

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

### CHAPTER Env-Hw 800 REQUIREMENTS FOR RECYCLING OF HAZARDOUS WASTES

Statutory Authority: RSA 147-A:3; RSA 147-B:7

#### 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 this chapter 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 811;

(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; amd by #10205, eff 10-19-12; ss by #12350, eff 8-14-17

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

(a) “Act of marketing” means the transfer of used oil from one party to another, regardless of whether a 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 material that is:

(1) A waste as defined in Env-Hw 104;

(2) Identified as a hazardous waste in Env-Hw 400; and

(3) To be recycled as defined in (e), below;

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(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;

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

(f) “Used oil marketer” means any person who engages in the act of marketing unless exempt under Env-Hw 807.08(b).

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; amd by #10205, eff 10-19-12; ss by #12350, eff 8-14-17

### PART Env-Hw 802 APPLICABILITY AND EXEMPTIONS

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

(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; amd by #10205, eff 10-19-12; ss by #12350, eff 8-14-17

Env-Hw 802.02 Exemptions. A 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; ss by #12350, eff 8-14-17

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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 in this subtitle the equivalent of the rules set forth under 40 CFR 261.2(c) through (e), 7-1-08 edition.

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; ss by #12350, eff 8-14-17

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 811; and

(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; amd by #10205, eff 10-19-12; ss by #12350, eff 8-14-17

Env-Hw 803.03 Materials That Are Wastes When Recycled.

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

(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, such as is prohibited by Env-Hw 805.02; 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 case the product itself shall remain a waste, unless it is a commercial chemical product listed in Env-Hw 402.04 or Env-Hw 402.05 being applied to the land in its ordinary manner of use;

(2) Subject to (c), below, 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).

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(b) The following recycled materials shall be wastes, even if the recycling involves use, reuse, or return to the original process, as specified in 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, and these constituents are not ordinarily found in raw materials or products for which the materials 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), 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; ss by #12350, eff 8-14-17

### 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 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 or land disposed, if such material is:
  - a. Returned as a substitute for feedstock materials; and
  - b. In cases where the original process to which the material is returned is a secondary process, managed such that it is not placed on land.

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

- (1) Sludges, as defined in Env-Hw 104, that are deemed to be hazardous solely because they exhibit one or more of the characteristics of hazardous waste set forth in Env-Hw 403;

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(2) By-products, as defined in Env-Hw 103, that 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 that 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 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

(2) Commercial chemical products not listed in Env-Hw 402.04 or Env-Hw 402.05 that 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; ss by #12350, eff 8-14-17

Env-Hw 803.05 Documentation of Claims That Recycled Materials Are Not Wastes or Are Exempt from Regulation. A person who claims that a certain recycled material is not a hazardous waste or is exempt from regulation under the hazardous waste rules shall comply with Env-Hw 401.03(j).

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; ss by #12350, eff 8-14-17

### 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(c), shall be managed as set forth in Env-Hw 804 unless specifically exempt as specified in Env-Hw 401.03(b)(36) through (40).

(b) Except as set forth in Env-Hw 804.02, a person who manages recyclable materials shall comply with the following requirements:

(1) A generator of recyclable materials shall be subject to Env-Hw 500;

(2) A transporter of recyclable materials shall be subject to Env-Hw 600;

(3) An owner or operator of a facility that stores recyclable materials before they are recycled, including a facility that also recycles the materials, shall be subject to Env-Hw 300 and Env-Hw 700; and

(4) An owner or operator of a facility that recycles 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;
- b. Manifest requirements as set forth in Env-Hw 703; and
- c. Biennial reporting requirements as set forth in Env-Hw 705.03.

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; amd by #10205, eff 10-19-12; ss by #12350, eff 8-14-17; ss by #12922, eff 11-23-19

### 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 Env-Hw 804.01(b), 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 waste fuels 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 808.04 or, if applicable, in accordance with Env-Hw 808.05 or Env-Hw 808.06.

(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; ss by #12350, eff 8-14-17

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

### Env-Hw 805.01 Requirements That Apply to Using Recyclable Materials in a Manner Constituting Disposal.

(a) Recyclable materials used in a manner constituting disposal as described in Env-Hw 803.03 shall be subject to this part.

