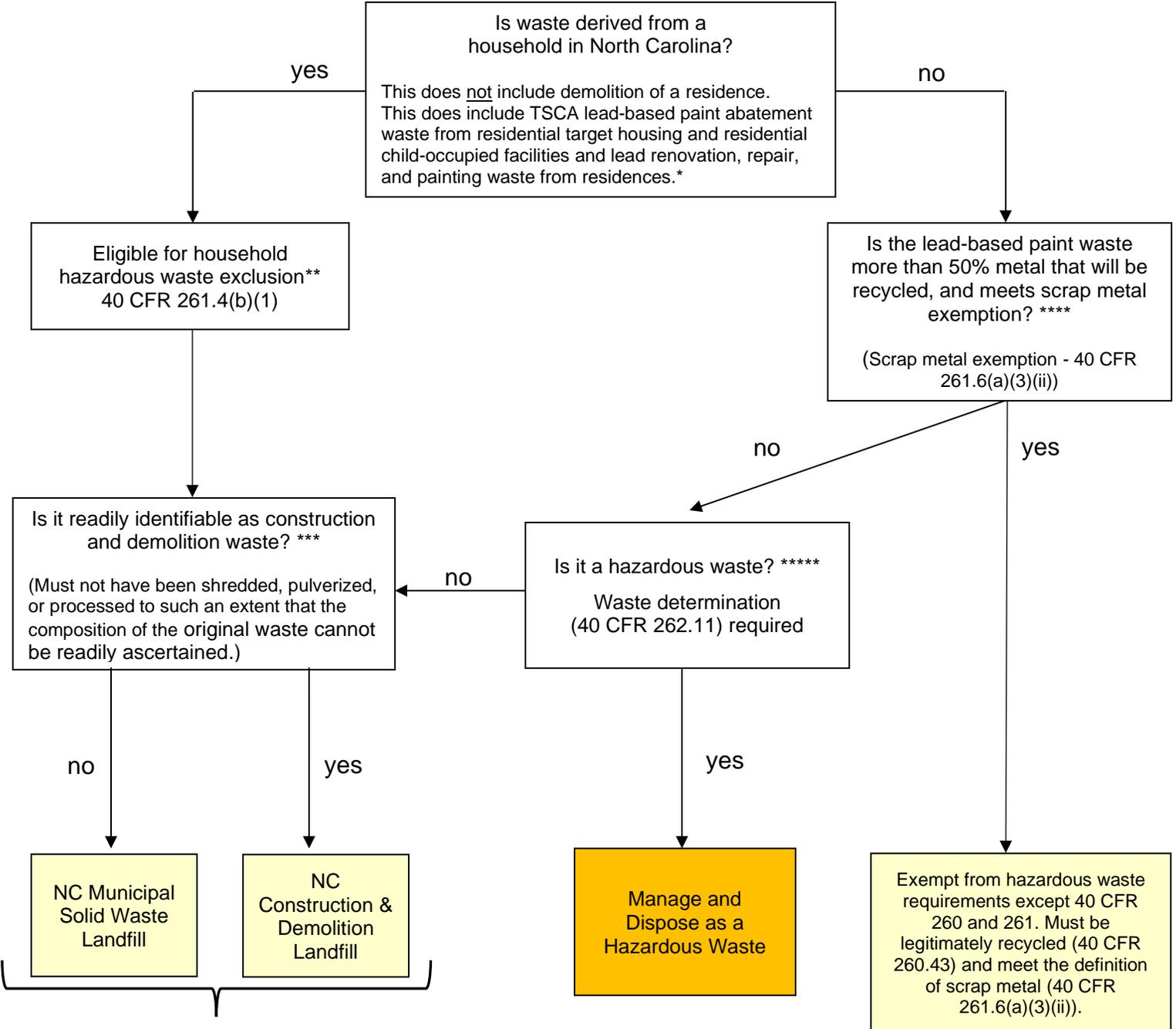




### Lead-Based Paint Waste Guidance

This flowchart describes the process for evaluating lead-based paint waste for disposal or recycling.



- Hazardous waste (including hazardous waste from a very small quantity generator) is prohibited from NC Solid Waste Landfills (15A NCAC 13B .0103(c) and .0542(e)(3)).
- Waste must be non-hazardous or RCRA Subtitle C excluded/exempt to be disposed in a NC landfill.
- Landfill Operators have the option of rejecting any waste.
- North Carolina non-hazardous or RCRA Subtitle C excluded/exempt wastes may be disposed in another state when waste is also in compliance with requirements for that state.

\* Information about the Toxic Substances Control Act (TSCA) lead-based paint abatement from target housing and child-occupied facilities and lead renovation, repair and painting can be found at the below link.

