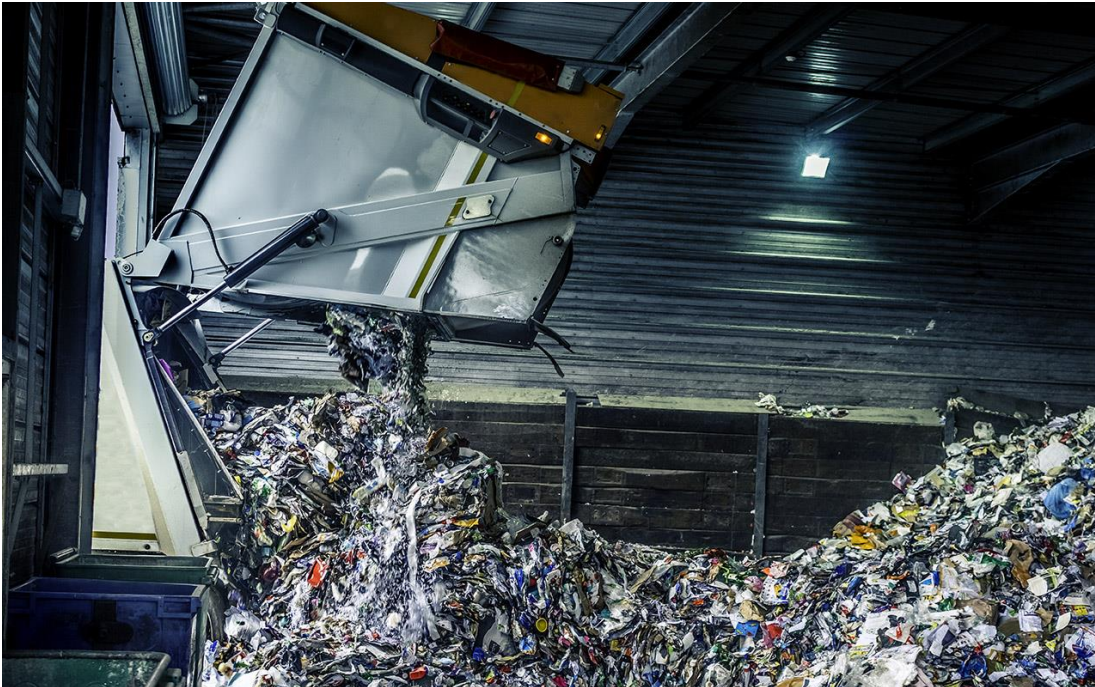


Insights



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‘DISCARDED’ or ‘NOT DISCARDED’: That Is the Question (or ‘Asked and (finally) Answered!’)

By [Karen Aldridge Crawford](#)

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On July 2, 2019, the D.C. Circuit Court of Appeals denied a petition brought by an environmental group for review of EPA’s Transfer-Based Exclusion for secondary hazardous materials in *California Communities Against Toxics v. EPA* (D.C. Cir. July 2, 2019) (No. 18-1163). The court found that “EPA did not act contrary to RCRA in adopting the Transfer-Based Exclusion because hazardous secondary materials are not necessarily ‘discarded’ each time they are transferred from a generator to a reclaimer along with payment”, and that “EPA has provided a reasoned explanation for applying different standards to materials that are not yet part of the waste disposal problem RCRA addresses where they meet conditions EPA concluded were adequate for safe transfer and legitimate recycling.” This exclusion is set forth a 40 C.F.R. § 261.4(a)(24).29201.

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