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# ENVIRONMENTAL Fact Sheet

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## Documenting Hazardous Waste Determinations

Businesses, government agencies and institutions generate many types of waste and are required to determine if any of the waste that they generate is hazardous. This fact sheet explains the steps involved in performing and documenting a hazardous waste determination. This fact sheet is intended as an overview only and should not be used without consulting the New Hampshire Department of Environmental Services (NHDES) Hazardous Waste Rules Env-Hw 100-1200.

### Determining if a Waste is a Hazardous Waste

Hazardous waste determinations can be complicated and must be done for every waste stream generated at a facility. Generally, the only waste stream that is not required to have a waste determination is office trash. Breaking the waste determination into steps can make it easier to complete the process.

#### Step 1

Make a list of all waste streams generated at the facility and the processes that generate them. A waste is anything that is spent, discarded, abandoned, recycled, put down the drain, treated on site or is considered inherently waste-like. Wastes can be solid, semi-solid, liquid or contained gases or any combination. A waste determination is not required for products or processes that are in use.

#### Step 2

For each waste stream, check to see if the waste meets the definition of “hazardous waste” and is not exempt from the NH Hazardous Waste Rules per Env-Hw 401.01 or 401.03. If the waste is not exempt from regulation, use knowledge of how the waste was generated (process knowledge) and/or have a representative sample of the waste analyzed by a laboratory using Environmental Protection Agency (EPA) approved test methods to determine if it is hazardous. Some wastes may need to be evaluated using both process knowledge and analysis, while others can be evaluated using one or the other alone. Waste determinations should be made at the point the waste was generated and can no longer be used for its intended purpose, not after any sort of treatment, such as diluting, blending, filtering, neutralization or evaporation.

Hazardous waste is divided into two broad categories: listed waste and characteristic waste. A hazardous waste can be both listed and characteristic.

- **Listed** means that the chemical name of the waste or its ingredients meets the definitions found in the hazardous waste listing descriptions in Env-Hw 402. The list includes wastes from specific industries or processes, as well as certain unused chemical products. This determination can often be made by using knowledge of the process or materials used to produce the waste.
- **Characteristic** means that the waste displays any of the chemical characteristics of ignitability, corrosivity, reactivity or toxicity (contains certain heavy metals, pesticides, herbicides or organics). More details on these characteristics can be found in Env-Hw 403. This determination usually involves

chemical analysis, but a generator can sometimes use knowledge of the process or materials used to produce the waste.

### Step 3

Based on a review, determine whether or not the waste is hazardous. If it is hazardous, identify the applicable EPA or state hazardous waste numbers that correspond with the hazardous waste listing or characteristic. This is a very important step in the hazardous waste determination process as one waste stream can have multiple hazardous waste listings or characteristics. Once the hazardous wastes are identified, determine how many pounds or gallons of each waste stream are generated each month (don't average over months).

### Documenting Waste Determinations

Maintain documentation of Steps 1 through 3. This documentation must be kept for three years from the date the waste was last shipped off-site. If the process changes or different products or materials are being used after your initial determination, you will need to perform a new hazardous waste determination.

Adequate documentation should include a statement about whether or not the waste is hazardous, as well as copies of all data and records used in Steps 1 and 2. Documentation is required for all hazardous wastes. It is also recommended that you maintain documentation for non-hazardous waste, as this shows you performed a hazardous waste determination on that waste. Some examples of documentation include, but aren't limited to:

- Safety Data Sheets (SDSs).
- Process flow diagrams.
- Analytical results from a laboratory using approved EPA methods.
- Information from product container labels.
- Technical specification sheets.
- A description of how the waste was sampled.

Typically, no single document is acceptable as an adequate waste determination, as none of them will state conclusively whether or not the waste is hazardous. For example, SDSs are for unused product (which may have been contaminated through use) and may not identify constituents below 1% (which may exceed hazardous waste thresholds). In addition, analytical data will not explicitly tell you if a waste is a listed hazardous waste. Often the types of documents listed above will be used in combination to identify if a waste is hazardous or non-hazardous.

Waste profiles are frequently relied upon by businesses for a hazardous waste determination. These forms are often filled out by hazardous waste transporters and contractors through interviews with generators of hazardous waste and frequently are not supported by an in-depth investigation into the process generating the waste. While profiles can be part of a determination, they seldom provide enough information to meet the standard necessary for a complete determination. Note that if a waste profile is used as part of the hazardous waste determination, all supporting documentation, including those documents previously listed, must be attached.

Adequately documenting waste determinations can be difficult. To assist with this process, NHDES has created a [waste determination checklist](#) that may be used to help you document your hazardous waste determinations. This checklist is not required and may be modified to meet the specific needs of individual facilities.

### Summary

Conducting an adequate determination for each waste stream and properly documenting that determination will help facilities maintain compliance and avoid costly mistakes. Adequate determinations are the foundation of any hazardous waste management program and will help reduce management and disposal costs in the long run. The generator is responsible for making the hazardous waste determination, regardless of who may provide assistance (e.g., transporter, consultant, or contractor).

### For More Information

Questions regarding this fact sheet should be directed to the NHDES Hazardous Waste Management Bureau at (603) 271-2942 or toll-free within New Hampshire at 866-HAZWAST (M-F 8 a.m.-4 p.m.) or email [hwcomp@des.nh.gov](mailto:hwcomp@des.nh.gov). For a complete description of the requirements, refer to the New Hampshire Hazardous Waste Rules, Env-Hw 100-1200, available from [NHDES' website](#).