<https://www.epa.gov/lead/lead-abatement-program-training-and-certification-program-lead-based-paint-activities-tsca>

\*\* **Household Hazardous Waste (HHW) exclusion** ([40 CFR 261.4\(b\)\(1\)](#)), adopted by reference at [15A NCAC 13A .0106\(a\)](#)):

- Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel) or reused is a solid waste but not a hazardous waste (even if the household waste exhibits a characteristic of hazardous waste). No hazardous waste determination is required on these wastes.
- "Household waste" means any material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas).
- Residential lead-based paint waste is defined at [40 CFR 258.2](#) as waste "generated as a result of activities such as abatement, rehabilitation, renovation and remodeling in homes and other residences. The term residential lead-based paint waste includes, but is not limited to, lead-based paint debris, chips, dust, and sludges." These wastes may be disposed in landfills in North Carolina under the household hazardous waste exclusion.
- In order for household waste to be exempt from regulation, it must meet two criteria: the waste has to be generated by individuals on the premises of a household, and the waste must be composed primarily of materials found in the waste generated by consumers in their homes.
- In 2000, EPA issued a memorandum clarifying that the household hazardous waste exclusion applies to waste generated by either contractors or residents performing lead-based paint activities (abatement) or renovations in residences: <https://rcrapublic.epa.gov/files/14459.pdf> and <https://www.epa.gov/lead/regulatory-status-waste-generated-contractors-and-residents-lead-based-paint-activities>
- Soil from a residence that is contaminated with lead-based paint waste may also be managed as a HHW.
- Wastes generated from the demolition of residence do not qualify for the HHW exclusion.
- If you have questions about household hazardous waste, please contact the NCDEQ, Solid Waste Section, Solid Waste Inspector for your region (contact information and region provided on the map at this link): <https://files.nc.gov/ncdeq/Waste%20Management/DWM/SW/FieldOpMap.pdf> and/or the landfill receiving the household hazardous waste.

\*\*\* **Construction and Demolition Landfill** (C&DLF) waste prohibitions are described in the Solid Waste Rules at [15A NCAC 13B .0542](#).

- Waste accepted for disposal in a C&DLF unit must be readily identifiable as C&D waste and must not have been shredded, pulverized, or processed to such an extent that the composition of the original waste cannot be readily ascertained. Specific prohibitions exist for waste that may not be managed at a C&DLF.
- "C&D solid waste" (defined at [15A NCAC 13B .0532](#)) means solid waste generated solely from the construction, remodeling, repair, or demolition operations on pavement and buildings or structures. C&D waste does not include municipal and industrial wastes that may be generated by the on-going operations at buildings or structures.
- If you have questions about C&D waste, please contact the NCDEQ, Solid Waste Section, Solid Waste Inspector for your region (contact information and region provided on the map at this link): <https://files.nc.gov/ncdeq/Waste%20Management/DWM/SW/FieldOpMap.pdf> and/or the landfill receiving the C&D waste.

#### \*\*\*\* Scrap Metal Exemption Information:

##### What is scrap metal?

In North Carolina scrap metal is defined in [40 CFR 261.1\(c\)\(6\)](#), adopted by reference at [15A NCAC 13A .0106\(a\)](#), and means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled. To meet the definition of scrap metal, the material must have significant metal content, i.e., greater than 50% metal.

"Excluded scrap metal" is described at [40 CFR 261.4\(a\)\(13\)](#), adopted by reference at [15A NCAC 13A .0106\(a\)](#), (which includes processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) that is being recycled is not a solid waste (so it cannot be a hazardous waste).

All other scrap metal (that is not already "excluded scrap metal" under 40 CFR 261.4(a)(13)) that is recycled/reclaimed is a solid waste, but not a hazardous waste per [40 CFR 261.6\(a\)\(3\)\(ii\)](#), adopted by reference at [15A NCAC 13A .0106\(a\)](#) – also known as the "scrap metal exemption." 40 CFR 261.6(a)(3)(ii) states that scrap metal that is not already excluded as discussed above (40 CFR 261.4(a)(13)), is not subject to regulation under 40 CFR 262 [hazardous waste generator requirements] through 40 CFR 268, 270, or 124 and are not subject to the notification requirements of RCRA section 3010. One of the provisions from which generators of scrap metal (under 40 CFR 261.6(a)(3)(ii)) are exempted from is the need to make a hazardous waste determination (40 CFR 262.11) for this material. Therefore, it is unnecessary to make a hazardous waste determination (i.e., whether it exhibits a characteristic or is contaminated with listed hazardous waste) for material that meets the definition of scrap metal and will be recycled.

There is no exclusion/exemption for scrap metal that is *disposed* instead of recycled. A waste determination must be made and if the material is a hazardous waste, all applicable hazardous waste requirements will apply at the point of waste generation.

