



## Scrap Metal Exemption Guidance

### **What is scrap metal?**

In North Carolina scrap metal is defined in [40 CFR 261.1\(c\)\(6\)](#), adopted by reference at [15A NCAC 13A .0106\(a\)](#), and means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled. To meet the definition of scrap metal, the material must have significant metal content, i.e., greater than 50% metal.

"Excluded scrap metal" is described at [40 CFR 261.4\(a\)\(13\)](#), adopted by reference at [15A NCAC 13A .0106\(a\)](#), (which includes processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) that is being recycled is not a solid waste (or a hazardous waste).

All other scrap metal (that is not already "excluded scrap metal" under 40 CFR 261.4(a)(13)) that is recycled/reclaimed is a solid waste, but not a hazardous waste per [40 CFR 261.6\(a\)\(3\)\(ii\)](#), adopted by reference at [15A NCAC 13A .0106\(a\)](#) – also known as the "scrap metal exemption." 40 CFR 261.6(a)(3)(ii) states that scrap metal that is not already excluded as discussed above (40 CFR 261.4(a)(13)), is not subject to regulation under 40 CFR 262 [hazardous waste generator requirements] through 40 CFR 268, 270, or 124 and are not subject to the notification requirements of RCRA section 3010. One of the provisions from which generators of scrap metal (under 40 CFR 261.6(a)(3)(ii)) are exempted from is the need to make a hazardous waste determination (40 CFR 262.11) for this material. Therefore, it is unnecessary to make a hazardous waste determination (i.e., whether it exhibits a characteristic or is contaminated with listed hazardous waste) for material that meets the definition of scrap metal and will be recycled.

There is no exclusion/exemption for scrap metal that is *disposed* instead of recycled. A waste determination must be made and if the material is a hazardous waste, all applicable hazardous waste requirements will apply at the point of waste generation.

### **What is not scrap metal?**

Scrap metal does not include residues generated from smelting and metal refining operations (i.e., drosses, slags, and sludges). It also does not include liquid wastes containing metals (i.e., spent acids, spent caustics, or other liquid wastes with metals in solution), liquid metal wastes (i.e., liquid mercury), or metal-containing wastes with a significant liquid component, such as spent batteries. In order for scrap metal to be exempt from regulation, it must not contain a significant liquid component (e.g., a metal container must be empty in order to be recycled as a scrap metal). Metal powders would only meet the definition of scrap metal if they have been "agglomerated" in such a way that the agglomerated powders physically resemble other types of scrap metal (i.e., bits and pieces of metal parts). Hazardous scrap metal, even if sent for recycling, is not exempt from hazardous waste regulation if it is mixed with other materials (e.g., spent materials) that make the mixture hazardous by characteristic or listing.

### **Do I need to make a waste determination on scrap metal?**

Hazardous scrap metal (scrap metal that exhibits a characteristic or is contaminated with listed hazardous waste) that is recycled is exempt from the hazardous waste regulations under 40 CFR 261.6(a)(3)(ii). Scrap metal that is coated with lead-based paint, can still be recycled even if the lead-based paint tested above 5 mg/l by Toxicity Characteristic Leaching Procedure (TCLP).

## **What are the RCRA hazardous waste requirements for management of scrap metal?**

Any hazardous waste scrap metal recycled under the [40 CFR 261.6\(a\)\(3\)\(ii\)](#) scrap metal exemption is exempt from the hazardous waste management requirements, including accumulation prior to reclamation requirements, manifesting, land disposal restrictions, and speculative accumulation provisions (described in [40 CFR 261.1\(c\)\(8\)](#)). The exemption is also viewed prospectively. In other words, as long as the generator intends to recycle the scrap metal at some point in the future, the scrap metal is exempt from the hazardous waste regulations starting at the point of generation.

Anyone who claims such an exemption must be able to prove that legitimate recycling occurs as described in [40 CFR 260.43](#), adopted by reference at [15A NCAC 13A .0103\(c\)](#). The following link provides a document that can help with evaluating the legitimacy factors of 40 CFR 260.43:

<https://files.nc.gov/ncdeq/Waste+Management/DWM/HW/Guidance+Document+table+documents/Template%20for%20Documenting%20Legitimacy%20Factors%20for%20HSM.pdf>

The legitimacy of the scrap metal recycling does not have to be documented however, the claim that a material is not a solid waste (per [40 CFR 261.2\(f\)](#), adopted by reference at [15A NCAC 13A .0106\(a\)](#)) must be documented and the form can be used to document the claim that the material is not a solid waste.

## **Who do I contact if I have questions?**

For Questions about **hazardous waste, waste determinations, or scrap metal**:

Contact the Hazardous Waste Section Inspector who covers the region where your site is located (contact information and region provided on the map at this link):

<https://www.deq.nc.gov/compliance-map-inspector/download?attachment?attachment>

*This document is for guidance only and does not contain all of the North Carolina Hazardous Waste Management Rules. Many of the requirements described are paraphrased. For complete rules refer to 15A NCAC 13A for specific state requirements and federal regulations incorporated by reference in the state rules. State law is found at N.C.G.S. 130A-290 through 130A-310.12. The following Hazardous Waste Section website provides links to state hazardous waste rules and law:*

<https://deq.nc.gov/about/divisions/waste-management/hw/rules>

EPA guidance documents pertaining to scrap metal can be found on the following EPA websites:

- EPA RCRA Online website at this link: <https://rcrapublic.epa.gov/rcraonline/>
- Frequent Questions Frequent Questions Related to Hazardous Waste Recycling, the Definition of Solid Waste and Other Exemptions and Exclusions: <https://www.epa.gov/hw/frequent-questions-related-hazardous-waste-recycling-definition-solid-waste-and-other-exemptions>