143; or (4) you temporarily suspend management of hazardous secondary material for at least one year.



16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?

Yes

A. Managing

Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23),(24), or (25)?

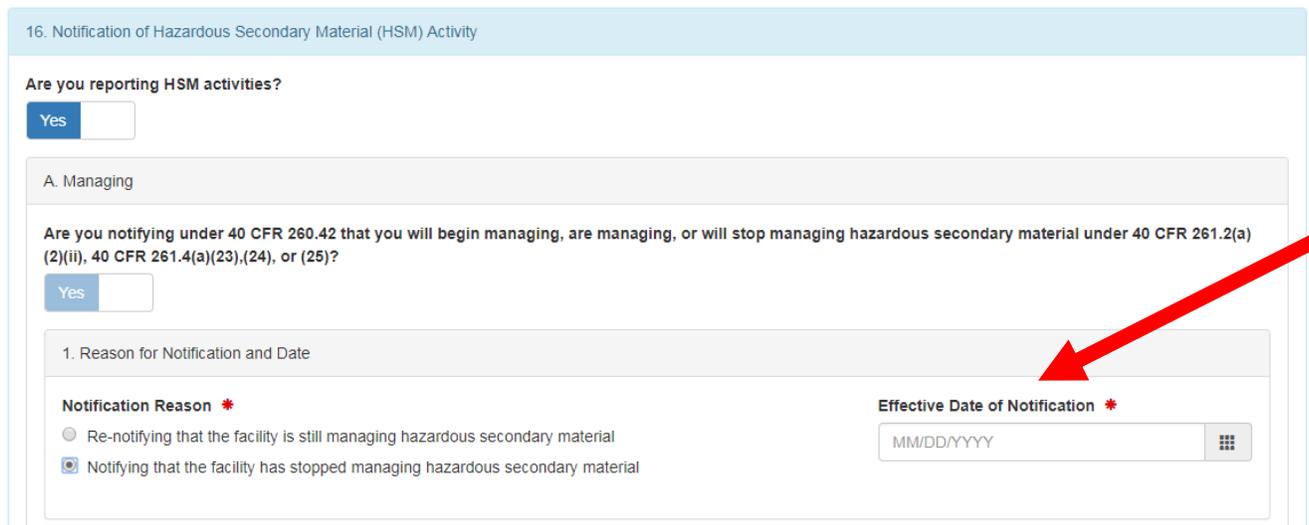
Yes

1. Reason for Notification and Date

Notification Reason *

- Re-notifying that the facility is still managing hazardous secondary material
- Notifying that the facility has stopped managing hazardous secondary material

Then enter the date when HSM was no longer managed on-site.



16. Notification of Hazardous Secondary Material (HSM) Activity

Are you reporting HSM activities?

Yes

A. Managing

Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23),(24), or (25)?

Yes

1. Reason for Notification and Date

Notification Reason *

- Re-notifying that the facility is still managing hazardous secondary material
- Notifying that the facility has stopped managing hazardous secondary material

Effective Date of Notification *

MM/DD/YYYY

Only notify as having stopped managing HSM if you have stopped managing **all** HSM under the exclusion(s). For example, if your facility only stopped managing one hazardous secondary material, but continued to manage another hazardous secondary material, you would leave this box blank since your facility continues to manage some amount of hazardous secondary material.

Appendix D

Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials (40 CFR 261 Subpart M)

Any facility operating under the Generator Controlled Exclusion must meet the requirements of 40 CFR 261 Subpart M.

40 CFR 261.400 - Applicability

The requirements of this subpart apply to those areas of an entity managing hazardous secondary materials excluded under 40 CFR 261.4(a)(23) and/or (24) where hazardous secondary materials are generated or accumulated on site.

- (a) A generator of hazardous secondary material, or an intermediate or reclamation facility, that accumulates 6,000 kg or less of hazardous secondary material at any time must comply with 40 CFR 261.410 and 261.411.
- (b) A generator of hazardous secondary material, or an intermediate or reclamation facility that accumulates more than 6,000 kg of hazardous secondary material at any time must comply with 40 CFR 261.410 and 261.420.

