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# RCRA Guidance: February 24th U.S. Environmental Protection Agency Letter Addressing Status of Scrap Tantalum Anodes/Wire/Pellets/Pins/Powders

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The U.S. Environmental Protection Agency (“EPA”) responded in a February 24th letter to a query as to whether items consisting of scrap tantalum anodes, wire, pellets, pins, and powders would be considered either:

1. Processed scrap metal when recycled under 40 CFR 261.4(a)(13); or
2. All other scrap metal when recycled under 40 CFR 261.6(a)(3)(ii)

The agency states that the placement of these materials within either regulatory category would exclude them from Resource Conservation and Recovery Act (“RCRA”) hazardous waste export and import requirements.

EPA agrees that scrap tantalum anodes, wire, pellets, and pins meet the definition of scrap metal found at 40 CFR 261.1(c)(6). As a result, the agency notes that the materials would not be subject to the RCRA solid waste regulation when recycled under the solid waste exclusion found at 40 CFR 261.4(a)(13)(if processed) or under the hazardous waste exemption found at 40 CFR 261.6(a)(3)(ii) (for all other materials).

A caveat however is noted:

...in order to be exempt under either of these provisions the recycling must be legitimate per 40 CFR 206.43. Scrap metal that is not legitimately recycled is not excluded from RCRA solid waste regulation under 40 CFR 261.4(a)(13) or exempt from RCRA hazardous waste regulation under 40 CFR 261.6(a)(3)(ii).

Scrap metal that is not legitimately recycled is a solid waste subject to the RCRA Subtitle C hazardous waste regulations (if exhibiting a characteristic or becoming contaminated with a listed waste).

As to “powders”, EPA states they only meet the definition of scrap metal in 40 CFR 261.1(c)(6) 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). Cited as an example is tantalum powder that has been mixed with a binder and then sintered at a high temperature under a vacuum to cause the powder particles to form a structure of high mechanical strength and density. Such a mixture is deemed to fit

within the definition of “fines, drosses and related materials which have been agglomerated.” It is therefore considered processed scrap metal.

In contrast, the agency states that non-agglomerated tantalum powders would not meet the definition of scrap metal in 40 CFR 261.1(c)(6). The rationale for this view is that processed scrap metal being recycled was excluded from the definition of solid waste “due to established markets for the material’s utilization, inherent positive economic value of the material, the physical form of the material, and absence of damage incidents attributable to the material.” Powder is stated to:

- Not have a physical form similar to scrap metal
- Be dispersed into the environment during subsequent handling
- Result in damage incidents

EPA also believes powder may ignite spontaneously in air, therefore posing a risk during recycling. Consequently, powder is deemed to neither satisfy the definition of scrap metal nor the underlying rationale for the exemption. Therefore, if such powder exhibits a hazardous waste characteristic it is stated to be considered a hazardous waste even when sent for recycling.

Finally, EPA notes that import or export non-agglomerated tantalum powder that exhibits a hazardous characteristic would be considered a RCRA hazardous waste and therefore must comply with the hazardous waste import and export requirements.

[A copy of the February 24th letter can be downloaded here.](#)