

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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CHAPTER Env-Hw 800 REQUIREMENTS FOR RECYCLING OF HAZARDOUS WASTES

REVISION NOTE:

Document #9367, effective 1-28-09, readopted with amendments and redesignated the former Chapter Env-Wm 800 as Env-Hw 800. The redesignation from subtitle Env-Wm to Env-Hw was done pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05. Document #9367 replaces all prior filings for hazardous waste rules formerly in Chapter Env-Wm 800. The numerals of the rules remained unchanged, except for those in Part Env-Hw 808, where the former Env-Wm 808.01 was deleted, and Env-Wm 808.02 through Env-Wm 808.06 were readopted with amendments and renumbered as Env-Hw 808.01 through Env-Hw 808.05. Except for Env-Hw 808.01 through Env-Hw 808.05, the source note information for the rules under Document #9367 refer to those same rule numbers under the subtitle Env-Wm.

PART Env-Hw 801 PURPOSE AND DEFINITIONS

Env-Hw 801.01 Purpose. The purpose of Env-Hw 800 is to:

- (a) Identify those materials that are to be recycled that are wastes and therefore subject to regulation under Env-Hw 804 through Env-Hw 810;
- (b) Identify those materials that are to be recycled that are not wastes and therefore not subject to regulation under the hazardous waste rules; and
- (c) Set forth requirements for the management of materials identified both as wastes and as hazardous wastes, that are to be recycled. Such materials shall be termed recyclable materials.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 801.02 Definitions. For the purposes of Env-Hw 800, the following definitions shall apply:

- (a) The "act of marketing" means the transfer of used oil from one party to another, regardless of monetary considerations; that is, the party supplying the used oil is a "used oil marketer" even if no fee or charge is collected for the transfer;
- (b) "Hazardous waste fuel" means hazardous waste that is burned for energy recovery. The term includes fuel produced from hazardous waste by processing, blending, or other treatment. The term does not include a gas recovered from hazardous waste management activities when the gas is burned for energy recovery. For the purposes of this paragraph, "gas" means material that is in the gaseous state;
- (c) "Recyclable material" means a material that:
 - (1) Is a waste as defined in Env-Hw 104;
 - (2) Is identified as a hazardous waste in Env-Hw 400; and
 - (3) Is to be recycled as defined in (d), below;
- (d) "Recyclable materials used for precious metal recovery" means recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these;

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(e) "Recycled" means used, reused, or reclaimed; and

(f) "Used oil marketer" means any person who engages in the act of marketing unless exempted under Env-Hw 807.08(a)(2).

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 802 APPLICABILITY AND EXEMPTIONS

Env-Hw 802.01 Applicability. Subject to Env-Hw 802.02, Env-Hw 800 shall apply to the following persons who manage recyclable materials, as defined in Env-Hw 801.02(a):

(a) Generators;

(b) Transporters;

(c) Owners and operators of facilities that store recyclable materials before they are recycled, including those facilities that also recycle the materials; and

(d) Owners and operators of facilities that recycle recyclable materials without storing the materials.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 802.02 Exemptions.

(a) The following materials shall not be subject to regulation under the hazardous waste rules:

(1) Industrial ethyl alcohol that is reclaimed, except that:

a. A person initiating a shipment for reclamation in a foreign country and any intermediary arranging for shipment shall:

1. Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 40 CFR 262.56(a)(1)-(4), 40 CFR 262.56(a)(6), 40 CFR 262.56(b) and 40 CFR 262.57, 7-1-07 edition;

2. Export such materials only upon consent of the receiving country and in conformance with the EPA acknowledgment of consent as defined in Env-Hw 103; and

3. Provide the transporter with a copy of the EPA acknowledgment of consent for the shipment; and

b. Transporters transporting a shipment for export shall:

1. Not accept a shipment if he/she knows the shipment does not conform to the EPA acknowledgment of consent;

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2. Ensure that a copy of the EPA acknowledgment of consent accompanies the shipment; and
 3. Ensure that the EPA acknowledgment of consent is delivered to the facility designated by the person initiating the shipment;
- (2) Scrap metal being recycled that is not otherwise exempted under Env-Hw 401.03(a)(9);
 - (3) Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;
 - (4) Oil reclaimed from hazardous waste resulting from normal petroleum refining, production, and transportation practices, which oil is to be refined along with normal process streams at a petroleum refining facility;
 - (5) Coke and coal tar from the iron and steel industry that contains EPA hazardous waste number K087 from the iron and steel production process;
 - (6) Shredded circuit boards being recycled provided they meet the conditions of Env-Hw 401.03(a)(10); and
 - (7) Mercury-containing dental amalgam waste generated by small quantity generators provided the waste is being recycled.
- (b) The recycling process itself shall not be subject to regulation under the hazardous waste rules.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 803 CLASSIFICATION OF MATERIALS BEING RECYCLED

Env-Hw 803.01 Purpose. The purpose of Env-Hw 803, regarding the identification of materials as wastes, is to establish the equivalent of the rules set forth under 40 CFR 261.2(c) through (e), 7-1-99 edition, in New Hampshire rules.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 803.02 Categorization. Materials that are to be recycled, as defined in Env-Hw 801.02(e), shall be classified as follows:

- (a) Materials that are wastes when recycled, as identified in Env-Hw 803.03, and therefore subject to regulation as recyclable materials under Env-Hw 804 through Env-Hw 810; and

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(b) Materials that are not wastes when recycled, as identified in Env-Hw 803.04, and therefore not subject to regulation under the hazardous waste rules.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 803.03 Materials That Are Wastes When Recycled.