40 CFR 261.410 - Preparedness and prevention

- (a) *Maintenance and operation of facility.* Facilities generating or accumulating hazardous secondary material must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous secondary materials or hazardous secondary material constituents to air, soil, or surface water which could threaten human health or the environment.
- (b) *Required equipment.* All facilities generating or accumulating hazardous secondary material must be equipped with the following, *unless* none of the hazards posed by hazardous secondary material handled at the facility could require a particular kind of equipment specified below:
 - (1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
 - (2) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;
 - (3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and
 - (4) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.
- (c) *Testing and maintenance of equipment.* All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.
- (d) *Access to communications or alarm system.*
 - (1) Whenever hazardous secondary material is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under paragraph (b) of this section.
 - (2) If there is ever just one employee on the premises while the facility is operating, he must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, *unless* such a device is not required under paragraph (b) of this section.

- (e) *Required aisle space.* The hazardous secondary material generator or intermediate or reclamation facility must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
- (f) *Arrangements with local authorities.*
 - (1) The hazardous secondary material generator or an intermediate or reclamation facility must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:
 - (i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous secondary material handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
 - (ii) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
 - (iii) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and
 - (iv) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.
 - (2) Where state or local authorities decline to enter into such arrangements, the hazardous secondary material generator or an intermediate or reclamation facility must document the refusal in the operating record.

40 CFR 261.411 - Emergency procedures for facilities generating or accumulating 6,000 kg or less of hazardous secondary material

A generator or an intermediate or reclamation facility that generates or accumulates 6,000 kg or less of hazardous secondary material must comply with the following requirements:

- (a) At all times there must be at least one employee either on the premises or on call (*i.e.*, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (d) of this section. This employee is the emergency coordinator.
- (b) The generator or intermediate or reclamation facility must post the following information next to the telephone:
 - (1) The name and telephone number of the emergency coordinator;
 - (2) Location of fire extinguishers and spill control material, and, if present, fire alarm; and
 - (3) The telephone number of the fire department, unless the facility has a direct alarm.
- (c) The generator or an intermediate or reclamation facility must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;
- (d) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:
 - (1) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;
 - (2) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;
 - (3) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator or an intermediate or reclamation facility has knowledge that a spill has reached surface water, the generator or an intermediate or reclamation facility must immediately notify the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include the following information:

- (i) The name, address, and U.S. EPA Identification Number of the facility;
- (ii) Date, time, and type of incident (*e.g.*, spill or fire);
- (iii) Quantity and type of hazardous waste involved in the incident;
- (iv) Extent of injuries, if any; and
- (v) Estimated quantity and disposition of recovered materials, if any.

40 CFR 261.420 - Contingency planning and emergency procedures for facilities generating or accumulating more than 6,000 kg of hazardous secondary material

A generator or an intermediate or reclamation facility that generates or accumulates more than 6,000 kg of hazardous secondary material must comply with the following requirements:

(a) *Purpose and implementation of contingency plan.*

- (1) Each generator or an intermediate or reclamation facility that accumulates more than 6,000 kg of hazardous secondary material must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water.
- (2) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous secondary material or hazardous secondary material constituents which could threaten human health or the environment.

(b) *Content of contingency plan.*

- (1) The contingency plan must describe the actions facility personnel must take to comply with paragraphs (a) and (f) in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water at the facility.
- (2) If the generator or an intermediate or reclamation facility accumulating more than 6,000 kg of hazardous secondary material has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with part 112 of this chapter, or some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this part. The hazardous secondary material generator or an intermediate or reclamation facility may develop one contingency plan which meets all regulatory requirements. EPA recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.
- (3) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to 40 CFR 262.410(f).
- (4) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see paragraph (e) of this section), and this list must be kept up-to-date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.
- (5) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.
- (6) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

(c) *Copies of contingency plan.* A copy of the contingency plan and all revisions to the plan must be:

- (1) Maintained at the facility; and

- (2) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
- (d) *Amendment of contingency plan.* The contingency plan must be reviewed, and immediately amended, if necessary, whenever:
 - (1) Applicable regulations are revised;
 - (2) The plan fails in an emergency;
 - (3) The facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous secondary material or hazardous secondary material constituents, or changes the response necessary in an emergency;
 - (4) The list of emergency coordinators changes; or
 - (5) The list of emergency equipment changes.
- (e) *Emergency coordinator.* At all times, there must be at least one employee either on the facility premises or on call (*i.e.*, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities are more fully spelled out in paragraph (f). Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of hazardous secondary material(s) handled by the facility, and type and complexity of the facility.
- (f) *Emergency procedures.*
 - (1) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:
 - (i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
 - (ii) Notify appropriate State or local agencies with designated response roles if their help is needed.
 - (2) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.
 - (3) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (*e.g.*, the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).
 - (4) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, he must report his findings as follows:
 - (i) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and
 - (ii) He must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:
 - (A) Name and telephone number of reporter;
 - (B) Name and address of facility;
 - (C) Time and type of incident (*e.g.*, release, fire);
 - (D) Name and quantity of material(s) involved, to the extent known;
 - (E) The extent of injuries, if any; and
 - (F) The possible hazards to human health, or the environment, outside the facility.
 - (5) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous secondary