(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 that store recyclable materials that are to be used in a manner that constitutes disposal, but that are not the ultimate users of the materials, shall be subject to Env-Hw 300 and Env-Hw 700.

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(d) Subject to 40 CFR 266.20(b) and (c), owners and operators of facilities that use recyclable materials in a manner that constitutes disposal shall be subject to Env-Hw 300, Env-Hw 700, and Env-Hw 1200.

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; ss by #12350, eff 8-14-17

### Env-Hw 805.02 Materials Not to Be Used on Roads or Otherwise Applied to Land.

(a) The materials listed in (b), below, shall not be:

- (1) Used for dust suppression or road treatment; or
- (2) Otherwise applied to land in a manner constituting disposal.

(b) The prohibitions in (a), above, shall apply to:

- (1) Discarded oil or other material that 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; ss by #12350, eff 8-14-17 (formerly Env-Hw 805.01(e))

## PART Env-Hw 806 HAZARDOUS WASTE FUELS BURNED FOR ENERGY RECOVERY

Env-Hw 806.01 Applicability. This part shall apply to hazardous waste fuels, as defined in Env-Hw 801.02(b), 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; amd by #10205, eff 10-19-12; ss by #12350, eff 8-14-17

### Env-Hw 806.02 Generator Requirements.

(a) A generator of hazardous waste that is used as a fuel or to produce a fuel shall be subject to Env-Hw 500.

(b) A generator who markets hazardous waste fuel to a burner shall also be subject to Env-Hw 806.04.

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(c) A generator who burns hazardous waste fuel shall also be subject to 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; ss by #12350, eff 8-14-17

Env-Hw 806.03 Transporter Requirements. A transporter of hazardous waste fuel or hazardous waste that is used to produce a fuel shall be subject to 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; ss by #12350, eff 8-14-17

Env-Hw 806.04 Hazardous Waste Fuel Marketer Requirements.

(a) “Hazardous waste fuel marketer (HWF marketer)” means:

- (1) A generator who markets hazardous waste fuel directly to a burner;
- (2) A person who receives hazardous waste from generators and produces, processes, or blends hazardous waste fuel from the hazardous waste; and
- (3) A person who distributes but does not process or blend hazardous waste fuel.

(b) A HWF marketer shall be subject to:

- (1) The notification requirements of Env-Hw 702;
- (2) The permitting requirements of Env-Hw 300, if applicable;
- (3) The accumulation and storage requirements set forth in Env-Hw 500 and Env-Hw 700; and
- (4) The requirements set forth in Env-Hw 500 when a HWF marketer initiates a shipment of hazardous waste fuel.

(c) A HWF marketer shall notify the department of hazardous waste fuel activities even if the HWF marketer has previously obtained an EPA identification number for other hazardous waste management 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, as specified in Env-Hw 207, that:

- (1) The recipient of the fuel has notified the department to identify the recipient’s hazardous waste 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(g).

(e) A person shall only market hazardous waste fuel:



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(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(g).

(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 statement certifying, as specified in Env-Hw 207, that the receiving HWF marketer has notified the department as specified in (b)(1) and (c), above, 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 3 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; amd by #10205, eff 10-19-12; ss by #12350, eff 8-14-17

### Env-Hw 806.05 Hazardous Waste Fuel Burner Requirements.

(a) “Hazardous waste fuel burner (HWF burner)” means an owner or operator of an industrial furnace or boiler identified in (g), below, that burns hazardous waste fuel.

(b) A HWF burner shall:

(1) Notify the department of its hazardous waste fuel activities in accordance with Env-Hw 702; 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; and

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

(c) A HWF burner shall notify the department of hazardous waste fuel activities even if the HWF burner has previously obtained an EPA identification number for other hazardous waste management activities.

(d) An owner or operator of a facility who intends to burn hazardous waste fuel shall obtain any required permits relating to control of air emissions from the department under RSA 125-C prior to burning such fuels.

(e) 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, as specified in Env-Hw 207, that:

(1) The HWF burner has notified the department of the burner’s hazardous waste fuel activities; and

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

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(f) In addition to the applicable recordkeeping requirements of Env-Hw 500 and Env-Hw 700, a HWF burner shall keep, for 5 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.

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

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

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

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.