(a) A material shall be deemed to be a waste when it is recycled, or accumulated, stored, or treated before recycling, by being:

- (1) Used in a manner constituting disposal such that it is:
 - a. Applied to or placed on the land either without mixing or after mixing with any other substances; or
 - b. Used to produce products that are applied to or placed on the land or is otherwise contained in products that are applied to or placed on the land, in which cases the product itself shall remain a waste, unless it is a commercial chemical product listed in Env-Hw 402.04 and Env-Hw 402.05 being applied to the land in its ordinary manner of use;
- (2) Burned for energy recovery such that it is:
 - a. Burned to recover energy; or
 - b. Used to produce a fuel or is otherwise contained in fuels, in which case the fuel itself shall remain a waste;
- (3) Reclaimed, except those recycled materials identified in Env-Hw 803.04(b); or
- (4) Accumulated speculatively, as determined in Env-Hw 811, except for the recycled materials identified in Env-Hw 803.04(c).

(b) The following recycled materials shall be deemed to be wastes, even if the recycling involves use, reuse, or return to the original process, as described under Env-Hw 803.04(a):

- (1) Materials used in a manner constituting disposal, or used to produce products that are applied to the land;
- (2) Materials burned for energy recovery, used to produce a fuel, or contained in fuels;
- (3) Materials accumulated speculatively;
- (4) Inherently waste-like material as defined in Env-Hw 103; or
- (5) Materials classified by the commissioner or designee as inherently waste-like using the following criteria:
 - a. The materials are ordinarily disposed of, burned, or incinerated, or the materials contain toxic constituents listed in 40 CFR 261 Appendix VIII, 7-1-07 edition, and these constituents are not ordinarily found in raw materials or products for which the materials

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substitute, or are found in raw materials or products in smaller concentrations, and are not used or reused during the recycling process; and

b. The materials pose a hazard to human health and the environment when recycled.

(c) Notwithstanding (a)(2)b., above, a commercial chemical product is not a waste if it is itself a fuel.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 803.04 Materials That Are Not Wastes When Recycled.

(a) Except as set forth in Env-Hw 803.03(b), a material shall not be deemed to be a waste when it can be shown to be recycled by being:

- (1) Used or reused as an ingredient in an industrial process to make a product, provided the material is not being reclaimed;
- (2) Used or reused as an effective substitute for commercial products, provided the material is not being reclaimed; or
- (3) Returned to the original process from which it is generated, without first being reclaimed, if such non-waste material shall be returned as a substitute for raw material feedstock, and the process shall use raw materials as principal feedstocks.

(b) The following materials shall not be deemed to be wastes when recycled by being reclaimed:

- (1) Sludges, as defined in Env-Hw 104, which are deemed to be hazardous solely because they exhibit one or more of the characteristics of hazardous waste set forth in Env-Hw 403;
- (2) By-products, as defined in Env-Hw 103, which are deemed to be hazardous solely because they exhibit one or more of the characteristics of hazardous waste set forth in Env-Hw 403;
- (3) Commercial chemical products listed in Env-Hw 402.04 or Env-Hw 402.05; and
- (4) Commercial chemical products not listed in Env-Hw 402.04 or Env-Hw 402.05 which are deemed to be hazardous solely because they exhibit one or more of the characteristics of hazardous waste set forth in Env-Hw 403 except when they are recycled in ways that differ from their normal manner of use.

(c) The following materials shall not be deemed to be wastes when they are accumulated speculatively, as determined in Env-Hw 811:

- (1) Commercial chemical products listed in Env-Hw 402.04 or Env-Hw 402.05; and

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(2) Commercial chemical products not listed in Env-Hw 402.04 or Env-Hw 402.05 which are deemed to be hazardous solely because they exhibit one or more of the characteristics of hazardous waste set forth in Env-Hw 403 except when they are recycled in ways that differ from their normal manner of use.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 803.05 Documentation of Claims That Materials Are Not Wastes or Are Exempt from Regulation. Persons who claim that a certain recycled material is not a waste under the hazardous waste rules or is exempt from regulation under the hazardous waste rules shall:

(a) Provide documentation, such as a letter from the recycler, to demonstrate to the commissioner that there is a known market or disposition for the material;

(b) Provide documentation, such as a written explanation of the physical and chemical properties of the material and of the recycling process, to demonstrate to the commissioner that the material and the process meet the criteria of the exemption;

(c) Provide appropriate documentation, such as contracts showing that a second person uses the material as an ingredient in a production process, to demonstrate that the material is not a waste or is exempt from regulation; and

(d) For owners or operators of facilities claiming that they actually are recycling materials, show that they have the necessary equipment to do so.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 804 REQUIREMENTS FOR MANAGEMENT OF RECYCLABLE MATERIALS

Env-Hw 804.01 Requirements.

(a) Recyclable materials, as defined in Env-Hw 801.02(a), except where specifically exempted under Env-Hw 802.02, shall be managed as set forth in Env-Hw 804.

