

## SUBCHAPTER I—SOLID WASTES (CONTINUED)

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SOURCE: 50 FR 666, Jan. 4, 1985, unless otherwise noted.

**Subparts A-B [Reserved]**

**Subpart C—Recyclable Materials Used in a Manner Constituting Disposal**

**§ 266.20 Applicability.**

(a) The regulations of this subpart apply to recyclable materials that are applied to or placed on the land:

(1) Without mixing with any other substance(s); or

(2) After mixing or combination with any other substance(s). These materials will be referred to throughout this subpart as “materials used in a manner that constitutes disposal.”

(b) Products produced for the general public’s use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in subpart D of part 268 (or applicable prohibition levels in § 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain.

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(c) Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in paragraph (b) of this section and remain subject to regulation.

(d) Fertilizers that contain recyclable materials are not subject to regulation provided that:

(1) They are zinc fertilizers excluded from the definition of solid waste according to §261.4(a)(21) of this chapter; or

(2) They meet the applicable treatment standards in subpart D of Part 268 of this chapter for each hazardous waste that they contain.

[50 FR 666, Jan. 4, 1985, as amended at 52 FR 21307, June 5, 1987; 54 FR 36970, Sept. 6, 1989; 59 FR 43500, Aug. 24, 1994; 67 FR 48414, July 24, 2002]

### **§266.21 Standards applicable to generators and transporters of materials used in a manner that constitutes disposal.**

Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of parts 262 and 263 of this chapter, and the notification requirement under section 3010 of RCRA.

### **§266.22 Standards applicable to storers of materials that are to be used in a manner that constitutes disposal who are not the ultimate users.**

Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of subparts A through L of parts 264, 265 and 267, and parts 270 and 124 of this chapter and the notification requirement under section 3010 of RCRA.

[75 FR 13006, Mar. 18, 2010]

### **§266.23 Standards applicable to users of materials that are used in a manner that constitutes disposal.**

(a) Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regu-

lated under all applicable provisions of subparts A through N of parts 124, 264, 265, 268, and 270 of this chapter and the notification requirement under section 3010 of RCRA. (These requirements do not apply to products which contain these recyclable materials under the provisions of §266.20(b) of this chapter.)

(b) The use of waste or used oil or other material, which is contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment is prohibited.

[50 FR 666, Jan. 4, 1985, as amended at 50 FR 28750, July 15, 1985; 59 FR 48042, Sept. 19, 1994]

## Subparts D–E [Reserved]

## Subpart F—Recyclable Materials Utilized for Precious Metal Recovery

### **§266.70 Applicability and requirements.**

(a) The regulations of this subpart apply to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this subpart are subject to the following requirements:

(1) Notification requirements under section 3010 of RCRA;

(2) Subpart B of part 262 (for generators), §§263.20 and 263.21 (for transporters), and §§265.71 and 265.72 (for persons who store) of this chapter; and

(3) For precious metals exported to or imported from designated OECD member countries for recovery, subpart H of part 262 and §265.12(a)(2) of this chapter. For precious metals exported to or imported from non-OECD countries for recovery, subparts E and F of 40 CFR part 262.

(c) Persons who store recycled materials that are regulated under this subpart must keep the following records to document that they are not accumulating these materials speculatively (as defined in §261.1(c) of this chapter);

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(1) Records showing the volume of these materials stored at the beginning of the calendar year;

(2) The amount of these materials generated or received during the calendar year; and

(3) The amount of materials remaining at the end of the calendar year.

(d) Recyclable materials that are regulated under this subpart that are accumulated speculatively (as defined in § 261.1(c) of this chapter) are subject to all applicable provisions of parts 262 through 265, 267, 270, and 124 of this chapter.

[50 FR 666, Jan. 4, 1985, as amended at 61 FR 16315, Apr. 12, 1996; 71 FR 40277, July 14, 2006; 75 FR 13007, Mar. 18, 2010]

**Subpart G—Spent Lead-Acid Batteries Being Reclaimed**

**§ 266.80 Applicability and requirements.**

(a) Are spent lead-acid batteries exempt from hazardous waste management requirements? If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the “Universal Waste” rule in 40 CFR part 273.

