

it is subject to the exclusion in § 261.2(g), rather than this paragraph.

\* \* \* \* \*

(13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled. If the scrap metal is recycled in a continuous process within the generating industry, it is subject to the exclusion in § 261.2(g), rather than this paragraph.

(14) Shredded circuit boards being recycled provided that they are stored in containers sufficient to prevent a release to the environment prior to recovery; and free of mercury switches, mercury relays and nickel-cadmium or lithium batteries. Shredded circuit boards that are reclaimed in a continuous process within the generating industry are subject to the exclusion in § 261.2(g), rather than this paragraph.

\* \* \* \* \*

(17) Spent materials (as defined in § 261.1) (other than hazardous wastes listed in subpart D of this part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by beneficiation, provided that:

\* \* \* \* \*

(19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in § 261.1(c). Such spent caustic solutions that are reclaimed in a continuous process within the generating industry are subject to the exclusion in § 261.2(g), rather than this paragraph.

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7. Part 261 is amended by adding new Appendix X, to read as follows:

#### **Appendix X to Part 261—Industries for the Purpose of § 261.2(g)**

(a) This Appendix defines “industry” for the purposes of § 261.2(g). It does not affect other industry definitions within 40 CFR Parts 260 through 283.

(b) Primary Mineral Processing Industry. For the purpose of this Appendix, an establishment falls within the primary mineral processing industry if it: (1) involves operations that follow beneficiation of an ore or mineral; (2) serves to remove the desired product from or enhance the characteristics of and ore or mineral or a beneficiated ore or mineral; (3) uses feedstock that is comprised of less than 50 percent scrap materials; (4) produces either a final or an intermediate to the final mineral product, and (5) does not combine the mineral product with another material that is not an ore or mineral, or beneficiated ore or mineral (e.g., alloying) and does not involve fabrication or other manufacturing activities.

(c) Petroleum Refining Industry. This industry is defined as petroleum refining, exploration, production and bulk storage, and transportation incident thereto, as specified in 40 CFR 261.4(a)(12).

(d) All other industries are classified using the following categories; these classifications must be made in accordance with the reference document “North American Industry Classification System” or NAICS, effective January 1, 2002:

1111 Oilseed and Grain Farming  
1112 Vegetable and Melon Farming  
1113 Fruit and Tree Nut Farming  
1114 Greenhouse, Nursery, and Floriculture Production  
1119 Other Crop Farming  
1121 Cattle Ranching and Farming  
1122 Hog and Pig Farming  
1123 Poultry and Egg Production  
1124 Sheep and Goat Farming  
1125 Animal Aquaculture  
1129 Other Animal Production  
1131 Timber Tract Operations  
1133 Logging  
1141 Fishing  
1142 Hunting and Trapping  
1151 Support Activities for Crop Production  
1152 Support Activities for Animal Production  
1153 Support Activities for Forestry  
2111 Oil and Gas Extraction  
2121 Coal Mining,  
2122 Metal Ore Mining  
2123 Nonmetallic Mineral Mining and Quarrying  
2131 Support Activities for Mining  
2211 Electric Power Generation, Transmission and Distribution  
2212 Natural Gas Distribution  
2213 Water, Sewage and Other Systems  
2361 Residential Building Construction  
2362 Nonresidential Building Construction  
2371 Utility System Construction  
2372 Land Subdivision  
2379 Other Heavy and Civil Engineering Construction  
2381 Foundation, Structure, and Building Exterior Contractors  
2382 Building Equipment Contractors  
2383 Building Finishing Contractors  
2389 Other Specialty Trade Contractors  
3111 Animal Food Manufacturing  
3112 Grain and Oilseed Milling  
3113 Sugar and Confectionery Product Manufacturing  
3114 Fruit and Vegetable Preserving and Specialty Food Manufacturing  
3115 Dairy Product Manufacturing  
3116 Animal Slaughtering and Processing  
3117 Seafood Product Preparation and Packaging  
3118 Bakeries and Tortilla Manufacturing  
3119 Other Food Manufacturing  
3121 Beverage Manufacturing  
3122 Tobacco Manufacturing  
3131 Fiber, Yarn, and Thread Mills  
3132 Fabric Mills  
3133 Textile and Fabric Finishing and Fabric Coating Mills  
3141 Textile Furnishings Mills  
3149 Other Textile Product Mills  
3151 Apparel Knitting Mills  
3152 Cut and Sew Apparel Manufacturing  
3159 Apparel Accessories and Other Apparel Manufacturing

3161 Leather and Hide Tanning and Finishing  
3162 Footwear Manufacturing  
3169 Other Leather and Allied Product Manufacturing  
3211 Sawmills and Wood Preservation  
3212 Veneer, Plywood, and Engineered Wood Product Manufacturing  
3219 Other Wood Product Manufacturing  
3221 Pulp, Paper, and Paperboard Mills  
3222 Converted Paper Product Manufacturing  
3231 Printing and Related Support Activities  
3241 Petroleum and Coal Products Manufacturing<sup>1</sup>  
3251 Basic Chemical Manufacturing  
3252 Resin, Synthetic Rubber, and Artificial Synthetic Fibers and Filaments Manufacturing  
3253 Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing  
3254 Pharmaceutical and Medicine Manufacturing  
3255 Paint, Coating, and Adhesive Manufacturing  
3256 Soap, Cleaning Compound, and Toilet Preparation Manufacturing (except for third-party operations that reclaim dry cleaning fluids at sites that do not conduct dry-cleaning).  
3259 Other Chemical Product and Preparation Manufacturing (except for third-party operations that reclaim degreasing solvents at sites that do not conduct degreasing operations).  
3261 Plastics Product Manufacturing  
3262 Rubber Product Manufacturing  
3271 Clay Product and Refractory Manufacturing  
3272 Glass and Glass Product, Manufacturing  
3273 Cement and Concrete Product Manufacturing  
3274 Lime and Gypsum Product Manufacturing  
3279 Other Nonmetallic Mineral Product Manufacturing<sup>2</sup>  
3311 Iron and Steel Mills and Ferro alloy Manufacturing<sup>2</sup>  
3312 Steel Product Manufacturing from Purchased Steel<sup>2</sup>  
3313 Alumina and Aluminum Production and Processing<sup>2</sup>  
3314 Nonferrous Metal (except Aluminum) Production and Processing<sup>2</sup>  
3315 Foundries  
3321 Forging and Stamping  
3322 Cutlery and Handtool Manufacturing  
3323 Architectural and Structural Metals Manufacturing  
3324 Boiler, Tank, and Shipping Container Manufacturing  
3325 Hardware Manufacturing

<sup>1</sup> Although this industry classification may include establishments in the petroleum refining industry, note that as specified in subparagraph (c) of this Appendix, the petroleum refining industry for the purpose of the exclusion in § 261.2(g) is defined at § 261.4(a)(12).

<sup>2</sup> Although this industry classification may include establishments in the mineral processing industry, note that for the purpose of the exclusion provided in § 262.2(g), the mineral processing industry is defined in subparagraph (b) of this appendix.