(b) Except as set forth in Env-Hw 804.02, persons managing recyclable materials shall comply with the following requirements:

(1) Generators of recyclable materials shall be subject to the requirements of Env-Hw 500;

(2) Transporters of recyclable materials shall be subject to the requirements of Env-Hw 600;

(3) Owners and operators of facilities that store recyclable materials before they are recycled, including those facilities that also recycle the materials, shall be subject to the requirements of Env-Hw 300 and Env-Hw 700; and

(4) Owners and operators of facilities that recycle recyclable materials without storing the materials before they are recycled shall be subject to the following:

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- a. Notification requirements as set forth in Env-Hw 702; and
- b. Manifest requirements as set forth in Env-Hw 703.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 804.02 Requirements for Management of Specific Recyclable Materials.

(a) Generators, transporters, and owners and operators of facilities that store recyclable materials before they are recycled, who manage the recyclable materials specified in (b) through (f), below, shall not be subject to the requirements of Env-Hw 804.01(b), above, but instead shall be subject to Env-Hw 805 through Env-Hw 809, respectively.

(b) Recyclable materials used in a manner constituting disposal shall be managed in accordance with Env-Hw 805.

(c) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Env-Hw 707 or Env-Hw 708 shall be managed in accordance with Env-Hw 806.

(d) Used oil being recycled shall be managed in accordance with Env-Hw 807.

(e) Recyclable materials used for precious metal recovery shall be managed in accordance with Env-Hw 808.01 through Env-Hw 808.03, unless excluded pursuant to Env-Hw 808.04 or Env-Hw 808.05.

(f) Spent lead-acid batteries that are being reclaimed shall be managed in accordance with Env-Hw 809 or Env-Hw 1100.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 805 RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL

Env-Hw 805.01 Requirements.

(a) Recyclable materials used in a manner constituting disposal as defined in Env-Hw 803.03 shall be subject to the requirements set forth in Env-Hw 805.

(b) Generators and transporters of recyclable materials that are used in a manner that constitutes disposal shall be subject to the applicable requirements of Env-Hw 300, Env-Hw 500 and Env-Hw 600.

(c) Owners and operators of facilities, except for generator facilities that store hazardous waste in accordance with Env-Hw 500, that store recyclable materials that are to be used in a manner that constitutes disposal for greater than 90 days, but who are not the ultimate users of the materials, shall be subject to the requirements of Env-Hw 300 and Env-Hw 700.

(d) Owners and operators of facilities that use recyclable materials in a manner that constitutes disposal, except products that are exempted from regulation under 40 CFR 266.20(b), 7-1-99 edition, shall be subject to the requirements of Env-Hw 300 and Env-Hw 700.

(e) The following materials shall not be used for dust suppression or road treatment:

- (1) Discarded oil or other material which is contaminated with dioxin;
- (2) Any used oil as defined in Env-Hw 104; and
- (3) Any hazardous waste or any material contaminated with hazardous waste.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 806 HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

Env-Hw 806.01 Applicability.

(a) Hazardous waste burned for energy recovery shall be subject to the requirements of Env-Hw 806.

(b) The rules of this section shall apply to hazardous waste fuels, as defined in Env-Hw 806.01(c), that are burned for energy recovery in any boiler or industrial furnace that is not regulated under Env-Hw 707 or Env-Hw 708.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 806.02 Generator Requirements.

(a) Persons who generate hazardous waste that is used as a fuel or is used to produce a fuel shall be subject to the requirements set forth in Env-Hw 500.

(b) Generators who market hazardous waste fuel to a burner shall also be subject to the requirements of Env-Hw 806.04.

(c) Generators who burn hazardous waste fuel shall also be subject to the requirements of Env-Hw 806.05.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 806.03 Transporter Requirements. Transporters of hazardous waste fuel and of hazardous waste that is used to produce a fuel shall be subject to regulation under Env-Hw 600.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 806.04 Hazardous Waste Fuel Marketer Requirements.

- (a) "Hazardous waste fuel marketers (HWF Marketers)" means:
- (1) Generators who market hazardous waste fuel directly to a burner;
 - (2) Persons who receive hazardous waste from generators and produce, process, or blend hazardous waste fuel from these hazardous wastes; and
 - (3) Persons who distribute but do not process or blend hazardous waste fuel.
- (b) HWF marketers shall be subject to the following requirements:
- (1) The notification requirements of Env-Hw 702;
 - (2) The permitting requirements of Env-Hw 300, if applicable, and the accumulation and storage requirements set forth in Env-Hw 500 and Env-Hw 700; and
 - (3) The requirements set forth in Env-Hw 500 when a HWF marketer initiates a shipment of hazardous waste fuel.
- (c) Even if a HWF marketer has previously notified EPA or the department of hazardous waste management activities and obtained an EPA identification number, the HWF marketer shall re-notify to specifically identify hazardous waste fuel activities.
- (d) Before a HWF marketer initiates the first shipment of hazardous waste fuel to a burner or another HWF marketer, the HWF marketer shall obtain a one-time written and signed notice from the recipient certifying that:
- (1) The recipient of the fuel has notified the department to identify the recipient's waste-as-fuel activities; and
 - (2) If the recipient is a hazardous waste fuel burner, as defined in Env-Hw 806.05(a), the recipient will burn the hazardous waste fuel only in an industrial furnace or boiler identified in Env-Hw 806.05(e).
- (e) A person shall market hazardous waste fuel only:
- (1) To persons who have notified the department of their hazardous waste fuel activities and have an EPA identification number; and
 - (2) If the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in Env-Hw 806.05(e).
- (f) Before accepting the first shipment of hazardous waste fuel from another HWF marketer, the receiving HWF marketer shall provide the shipping HWF marketer with a one-time written and signed certification that the receiving HWF marketer has notified the department as specified in Env-Hw 806.04(b)(1) and Env-Hw 806.04(c) to identify hazardous waste fuel activities.