If your batteries * * *	And if you * * *	Then you * * *	And you * * *
(1) Will be reclaimed through regeneration (such as by electrolyte replacement).		are exempt from 40 CFR parts 262 (except for § 262.11), 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR parts 261 and § 262.11 of this chapter.
(2) Will be reclaimed other than through regeneration.	generate, collect, and/or transport these batteries.	are exempt from 40 CFR parts 262 (except for § 262.11), 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR parts 261, § 262.11, and applicable provisions under part 268.
(3) Will be reclaimed other than through regeneration.	store these batteries but you aren't the reclaimer.	are exempt from 40 CFR parts 262 (except for § 262.11), 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR parts 261, § 262.11, and applicable provisions under part 268.
(4) Will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	must comply with 40 CFR 266.80(b) and as appropriate other regulatory provisions described in 266.80(b).	are subject to 40 CFR parts 261, § 262.11, and applicable provisions under part 268.
(5) Will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	are exempt from 40 CFR parts 262 (except for § 262.11), 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR parts 261, § 262.11, and applicable provisions under part 268.

(b) If I store spent lead-acid batteries before I reclaim them but not through regeneration, which requirements apply? The requirements of paragraph (b) of this section apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your RCRA permit status.

(1) For Interim Status Facilities, you must comply with:

(i) Notification requirements under section 3010 of RCRA.

(ii) All applicable provisions in subpart A of part 265 of this chapter.

(iii) All applicable provisions in subpart B of part 265 of this chapter except § 265.13 (waste analysis).

(iv) All applicable provisions in subparts C and D of part 265 of this chapter.

(v) All applicable provisions in subpart E of part 265 of this chapter except §§ 265.71 and 265.72 (dealing with the use of the manifest and manifest discrepancies).

(vi) All applicable provisions in subparts F through L of part 265 of this chapter.

(vii) All applicable provisions in parts 270 and 124 of this chapter.

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(viii) All applicable provisions in part 267 of this chapter.

(2) For Permitted Facilities:

(i) Notification requirements under section 3010 of RCRA.

(ii) All applicable provisions in subpart A of part 264 of this chapter.

(iii) All applicable provisions in subpart B of part 264 of this chapter (but not §264.13 (waste analysis).

(iv) All applicable provisions in subparts C and D of part 264 of this chapter.

(v) All applicable provisions in subpart E of part 264 of this chapter (but not §264.71 or §264.72 (dealing with the use of the manifest and manifest discrepancies).

(vi) All applicable provisions in subparts F through L of part 264 of this chapter.

(vii) All applicable provisions in parts 270 and 124 of this chapter.

(viii) All applicable provisions in part 267 of this chapter.

[63 FR 71229, Dec. 24, 1998, as amended at 71 FR 40277, July 14, 2006; 75 FR 13007, Mar. 18, 2010]

EFFECTIVE DATE NOTE: At 75 FR 1261, Jan. 8, 2010, §266.80 was amended by revising the table in paragraph (a), effective July 7, 2010. For the convenience of the user, the revised text is set forth as follows:

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(a) \* \* \*

If your batteries . . .	And if you . . .	Then you . . .	And you . . .
(1) Will be reclaimed through regeneration (such as by electrolyte replacement).	.....	are exempt from 40 CFR parts 262 (except for §262.11), 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR parts 261 and §262.11 of this chapter.
(2) Will be reclaimed other than through regeneration.	generate, collect, and/or transport these batteries.	are exempt from 40 CFR parts 262 (except for §262.11), 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR parts 261 and §262.11, and applicable provisions under part 268.
(3) Will be reclaimed other than through regeneration.	store these batteries but you aren't the reclaimer.	are exempt from 40 CFR parts 262 (except for §262.11), 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR parts 261, §262.11, and applicable provisions under part 268.
(4) Will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	must comply with 40 CFR 266.80(b) and as appropriate other regulatory provisions described in 266.80(b).	are subject to 40 CFR parts 261, §262.11, and applicable provisions under part 268.
(5) Will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	are exempt from 40 CFR parts 262 (except for §262.11), 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR parts 261, §262.11, and applicable provisions under part 268.

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If your batteries . . .	And if you . . .	Then you . . .	And you . . .
(6) Will be reclaimed through regeneration or any other means.	export these batteries for reclamation in a foreign country.	are exempt from 40 CFR parts 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA. You are also exempt from part 262, except for 262.11, and except for the applicable requirements in either: (1) 40 CFR part 262 subpart H; or (2) 262.53 "Notification of Intent to Export, 262.56(a)(1) through (4)(6) and (b) "Annual Reports," and 262.57 "Recordkeeping".	are subject to 40 CFR part 261 and §262.11, and either must comply with 40 CFR part 262, subpart H (if shipping to one of the OECD countries specified in 40 CFR 262.58(a)(1)), or must: (a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a) (1) through (4), (6), and (b) and 262.57; and (b) Export these batteries only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in subpart E of part 262 of this chapter; and (c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.
(7) Will be reclaimed through regeneration or any other means.	Transport these batteries in the U.S. to export them for reclamation in a foreign country.	are exempt from 40 CFR parts 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	must comply with applicable requirements in 40 CFR part 262, subpart H (if shipping to one of the OECD countries specified in 40 CFR 262.58(a)(1)), or must comply with the following: (a) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgment of Consent; (b) you must ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment; and (c) you must ensure that the shipment is delivered to the facility designated by the person initiating the shipment.

