

**Suggested Regulatory Changes to Grow the
American Precious Metals Recycling Industry**

The United States has the cleanest, most efficient recycling facilities for the salvage of precious metals from the refining of petrochemical products in the world. However, the the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (“Convention”) largely bans their shipment to the U.S. because the U.S. has not ratified the Convention.

This is hurting U.S. businesses, who are losing out to foreign competitors as a result. The situation can be easily addressed by a regulatory change to allow these materials to come to the U.S. – which has the cleanest, most efficient recycling facilities in the world – for processing.

The Resource Conservation and Recovery Act (RCRA) sets forth the framework for the regulation of solid and hazardous wastes. Regulations define “solid wastes,”¹ which are subject to regulation under RCRA. A subset of “solid wastes” meet the definition of “hazardous wastes,”² which are subject to further regulation under “Subtitle C” of RCRA.

The regulations also provide exclusions to the definition of “solid waste:”

(a) Materials which are not solid wastes. The following materials are not solid wastes for the purpose of this part:³

The regulations provide 27 exclusions from the definition of “solid waste,” and, in turn, from the definition of “hazardous waste.” The issuance of an additional exclusion would simply and efficiently allow precious metal-bearing wastes to be shipped to the U.S. for processing and recycling. Such an exclusion would also ensure that these wastes are recycled at regulated facilities. The language for such an exclusion could be straightforward and to the point:

Secondary materials containing economically significant amounts of precious metals that are destined for metal reclamation at facilities that operate according to 40 CFR § 266.70.

There are frequent amendments and additions to the regulatory exclusions to the definition of “solid waste.” For example, the most recent additions were made in 2015,⁴ a conditional exclusion was added in 2013,⁵ and another exclusion was added in 2008.⁶

This would align the U.S. with the definition contained in the Basel Convention and the definition used in the vast majority of countries around the world.

¹ 40 C.F.R. § 261.2.

² 40 C.F.R. § 261.3.

³ 40 C.F.R. § 261.4 (a).

⁴ Definition of Solid Waste, 80 Fed. Reg. 1693 (Jan. 13, 2015).

⁵ Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes, 78 Fed. Reg. 46447 (July 31, 2013).

⁶ Revisions to the Definition of Solid Waste, 73 Fed. Reg. 64667 (Oct. 30, 2008).

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