(g) In addition to the applicable recordkeeping requirements of Env-Hw 500 and Env-Hw 700, the HWF marketer shall keep, for 7 years from the date the HWF marketer last engages in a hazardous waste fuel marketing transaction with the person who sends or receives the certification notice, a copy of each certification notice the HWF marketer receives or sends.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 806.05 Hazardous Waste Fuel Burner Requirements.

(a) "Hazardous Waste Fuel Burner (HWF Burner)" means any owner or operator of an industrial furnace or boiler identified in (f), below, that burns hazardous waste fuel.

(b) HWF burners shall:

(1) Notify the department of their hazardous waste fuel activities; and

(2) Comply with the following storage requirements:

a. For accumulation for less than 90 days by generators who burn their hazardous waste fuel on site, the accumulation and storage requirements as set forth in Env-Hw 500;

b. For existing storage facilities, the applicable provisions of Env-Hw 300 and Env-Hw 700; and

c. For new storage facilities, the applicable provisions of Env-Hw 300 and Env-Hw 700.

(c) Even if the HWF burner has previously notified EPA or the department of hazardous waste management activities and obtained an EPA identification number, the HWF burner shall renotify to specifically identify hazardous waste fuel activities. Owners and operators of facilities who intend to burn hazardous waste fuel shall also obtain any required permits relating to control of air emissions from the department under RSA 125-C prior to burning such fuels.

(d) Before accepting the first shipment of hazardous waste fuel from a HWF marketer, the HWF burner shall provide the marketer a one-time written and signed notice certifying that:

(1) The HWF burner has notified the department of the burner's waste-as-fuel activities; and

(2) The HWF burner will burn the fuel only in a boiler or furnace as identified in (f), below.

(e) In addition to the applicable recordkeeping requirements of Env-Hw 500 and Env-Hw 700, a HWF burner shall keep, for 7 years from the date the burner last receives hazardous waste fuel from that marketer, a copy of each certification notice that the burner sends to a marketer.

(f) Hazardous waste fuel shall be burned for energy recovery in only the following devices:

(1) Industrial furnaces as defined in Env-Hw 103; or

(2) Boilers, as defined in Env-Hw 103, that are identified as follows:

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- a. Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or
- b. Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(g) No fuel which contains any hazardous waste shall be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than 500,000, based on the most recent federal census statistics, unless such kiln fully complies with Env-Hw 707.03(g) and Env-Hw 708.03(d)(7) as applicable to incinerators.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 807 REQUIREMENTS FOR MANAGEMENT OF USED OIL BEING RECYCLED

Env-Hw 807.01 Applicability, Exemptions, and Prohibitions.

(a) Env-Hw 807 shall apply to all persons who generate, transport, collect and/or market used oil destined to be recycled by being burned for energy recovery or rerefined, and all persons who burn used oil fuel for energy recovery in accordance with Env-Hw 807.10, except where specifically exempted under Env-Hw 807.01(b).

(b) Persons generating used oil as a household waste shall be exempted from complying with the requirements of Env-Hw 807.

(c) Recycling of used oil shall be subject to the following prohibitions:

- (1) Used oil, as defined in Env-Hw 104, shall not be applied to roads or other land areas for the purpose of dust suppression or any other reason. Use of used oil for such purposes shall be deemed to be disposal of hazardous waste;
- (2) Off-specification used oil, as defined in Env-Hw 807.03(b) shall not be used as an automotive undercoating; and
- (3) Used oil shall not be mixed with any other waste identified as a hazardous waste under Env-Hw 400, unless it is being purposely blended with hazardous waste in order to formulate a hazardous waste fuel to be burned pursuant to Env-Hw 806.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6385-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 807.02 Specification Used Oil. Used oil, as defined in Env-Hw 104, shall be classified as specification used oil if:

- (a) The oil has not been mixed with hazardous waste; and
- (b) The oil meets all of the standards in Table 8.1 below and does not otherwise exhibit any of the hazardous waste characteristics specified in Env-Hw 403:

Table 8.1 Specification Used Oil Standards

Constituent/Property	Allowable Level (parts per million, dry weight basis)
Arsenic	5 parts per million maximum
Cadmium	2 parts per million maximum
Chromium	10 parts per million maximum
Lead	100 parts per million maximum
Flash point	100 degrees Fahrenheit minimum
Polychlorinated biphenyls (PCBs)	less than 2 parts per million
Total Halogens	1,000 parts per million maximum

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 807.03 Off-Specification Used Oil.