- material at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released material, and removing or isolating containers.
- (6) If the facility stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
 - (7) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered secondary material, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the hazardous secondary material generator can demonstrate, in accordance with 40 CFR 261.3(c) or (d) of this chapter, that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262, 263, and 265 of this chapter.
 - (8) The emergency coordinator must ensure that, in the affected area(s) of the facility:
 - (i) No secondary material that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and
 - (ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.
 - (9) The hazardous secondary material generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Regional Administrator. The report must include:
 - (i) Name, address, and telephone number of the hazardous secondary material generator;
 - (ii) Name, address, and telephone number of the facility;
 - (iii) Date, time, and type of incident (*e.g.*, fire, explosion);
 - (iv) Name and quantity of material(s) involved;
 - (v) The extent of injuries, if any;
 - (vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
 - (vii) Estimated quantity and disposition of recovered material that resulted from the incident.

Appendix E

Checklist for HSM Managed Under the Generator Controlled Exclusion *A Brief Summary of the Generator Controlled Exclusion Conditions*

HSM generated and reclaimed under the control of the generator - 40 CFR 261.4(a)(23):

- Includes on-site recycling at generating facility, off-site by facility controlled by the generator, and between a tolling contractor
 - HSM must be contained by definition in 15A NCAC 13A .0102(c).
 - ~ Remember that part of the contained definition includes properly labeling the HSM unit or otherwise having a system (such as a log) to immediately identify the HSM in the unit. See [Appendix F](#) for an example of a label for HSM being reclaimed.
 - HSM must not be speculatively accumulated as defined in 40 CFR 261.1(c)(8).
 - Provide notification under 40 CFR 260.42 *prior* to managing HSM *and* by March 1 of each even numbered year thereafter or when the facility stops managing HSM.
 - Must maintain documentation of meeting the three factors of legitimacy described in 40 CFR 260.43(a) and how the requirements described in 40 CFR 260.43(b) were considered (must be maintained for three years after recycling has ceased).
 - Must meet emergency preparedness and response requirements.
 - ~ Accumulates 6,000 kg or less HSM - must comply with 40 CFR 261.410 and 261.411
 - ~ Accumulates more than 6,000 kg of HSM – must comply with 40 CFR 261.410 and 261.420
 - If HSM is recycled off-site at a facility controlled by the generator or through tolling contractor:
 - ~ Certification statement required (40 CFR 261.4(a)(23)(i)(B)) if recycled off-site by facility controlled by generator or through tolling contractor.
 - ~ Documentation must be maintained by generator and off-site facility controlled by generator (or tolling contractor) including: name of transporter, date of shipment, type and quantity of HSM shipped and received.

Appendix F

Example Label for Hazardous Secondary Material Being Reclaimed

The definition of "contained" for HSM (15A NCAC 13A .0102(c)) includes the requirement that the HSM is held in a unit (including a land-based unit) that is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit. Below is an example of a label that EPA provided on the EPA website at this link: <https://www.epa.gov/hwgenerators/voluntary-label-hazardous-secondary-materials-recycling>

The precise wording on the label is not prescribed in the rule. The requirement is to label the unit to identify the hazardous secondary materials in the unit. If you have questions on how to label the unit or what wording to use, you may contact your Hazardous Waste Section Inspector for guidance (See [Appendix G](#) for the contact information for the Hazardous Waste Section Inspectors)

**HAZARDOUS
SECONDARY MATERIAL
FOR RECYCLING**

GENERATOR INFO

NAME _____ EPA ID NO. _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

RECYCLING EXCLUSION _____

ACCUMULATION START DATE _____

EPA WASTE CODE _____

DOT SHIPPING NAME _____

CONTENTS/PRIMARY CHEMICAL NAME _____

HANDLE WITH CARE!

Appendix G

Hazardous Waste Section, Compliance Branch Regional Inspector Map

Link to the most current version of the Hazardous Waste Section, Compliance Branch, Regional Inspector Map:

https://files.nc.gov/ncdeg/Waste+Management/DWM/HW/Compliance/Compliance_Map_by_Inspector.pdf