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## RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

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### 5. Regulation of Sludges When Reclaimed

Why are some RCRA sludges considered solid wastes and others are not solid wastes when reclaimed?

To be subject to RCRA Subtitle C jurisdiction, a material must meet the regulatory definition of solid waste. Sludges are defined in RCRA regulations at 40 CFR 260.10 as residues from treating air or wastewater, or other residues from pollution control devices. 40 CFR 261.2(c)(3) defines sludges which are listed in 40 CFR 261.31 or 261.32 as solid wastes when reclaimed, and states that unlisted sludges that are reclaimed are not solid wastes even if they exhibit a characteristic of a hazardous waste, provided they are not being accumulated speculatively. The EPA has structured the regulations so that the EPA must evaluate sludges individually before determining whether they are subject to RCRA jurisdiction when reclaimed (see 50 FR 619, January 4, 1985). The definition of solid waste is limited to listed sludges to avoid including sludges that are routinely processed to recover useable products as part of ongoing production operations. The October 2, 1985 Federal Register (50 FR 40297) states that: "Nevertheless, sludges can be listed and thus be solid wastes if they are more waste-like than product-like. EPA will make this determination on a material-by-material basis considering:

- 1) How frequently the material is recycled on an industry-wide basis,
- 2) Whether the material is replacing a raw material and the degree to which it is similar in composition to the raw material,
- 3) The relation of the recovery practice to the principle activity of the facility, and
- 4) Whether the secondary material is managed in a way designed to minimize loss."

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