(a) Used oil, as defined in Env-Hw 104, shall be classified as off-specification used oil if:

- (1) The oil does not meet the standards for specification used oil outlined in Env-Hw 807.02;
- (2) The oil has not been mixed with hazardous waste; and
- (3) The oil meets all of the standards in Table 8.2 below and does not otherwise exhibit any of the hazardous waste characteristics specified in Env-Hw 403:

Table 8.2 Off-Specification Used Oil Standards

Constituent/Property	Allowable Level (parts per million, dry weight basis)
Arsenic	18 parts per million maximum
Cadmium	10 parts per million maximum
Chromium	35 parts per million maximum
Lead	1,000 parts per million maximum
Flash Point	100 degrees Fahrenheit minimum

(b) Used oil containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 2 parts per million shall be classified as off-specification used oil, and shall be subject to all requirements governing the management of off-specification used oil in Env-Hw 807. Used oil containing PCBs shall also be subject to regulation under the Toxic Substances Control Act and its rules codified under 40 CFR Part 761, 7-1-07 edition.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 807.04 Used Oil Classified as Hazardous Waste.

(a) Used oil shall be classified as hazardous waste and shall be managed in accordance with the hazardous waste rules if it:

- (1) Has been mixed with hazardous waste;
- (2) Exhibits a hazardous waste characteristic as set forth in Env-Hw 403, except as provided for in Env-Hw 807.02 or Env-Hw 807.03; or
- (3) Does not meet the standards for off-specification used oil specified in Env-Hw 807.03.

(b) Used oil classified as a hazardous waste pursuant to this section which is burned for energy recovery shall be managed as a hazardous waste fuel in accordance with Env-Hw 806.

(c) Used oil containing more than 1,000 parts per million of total halogens shall be presumed by the department to be a hazardous waste on the basis that it has been mixed with halogenated hazardous waste listed in Env-Hw 400. Persons may rebut this presumption by providing conclusive information that the used oil has not been mixed with hazardous halogenated waste listed in Env-Hw 400.

(d) Used oil which is determined to be a hazardous waste under Env-Hw 807.04 shall not be blended to meet the standards outlined in Env-Hw 807.02 or Env-Hw 807.03.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 807.05 Sampling and Analytical Methods. Sampling and analysis of used oil shall be conducted in accordance with the sampling and analytical procedures identified in Env-Hw 401.04.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 807.06 Standards for Generators of Used Oil Being Recycled.

(a) This section shall apply to:

- (1) All persons who generate used oil which is destined to be burned for energy recovery or rerefined; and
- (2) All persons, including municipalities, that collect used oil generated as a household waste as described in (b)(9), below.

(b) Generators storing used oil on-site shall comply with the following requirements:

- (1) Used oil shall be stored in containers which meet the U.S. DOT container specifications under 49 CFR 173, 10-1-07 edition, or in a structurally sound tank;
- (2) Above ground tanks shall meet all applicable local ordinances and state laws pertaining to storage of petroleum products, including Saf-C 6009 and Saf-C 6012, State Fire Code;

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- (3) New and existing underground storage tanks shall be designed and operated in compliance with Env-Wm 1401 or successor rules in subtitle Env-Or, except that the exemption for tanks with a capacity less than 110 gallons shall not apply;
- (4) Used oil containers and tanks shall be clearly labeled with the words "Used Oil for Recycle" at all times during accumulation and storage;
- (5) Generators shall ensure that containers or tanks are closed at all times, except when used oil is being added to or removed from the container or tank;
- (6) All tanks and containers shall be maintained and operated so as to prevent spillage, seepage, or other discharge of used oil into storm or sanitary sewers, onto the land, or into ground or surface waters;
- (7) Subject to (b)(9), below, generators shall conduct an initial used oil determination on their used oil by analyzing it for all of the parameters specified in Env-Hw 807.02 and Env-Hw 807.03, except that generators may omit the analysis for polychlorinated biphenyls (PCBs) if no sources of PCBs are present in the process generating the used oil;
- (8) The analysis shall be repeated whenever the process generating the used oil changes, or the oil has been mixed with other materials. In cases where used oils from two or more different sources are collected in one container or tank in proportions which vary over time, the generator shall conduct analyses with sufficient frequency to ensure that the oil is correctly classified before being offered for transport;
- (9) Municipalities that collect used oil generated as a household waste and generators of used oils that are comprised solely of used automotive oils may omit the initial used oil determination required by (b)(7) and (8), above, if the municipality or generator ensures that the oil is not mixed with any other types of oil or wastes. For the purposes of this exemption, automotive oil means motor, engine, and gear oils, and transmission and brake fluids;
- (10) Generators shall not mix used oil with any other hazardous waste;
- (11) Generators shall deliver used oil to a facility authorized to accept used oil, or burn the used oil on-site in accordance with Env-Hw 807.10;
- (12) Subject to (b)(14), below, used oil shall be transported by duly registered hazardous waste transporters only, using a 3 copy bill of lading containing the information outlined in (b)(13), below;
- (13) Bills of lading shall include the following information:
 - a. A shipment number unique to each shipment;
 - b. The name and site address of the generator/shipper, transporter/carrier, and receiving facility/consignee;
 - c. The EPA identification numbers of the shipper, if the shipper is required by Env-Hw 504 to have a number, the transporter, and the receiving facility;
 - d. The quantity of used oil to be delivered;
 - e. The date(s) of shipment and delivery; and

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f. The following statement signed by the generator: "This used oil is destined to be recycled and is subject to regulation by the New Hampshire department of environmental services under Env-Hw 807. I certify that this used oil is not a hazardous waste fuel as defined in Env-Hw 807.04 and that I have not mixed this used oil with any other hazardous wastes identified in Env-Hw 400 or any used oil classified as hazardous waste fuel under Env-Hw 807.04";

(14) If used oil is being shipped to another state that regulates used oil as a hazardous waste, a hazardous waste manifest may be used in lieu of a bill of lading;

(15) Generators who market their used oil directly to a burner shall comply with Env-Hw 807.09;

(16) Generators who burn their own used oil shall comply with Env-Hw 807.10; and

(17) Generators shall maintain on file copies of all bills of lading or used oil analyses for three years from the date of shipment or analysis.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 807.07 Standards for Transporters of Used Oil Being Recycled.