(h) No fuel that contains any hazardous waste shall be burned in any cement kiln located within the boundaries of any incorporated municipality having a population greater than 500,000, based on the most recent federal census statistics, unless such kiln fully complies with Env-Hw 707.04(h) 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; ss by #12350, eff 8-14-17

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

#### Env-Hw 807.01 Applicability, Exemptions, and Prohibitions.

(a) This part shall apply to:

(1) Used oil, as defined in Env-Hw 104;

(2) Any person who generates, transports, collects, or markets used oil destined to be recycled by being burned for energy recovery or rerefined; and

(3) Any person who burns used oil fuel for energy recovery, except where exempt as specified in (d), below.

(b) Any person who stores used oil in aboveground storage tanks shall comply with all applicable state and local requirements pertaining to storage of petroleum products, including Env-Or 300 and the provisions of the state fire code that apply to flammable and combustible materials, currently Saf-C 6009, as may be amended pursuant to RSA 153:5, I.

(c) Any person who stores used oil in underground storage tanks of any capacity shall comply with Env-Or 400, excluding Env-Or 401.02 relating to excluding tanks having a capacity of 110 gallons or less and Env-Or 401.03 relating to exclusions.

(d) A person who generates used oil as a household waste shall be exempt from this part.

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

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- (1) Used oil 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, 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 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; ss by #12350, eff 8-14-17

Env-Hw 807.02 Specification Used Oil. Used oil shall be classified as specification used oil if the oil:

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

Table 8.1 Specification Used Oil Standards

Constituent/Property	Allowable Level
Arsenic	5 parts per million, dry weight basis (ppm-dw) maximum
Cadmium	2 ppm-dw maximum
Chromium	10 ppm-dw maximum
Lead	100 ppm-dw maximum
Flash point	100 degrees Fahrenheit minimum
Polychlorinated biphenyls (PCBs)	less than 2 ppm-dw
Total halogens	1,000 ppm-dw 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; ss by #12350, eff 8-14-17

Env-Hw 807.03 Off-Specification Used Oil.

- (a) Used oil shall be classified as off-specification used oil if the oil:
  - (1) Does not meet all of the standards in Table 8.1;
  - (2) Has not been mixed with hazardous waste; and
  - (3) Meets the standards in Table 8.2 below and does not otherwise exhibit any hazardous waste characteristics specified in Env-Hw 403:

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Table 8.2 Off-Specification Used Oil Standards

Constituent/Property	Allowable Level
Arsenic	18 ppm-dw maximum
Cadmium	10 ppm-dw maximum
Chromium	35 ppm-dw maximum
Lead	1,000 ppm-dw maximum
Flash point	100 degrees Fahrenheit minimum
Total halogens	1,000 ppm-dw maximum, unless the presumption that the oil was mixed with halogenated hazardous waste has been rebutted as described in Env-Hw 807.04(c)

(b) Except as provided in Env-Hw 401.03(b)(26), used oil containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 2 ppm shall be classified as off-specification used oil that is subject to all requirements for managing off-specification used oil in Env-Hw 807. Used oil containing PCBs also shall be subject to regulation under the Toxic Substances Control Act and its rules codified under 40 CFR Part 761.

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; ss by #12350, eff 8-14-17

Env-Hw 807.04 Used Oil That Exceeds Standards for Off-Specification Used Oil.

(a) Except as provided in (b), below, used oil shall be managed in accordance with Env-Hw 300, Env-Hw 500, Env-Hw 600 and Env-Hw 700 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 regulated pursuant to this section that 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 ppm of total halogens shall be presumed by the department to have been mixed with halogenated hazardous waste listed in Env-Hw 400. A person may rebut this presumption by providing conclusive information that the used oil has not been mixed with halogenated hazardous waste listed in Env-Hw 400. Used oil that has not been mixed with halogenated hazardous waste may be managed as off-specification used oil provided the oil meets the requirements of Env-Hw 807.03.

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(d) Used oil regulated under Env-Hw 807.04 shall not be blended to meet the standards specified 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; ss by #10205, eff 10-19-12; ss by #12350, eff 8-14-17

Env-Hw 807.05 Sampling and Analytical Methods. Sampling and analysis of used oil shall be conducted in accordance with 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; ss by #12350, eff 8-14-17

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

(a) This section shall apply to:

- (1) Any person who generates used oil that is destined to be burned for energy recovery or re-refined; and
- (2) Any person, including any municipality, that collects used oil generated as a household waste as described in (b)(7), below.