##### What is not scrap metal?

Scrap metal does not include residues generated from smelting and metal refining operations (i.e., drosses, slags, and sludges). It also does not include liquid wastes containing metals (i.e., spent acids, spent caustics, or other liquid wastes with metals in solution), liquid metal wastes (i.e., liquid mercury), or metal-containing wastes with a significant liquid component, such as spent batteries. In order for a scrap metal to be excluded/exempt (as discussed below), it must not contain a significant liquid component (e.g., a metal container must be empty in order to be recycled as a scrap metal).

##### Do I need to make a waste determination on scrap metal?

Hazardous scrap metal (scrap metal that exhibits a characteristic or is contaminated with listed hazardous waste) that is recycled is exempt from the hazardous waste regulations under 40 CFR 261.6(a)(3)(ii). Scrap metal that is coated with lead-based paint, can still be recycled even if the lead-based paint tested above 5 mg/l by Toxicity Characteristic Leaching Procedure (TCLP).

##### What are the RCRA hazardous waste requirements for management of scrap metal?

Any hazardous waste scrap metal recycled under the 40 CFR 261.6(a)(3)(ii) scrap metal exemption is exempt from the hazardous waste management requirements, including accumulation prior to reclamation requirements, manifesting, land disposal restrictions, and speculative accumulation provisions (described in [40 CFR 261.1\(c\)\(8\)](#)). The exemption is also viewed prospectively. In other words, as long as the generator intends to recycle the scrap metal at some point in the future, the scrap metal is exempt from the hazardous waste regulations starting at the point of generation.

Anyone who claims such an exemption must be able to prove that legitimate recycling occurs as described in 40 CFR 260.43. The following link provides a document that can help with evaluating the legitimacy factors of 40 CFR 260.43:

<https://files.nc.gov/ncdeq/Waste+Management/DWM/HW/Guidance+Document+table+documents/Template%20for%20Documenting%20Legitimacy%20Factors%20for%20HSM.pdf>

The legitimacy of the scrap metal recycling does not have to be documented however, the claim that a material is not a solid waste (per [40 CFR 261.2\(f\)](#)) must be documented and the form can be used to document the claim that the material is not a solid waste.

\*\*\*\*\* **Hazardous Waste Determination** (40 CFR 262.11):

Site generating the lead based paint waste must use generator knowledge or testing to determine whether the lead-based paint waste is a hazardous waste. See [40 CFR 262.11](#) for more specific details.

- Lead-based paint screening (e.g., by using an X-ray fluorescence [XRF] analyzer or direct lab analyses) to detect whether lead is present may be done as a first step of the testing process. If screening shows the presence of lead, then a TCLP of the waste must be done. Alternatively, the TCLP may be completed without first screening the waste.
- The following two documents provide useful information when performing waste determinations on debris. Note that a waste determination on debris are different than whole building demolition.
  - <http://understandrcra.com/RCCD/leadpaintwaste.pdf>
  - <http://www.understandrcra.com/RCCD/LeadContaminatedDebris.pdf>
- EPA noted in preamble language ([63 FR 70206; December 18, 1998](#)) that "a representative sample of demolition debris subjected to the TCLP is not likely to exceed the TC [Toxicity Characteristic] regulatory limit for lead because of the small amount of paint in relation to the overall waste stream." Entire building demolition debris need not be sampled and may be disposed of in a C&DLF. A waste determination must be made on debris when not generated from an entire building demolition.
- Contact the NCDEQ, Hazardous Waste Section, Environmental Chemist for the region in which your facility is located if you have questions on representative screening/sampling (contact information and region provided on the map at this link):  
[https://files.nc.gov/ncdeq/Waste%20Management/DWM/HW/Compliance/Compliance\\_Map\\_by\\_Inspector.pdf](https://files.nc.gov/ncdeq/Waste%20Management/DWM/HW/Compliance/Compliance_Map_by_Inspector.pdf)

### **Who do I contact if I have questions?**

- Questions about **household hazardous waste** or **construction and demolition waste** and their disposal at North Carolina C&D Landfills or Municipal Solid Waste Landfills:
  - Contact the NCDEQ, Solid Waste Section, Solid Waste Inspector for your region (contact information and region provided on the map at this link): <https://files.nc.gov/ncdeq/Waste%20Management/DWM/SW/FieldOpMap.pdf>
  - To contact the North Carolina solid waste landfill where the waste will be disposed (link provides list of North Carolina permitted solid waste facilities with contact information):  
<https://deq.nc.gov/about/divisions/waste-management/sw/data/facility-lists>
- Questions about **hazardous waste, waste determinations, scrap metal** or **using this flowchart**:
  - Contact your Hazardous Waste Section Inspector (contact information and region provided on the map at this link):  
[https://files.nc.gov/ncdeq/Waste%20Management/DWM/HW/Compliance/Compliance\\_Map\\_by\\_Inspector.pdf](https://files.nc.gov/ncdeq/Waste%20Management/DWM/HW/Compliance/Compliance_Map_by_Inspector.pdf)