(a) Transporters of used oil being recycled shall be subject to all of the requirements for hazardous waste transporters under Env-Hw 600, except that generators transporting up to 110 gallons at a time of their own used oil shall be exempt from complying with Env-Hw 600. Generators transporting their own oil shall comply with (b) and (c), below.

(b) A bill of lading shall be used for transportation of used oil in accordance with Env-Hw 807.06(b)(13) in lieu of the uniform hazardous waste manifest required by Env-Hw 604, except in cases where used oil is being shipped to another state or jurisdiction that regulates used oil as a hazardous waste and requires the use of a hazardous waste manifest.

(c) A transporter shall keep a copy of the bill of lading for each shipment on file for 3 years from the date of shipment. The 3 year record retention period shall be extended during the course of any enforcement action until such action has been resolved.

(d) An annual used oil activity report, which summarizes a transporter's used oil transportation activity during the calendar year, January 1-December 31, shall be submitted by any registered transporter who transported used oil pursuant to this section in that calendar year.

(e) The report shall include the following information on a form provided by the department:

(1) The name, New Hampshire transporter registration number, and EPA identification number of the transporter;

(2) The reporting year; and

(3) The total amount of used oil which has been transported within the reporting year, including:

a. The total amount of specification used oil; and

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- b. The total amount of off-specification used oil.
- (f) A responsible company official shall attest in writing to the accuracy of the report.
- (g) The report shall be submitted to the department by March 1 of the year immediately following the report year.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6385-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 807.08 Identification of Marketers of Used Oil Being Recycled.

- (a) Used oil marketers shall be identified in accordance with the following:

- (1) The following persons shall be deemed to be used oil marketers:

- a. Generators who market their used oil directly to a burner;
- b. Persons who receive used oil from generators and produce, process, or blend used oil fuel from the used oils received, including persons sending blended or processed used oil to brokers or other intermediaries; and
- c. Persons, including transporters who take ownership of the oil they collect, who distribute but do not process or blend used oil.

- (2) Subject to (b), below, the following persons shall not be classified as used oil marketers unless they transfer their used oil directly to a person who burns it for energy recovery:

- a. Used oil generators; and
- b. Transporters who transport used oil received only from generators.

(b) Persons who burn some used oil fuel for the purposes of processing or other treatment to produce used oil fuel for marketing shall be considered to be burning incidentally to processing. Generators, and transporters who collect used oil only from generators, who transfer used oil to such incidental burners shall not be marketers and shall not be subject to Env-Hw 807.09.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 807.09 Standards for Marketers of Used Oil Being Recycled.

- (a) This section shall apply to all used oil marketers as defined in Env-Hw 807.08.

- (b) Used oil marketers shall comply with the following requirements:

- (1) Used oil marketers shall notify the department of the location and general description of their used oil management activities, using a notification form provided by the department as set forth in Env-Hw 504 and Env-Hw 702;

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- (2) Even if a used oil marketer has previously notified the department or EPA of hazardous waste management activities pursuant to Env-Hw 504 or Env-Hw 702 and obtained an EPA identification number, the marketer shall renotify to specifically identify the used oil management activities;
- (3) Marketers shall perform sampling and analyses, in accordance with Env-Hw 807.05, for the parameters specified in Env-Hw 807.02 and Env-Hw 807.03 on used oil being marketed;
- (4) A unique number or code shall be assigned to each batch of used oil tested. The number or code shall be recorded on the corresponding analytical reports and on the bill(s) of lading or hazardous waste manifest(s) documenting shipment(s) of that batch;
- (5) If a previously tested batch is subsequently mixed with more used oil, a new number or code shall be assigned to the batch and testing shall be repeated prior to marketing;
- (6) Marketers may market specification or off-specification used oil subject to the following restrictions:
 - a. Off-specification used oil shall be marketed only to rerefiners or to owners and operators of burning devices identified in Env-Hw 807.10(b)(4), or to other marketers; and
 - b. Specification used oil shall be marketed only to rerefiners or to owners and operators of burning devices identified in Env-Hw 807.10(b)(5), or to other marketers;
- (7) When initiating a shipment of used oil, a marketer shall use a 3 copy bill of lading as described in Env-Hw 807.06(b)(13);
- (8) In addition to the information required under Env-Hw 807.06(b)(13), the marketer shall indicate the batch code or number corresponding to the batch being shipped and whether the oil is specification or off-specification used oil;
- (9) A copy of the analytical report shall accompany the bill of lading;
- (10) The marketer, transporter, and the receiving facility shall each receive and maintain on file a copy of the bill of lading;
- (11) The following notices shall be required:
 - a. Before initiating the first shipment of used oil to a burner, rerefiner, or other marketer, the marketer shall obtain a one-time written and signed notice from the recipient certifying that:
 1. The recipient of the used oil has notified the department of the recipient's used oil management activities; and
 2. If the recipient is a burner, the recipient will burn the used oil only in a device allowed under Env-Hw 807.10; and
 - b. Before accepting the first shipment of used oil from another marketer subject to the requirements of this section, the receiving marketer shall provide the shipping marketer with a one-time written and signed notice certifying that the receiving marketer has notified the department of the receiving marketer's used oil management activities;
- (12) A marketer shall keep the following records on file:

