



WHEN IS WASTE NOT A WASTE

Understanding the RCRA Commercial Chemical
Product Exemption

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WASTE EXEMPTIONS

Reuse Exemption

The reuse exemption is also relevant to the management of consumer products. Under federal law, a consumer product being used as an ingredient for another product is exempt from the definition of solid waste.

Reclamation Innovation

Innovative companies are continually finding more ways to reclaim consumer products and even find reuse opportunities for some.

Commercial Chemical Product (CCP) Exemption

Products managed under the CCP exemption are exempt from the definition of *solid waste* and, therefore, are not *hazardous wastes* under the federal regulations. To qualify for this exemption, a generator must ensure a product is recycled through a reclamation process.

COMMERCIAL CHEMICAL PRODUCT (CCP)

- **What is a commercial chemical product (CCP) and what is its regulatory status when reclaimed?**
- A commercial chemical product (CCP) is an unused chemical intermediate, off-specification variant, or spill or container residues as defined in [Section 261.33 \(Volume 50 of the Federal Register \(FR\) starting on 614, guidance on page 618; January 4, 1985\)](#). CCPs include all types of unused chemical products, including products that would not commonly be considered chemicals (e.g., circuit boards, batteries, and other types of equipment).

The term also includes chemical products that are not listed in [Section 261.33](#) but exhibit one or more characteristics of hazardous waste ([50 FR 14216, 14219; April 11, 1985](#)).

The regulatory status of a secondary material when reclaimed depends on the type of material reclaimed. CCPs are not regulated as solid wastes when reclaimed. CCPs are also not solid wastes when speculatively accumulated, but are solid waste when used in a manner constituting disposal or burned for energy recovery, used to produce a fuel or contained in fuels ([Section 261.2\(c\)](#)).



Understanding the “Fuel to Fuel” Commercial Chemical Product Exemption (CCPE)



How to determine if the CCPE will apply 261.33

	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))
	1	2	3	4
Spent Materials	(*)	(*)	(*)	(*)
Sludges (listed in 40 CFR Part 261.31 or 261.32)	(*)	(*)	(*)	(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	-	(*)
By-products (listed in 40 CFR 261.31 or 261.32)	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic of hazardous waste	(*)	(*)	-	(*)
Commercial chemical products listed in 40 CFR 261.33	(*)	(*)	-	-
Scrap metal that is not excluded under 40 CFR 261.4(a)(13)	(*)	(*)	(*)	(*)

Note: The terms "spent materials," "sludges," "by-products," and "scrap metal" and "processed scrap metal" are defined in § 261.1.



CCPE - What is the “fuel to fuel” exemption

Under 40 C.F.R 261.2 (c)(2), materials recycled either by burning for energy recovery are generally still considered a solid waste.

However:

Commercial chemical products listed in 261.33 are **not** solid waste if they are themselves ***fuels***.

Commercial chemical products listed in 261.33 are **not** solid waste if they are applied in their ordinary ***manner of use***

The confusion seems to be that there is no actual definition in the regulations for what constitutes a “*fuel*” under 261.2(c)(2)(ii). Interpretation must be drawn from the Federal Register language but is often up for debate.



How to determine if the CCPE will apply

For fuels, the commercial chemical product must qualify under 1 of the 2 criteria below:

For products listed under 261.33:

The product is a commercial fuel or a normal component of commercial fuels
examples: **benzene, toluene, xylene, naphthalene**

For Products not listed in 261.33:

The product exhibits hazardous characteristics – **off-specification fuels**, including **gasoline, jet fuel, kerosene and diesel** meet this criteria

or

The product has a heating value comparable to traditional oil-based fuels - approx.17,000 to 19,000 Btu/lb.

examples: **propane, crude sulfate turpentine**



How to determine if the CCPE will apply cont.

In addition to meeting 1 or 2, all 3 of the following must be met:

The Product MUST BE BURNED AS A FUEL ONLY *The purpose of the burning must be energy recovery. This carries 2 requirements:

- ❖ The product CANNOT be burned by an incinerator. By definition, incinerators burn for the primary purpose of destruction. 40 C.F.R. 260.10
- ❖ Any material recovery incidental to the burning must be economically insignificant

Burning as a fuel must be a “normal use” and/or an “original intended purpose” of the product

The product is not contaminated with non-fuel hazardous waste (listed or characteristic)

*The presence of any non-fuel hazardous waste disqualifies a product from the total exemption

COMMERCIAL CHEMICAL PRODUCTS LISTED IN 261.33 ARE NOT SOLID WASTE IF THEY ARE THEMSELVES FUELS.



Types of fuels :-

Fuels are of three main types. They are :-

- i) **Solid fuels** :- Eg:- wood, coal, charcoal etc.
- ii) **Liquid fuels** :- Eg:- kerosene, petrol, diesel etc.
- iii) **Gaseous fuels** :- Eg:- CNG, LPG, biogas, hydrogen etc.

Solid fuels



Liquid fuels



Gaseous fuels



BENEFITS OF USING THE CCPE

No longer designated as “waste”

Can be shipped on BOL

More SUSTAINABLE option

Positive ESG



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