\* \* \* \* \*

**Subpart H—Hazardous Waste Burned in Boilers and Industrial Furnaces**

SOURCE: 56 FR 7208, Feb. 21, 1991, unless otherwise noted.

**§ 266.100 Applicability.**

(a) The regulations of this subpart apply to hazardous waste burned or processed in a boiler or industrial furnace

(as defined in §260.10 of this chapter) irrespective of the purpose of burning or processing, except as provided by paragraphs (b), (c), (d), (g), and (h) of this section. In this subpart, the term "burn" means burning for energy recovery or destruction, or processing for materials recovery or as an ingredient. The emissions standards of §§ 266.104, 266.105, 266.106, and 266.107 apply to facilities operating under interim status or under a RCRA permit as specified in §§ 266.102 and 266.103.

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an owner or operator must provide a one-time notice to the Director identifying each hazardous waste burned and specifying that the owner or operator claims an exemption under this paragraph. The notice also must state that the waste burned has a total concentration of non-metal compounds listed in part 261, appendix VIII, of this chapter of less than 500 ppm by weight, as fired and as provided in paragraph (d)(2)(i) of this section, or is listed in appendix XI to this part 266.

[56 FR 7208, Feb. 21, 1991]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §266.100, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### §266.101 Management prior to burning.

(a) *Generators.* Generators of hazardous waste that is burned in a boiler or industrial furnace are subject to part 262 of this chapter.

(b) *Transporters.* Transporters of hazardous waste that is burned in a boiler or industrial furnace are subject to part 263 of this chapter.

(c) *Storage and treatment facilities.* (1) Owners and operators of facilities that store or treat hazardous waste that is burned in a boiler or industrial furnace are subject to the applicable provisions of parts 264, 265, 267 and 270 of this chapter, except as provided by paragraph (c)(2) of this section. These standards apply to storage and treatment by the burner as well as to storage and treatment facilities operated by intermediaries (processors, blenders, distributors, *etc.*) between the generator and the burner.

(2) Owners and operators of facilities that burn, in an onsite boiler or industrial furnace exempt from regulation under the small quantity burner provisions of §266.108, hazardous waste that they generate are exempt from the regulations of parts 264, 265, 267 and 270 of this chapter applicable to storage units for those storage units that store mixtures of hazardous waste and the primary fuel to the boiler or industrial furnace in tanks that feed the fuel mixture directly to the burner. Storage of hazardous waste prior to mixing with the primary fuel is subject to regula-

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tion as prescribed in paragraph (c)(1) of this section.

[56 FR 7208, Feb. 21, 1991, as amended at 57 FR 38564, Aug. 25, 1992; 64 FR 53075, Sept. 30, 1999; 75 FR 13007, Mar. 18, 2010]

### §266.102 Permit standards for burners.

(a) *Applicability—(1) General.* Owners and operators of boilers and industrial furnaces burning hazardous waste and not operating under interim status must comply with the requirements of this section and §§270.22 and 270.66 of this chapter, unless exempt under the small quantity burner exemption of §266.108.

(2) *Applicability of part 264 standards.* Owners and operators of boilers and industrial furnaces that burn hazardous waste are subject to the following provisions of part 264 of this chapter, except as provided otherwise by this subpart:

- (i) In subpart A (General), 264.4;
- (ii) In subpart B (General facility standards), §§264.11–264.18;
- (iii) In subpart C (Preparedness and prevention), §§264.31–264.37;
- (iv) In subpart D (Contingency plan and emergency procedures), §§264.51–264.56;
- (v) In subpart E (Manifest system, recordkeeping, and reporting), the applicable provisions of §§264.71–264.77;
- (vi) In subpart F (Releases from Solid Waste Management Units), §§264.90 and 264.101;
- (vii) In subpart G (Closure and post-closure), §§264.111–264.115;
- (viii) In subpart H (Financial requirements), §§264.141, 264.142, 264.143, and 264.147–264.151, except that States and the Federal government are exempt from the requirements of subpart H; and
- (ix) Subpart BB (Air emission standards for equipment leaks), except §§264.1050(a).

(b) *Hazardous waste analysis.* (1) The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in appendix VIII of part 261 of this chapter that may reasonably be expected to be in the