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- a. A copy of each certification notice that the marketer receives or sends for 3 years from the date the marketer last engages in a used oil marketing transaction with the person who sends or receives the certification notice;
- b. Copies of all used oil analysis reports for 3 years from the date that the oil is marketed to another marketer, rerefiner, or burner;
- c. A copy of each bill of lading for 3 years from the date of shipment; and
- d. An operating log, with the following information regarding each shipment of used oil fuel, for 3 years from the date of shipment:
 1. The name and address of the facility receiving the shipment;
 2. The quantity of used oil fuel delivered;
 3. The date of shipment or delivery; and
 4. A cross-reference to the record of the used oil analysis, including the batch code or number; and

(13) The 3 year record retention period specified in (b)(12), above, shall be extended during the course of any enforcement action until such action has been resolved.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 807.10 Standards for Burners of Used Oil Fuel.

(a) For the purpose of this section, "Used oil fuel burner (UOF Burner)" means any owner or operator of an industrial furnace, boiler, or space heater identified in (b)(4) - (6), below, that burns used oil fuel.

(b) UOF burners shall comply with the following standards:

- (1) UOF burners shall notify the department of their used oil management activities using a form provided by the department as set forth in Env-Hw 504 and Env-Hw 702;
- (2) Even if a UOF burner has previously notified the department or EPA of the burner's hazardous waste management activities pursuant to Env-Hw 504 or Env-Hw 702 and obtained an EPA identification number, the burner shall renotify to identify the used oil management activities;
- (3) Owners and operators of facilities who intend to burn used oil fuel shall also notify the department's air resources division to secure any required permits prior to burning such fuels;
- (4) Off-specification used oil fuel shall be burned only in the following devices:
 - a. Industrial furnaces as defined in Env-Hw 103; or
 - b. Boilers, as defined in Env-Hw 103, that are identified as follows:

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1. Industrial boilers possessing a heating capacity in excess of 10 million Btu per hour and located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or
 2. Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale;
 - c. Used oil fired space heaters, provided that:
 1. The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour;
 2. Combustion gases from the heater are vented to the outside ambient air; and
 3. The burner burns only used oil that is generated on site;
- (5) Specification used oil fuel shall be burned only in the following devices:
- a. Oil furnaces and boilers, except those located at private residences, hotels, motels, apartment buildings, and residential institutions including hospitals, residential treatment facilities, and retirement homes; or
 - b. Used oil fired space heaters, provided that the heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour, and combustion gases from the heater are vented to the outside ambient air;
- (6) Used oils containing greater than or equal to 2 parts per million (ppm) PCBs shall be burned only in units allowed under 40 CFR 761.60, 7-1-07 edition, pursuant to the Toxic Substances Control Act;
- (7) UOF burners shall perform analyses of the oil for the parameters outlined in Env-Hw 807.02 and Env-Hw 807.03, unless:
- a. The UOF burner has received the used oil fuel from a UOF marketer that has tested the batch in question and has provided a copy of the analytical report for same to the burner;
 - b. The UOF burner is burning only used automotive oil that is generated on-site; or
 - c. The UOF burner is burning only used oil collected from persons generating the oil as a household waste;
- (8) Before accepting the first shipment of off-specification used oil fuel from a marketer, the UOF burner shall provide the marketer a one-time written and signed notice certifying that:
- a. The burner has notified the department of the location and general description of the burner's used oil management activities; and
 - b. The burner will burn the used oil only in a device specified under this section;
- (9) A UOF burner shall keep the following records on file:
- a. A copy of each certification notice that the burner sends to a marketer for 3 years from the date the burner last receives used oil fuel from that marketer;

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- b. Copies of all used fuel analysis reports for 3 years from the date that the oil is received at the burner's facility; and
- c. A copy of each bill of lading for 3 years from the date that the oil is received at the burner's facility; and

(10) The 3 year record retention period specified in Env-Hw 807.10(b)(9) shall be extended during the course of any enforcement action until such action has been resolved.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 808 RECYCLABLE MATERIALS USED FOR PRECIOUS METAL RECOVERY

Env-Hw 808.01 Generator Requirements. Persons who generate recyclable materials used for precious metal recovery shall be subject to the following requirements:

- (a) Notification requirements of Env-Hw 500; and
- (b) Manifest requirements of Env-Hw 500.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 808.02 Transporter Requirements. Persons who transport recyclable materials used for precious metal recovery shall be subject to the following requirements:

- (a) Notification requirements of Env-Hw 603;
- (b) Manifest requirements of Env-Hw 604;
- (c) Delivery requirements of Env-Hw 606; and
- (d) Registration requirements of Env-Hw 609.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 808.03 Storage Facility Requirements. Persons who store recyclable materials used for precious metal recovery shall be subject to the following requirements:

- (a) Notification requirements of Env-Hw 700;
- (b) Manifest requirements of Env-Hw 700; and
- (c) The following record maintenance requirements, to document that the materials are not being accumulated speculatively, as determined under Env-Hw 811:

- (1) Records shall be kept that show the volume of these materials stored at the beginning of the calendar year;
- (2) Records shall be kept that show the amount of these materials generated or received during the calendar year; and
- (3) Records shall be kept that show the amount of materials remaining at the end of the calendar year.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 808.04 Speculative Accumulation of Recyclable Materials Used for Precious Metal Recovery. Recyclable materials used for precious metal recovery that are accumulated speculatively, as determined under Env-Hw 811, shall be regulated as hazardous wastes under Env-Hw 100-700, and not regulated as recyclable materials under Env-Hw 800.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 808.05 Increased Regulation of Recyclable Materials Used for Precious Metal Recovery.

(a) If the department observes, or otherwise receives credible evidence, that a person is accumulating or storing recyclable materials used for precious metal recovery in a manner that does not protect human health and the environment, the department shall proceed in accordance with the procedures of 40 CFR 260.41, 7-1-07 edition, with the following modifications:

- (1) “Regional administrator” or “administrator” shall mean the commissioner or designee;
- (2) “Subparts A, C, D, and E of part 262 of this chapter” and “part 262” as used in 260.41(a) shall mean Env-Hw 500, Env-Hw 600, and Env-Hw 700; and
- (3) “Parts 270 and 124 of this chapter” as used in 260.41(b) shall mean Env-Hw 300.

(b) After proceeding in accordance with (a), above, the department shall require the person accumulating or storing recyclable materials used for precious metal recovery to comply with Env-Hw 500, Env-Hw 600, and Env-Hw 700 if the department determines that materials are being stored or accumulated in a manner that does not protect human health and the environment.

(c) Materials shall be deemed to be stored or accumulated in a manner that does not protect human health and the environment if:

- (1) The materials or their toxic constituents have not been adequately contained; or
- (2) The materials being accumulated or stored together are incompatible.

(d) In determining whether to impose increased regulation, the commissioner shall consider the following factors:

- (1) The types and amounts of materials being accumulated or stored;

- (2) The method of accumulation or storage;
- (3) The length of time the materials have been accumulated or stored before being reclaimed;
- (4) Whether any contaminants are being released into the environment, or are likely to be so released; and
- (5) Other factors relating to the materials' impact on public health and the environment.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 809 SPENT LEAD-ACID BATTERIES BEING RECLAIMED

Env-Hw 809.01 Applicability.

(a) Env-Hw 809 shall apply to:

- (1) Any person who generates or collects spent lead-acid batteries destined for reclamation;
- (2) Any person who transports spent lead-acid batteries destined for reclamation; and
- (3) Any person who reclaims spent lead-acid batteries.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 809.02 Generators and Collectors. Any person who generates or collects spent lead-acid batteries destined for reclamation shall store the batteries in a manner designed to ensure that the battery housings do not break or leak acid onto the soil or into any groundwaters or surface waters, but shall not otherwise be subject to the hazardous waste rules.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Hw 809.03 Transporter Requirements. Any transporter of lead-acid batteries destined for reclamation shall:

- (a) Ensure that the batteries are loaded and braced so as to prevent damage and short circuits while in transit;
- (b) Comply with the U.S. DOT requirements specified in 49 CFR 173.159(e), 10-1-07 edition; and

- (c) Comply with the requirements set forth in Saf-C 600.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; and by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

Env-Wm 809.04 Reclamation Facility Requirements. Any owner or operator of a facility at which spent lead-acid batteries are reclaimed and stored prior to reclamation shall be subject to the following requirements:

- (a) Storage facility permit requirements under Env-Hw 304; and
- (b) Facility requirements as set forth in Env-Hw 700, except for:
- (1) The waste analysis requirements of Env-Hw 707.02(b) and Env-Hw 708.02(b); and
 - (2) The manifest requirements of Env-Hw 703.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 810 WAIVERS

Env-Hw 810.01 Waivers. Waivers from classification as a waste or as a boiler as set forth in Env-Hw 800 shall be requested and processed in accordance with the provisions of Env-Hw 202.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

PART Env-Hw 811 SPECULATIVE ACCUMULATION

Env-Hw 811.01 Identification of Speculative Accumulation. A material that is accumulated before being recycled shall be deemed to be accumulated speculatively, unless the person accumulating the material can show that:

- (a) The material has potential to be recycled;
- (b) A feasible means of recycling exists for the material; and
- (c) During the calendar year commencing on January 1, the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period.
- (d) The calculation shall be made in accordance with the following:
- (1) In calculating the percentage of turnover, the 75 percent requirement shall be applied to each material of the same type that is recycled in the same way; and

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(2) Materials exempt under Env-Hw 401.03(b)(11) shall not be included in making the calculation.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 800) ss by #9367, eff 1-28-09

APPENDIX

Rule Section(s)	State Statute(s)	Federal Regulation(s)
Env-Hw 800	RSA 147-A:3, I & IV	40 CFR 261; 40 CFR 266; 40 CFR 279