(b) A generator who stores used oil on-site shall comply with the following requirements:

- (1) The used oil shall be stored in containers that meet the US DOT container specifications under 49 CFR 173 or in a structurally sound tank;
- (2) Used oil containers and tanks shall be clearly labeled with the words "Used Oil for Recycle" at all times during accumulation and storage;
- (3) A generator 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;
- (4) All tanks and containers shall be maintained and operated to prevent spillage, seepage, or other discharge of used oil into storm or sanitary sewers, onto the land, or into groundwater or surface waters;
- (5) Subject to (b)(7), below, a generator shall conduct an initial used oil determination on the used oil by analyzing it for all of the parameters specified in Env-Hw 807.02 and Env-Hw 807.03, except that a generator may omit the analysis for PCBs if no sources of PCBs are present in the process generating the used oil;
- (6) The analysis required by (b)(5), above, 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 2 or more different sources are collected in one container or tank in proportions that vary over time, the generator shall conduct analyses with sufficient frequency to ensure that the oil is correctly classified before being offered for transport;

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- (7) A municipality that collects used oil generated as a household waste and a generator of used oils that are comprised solely of used automotive oils may omit the initial used oil determination required by (b)(5) and (6), 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;
- (8) A generator shall not mix used oil with any other hazardous waste;
- (9) A generator 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;
- (10) Subject to (b)(12), below, used oil shall be transported by duly registered hazardous waste transporters only, using a 3-copy bill of lading that contains the information specified in (b)(11), below;
- (11) Each bill of lading for used oil 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 number of:
    1. The shipper, if the shipper is required by Env-Hw 504 to have a number;
    2. The transporter; and
    3. The receiving facility;
  - d. The quantity of used oil to be delivered;
  - e. The date of shipment and date of delivery; and
  - f. A statement signed by the generator certifying, as specified in Env-Hw 207, that the used oil:
    1. Is destined to be recycled and is subject to regulation by the department under Env-Hw 807;
    2. Is not a hazardous waste fuel as defined in Env-Hw 807.04; and
    3. Has not been mixed with any other hazardous wastes identified in Env-Hw 400 or any used oil classified as hazardous waste fuel under Env-Hw 807.04;
- (12) If specification or off-specification used oil is being shipped within New Hampshire or to state that requires the use of a hazardous waste manifest:
- a. A hazardous waste manifest may be used in lieu of a bill of lading; and
  - b. The NH01 waste code shall not be recorded on the manifest;
- (13) Generators who market their used oil directly to a burner shall comply with Env-Hw 807.09;
- (14) Generators who burn their own used oil shall comply with Env-Hw 807.10; and
- (15) Generators shall maintain on file copies of:

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- a. All bills of lading for 3 years from the date of shipment; and
- b. Used oil analyses for 3 years from the date that the used oil was last generated, stored, or burned on site.

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; ss by #12350, eff 8-14-17; amd by #12922, eff 11-23-19

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

- (a) Subject to (b), below, a transporter of used oil being recycled shall comply with Env-Hw 600.
- (b) Any generator transporting up to 110 gallons at a time of the generator's own used oil shall comply with (c) and (d), below, in lieu of complying with Env-Hw 600.
- (c) A bill of lading shall be used for transportation of used oil in accordance with Env-Hw 807.06(b)(11) in lieu of the uniform hazardous waste manifest required by Env-Hw 604, except in cases where specification or off-specification used oil is being shipped within New Hampshire or to a state or jurisdiction that requires the use of a hazardous waste manifest for used oil, in which case the NH01 waste code shall not be recorded on the manifest.
- (d) The 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 automatically while any enforcement action is pending.
- (e) A transporter shall submit an annual used oil activity report for any used oil transported in the immediately preceding calendar year, as specified in (f) through (h), below.
- (f) The report required by (e), above, shall include the following information on a form obtained from the department:
  - (1) The name, mailing address, contact person, telephone number, New Hampshire transporter registration number, and EPA identification number of the transporter;
  - (2) The reporting year; and
  - (3) The total amount of used oil transported within the reporting year, including the total amounts of specification and of off-specification used oil transported from:
    - a. In-state generators to in-state burners;
    - b. In-state generators to in-state marketers;
    - c. In-state generators to out-of-state entities;
    - d. In-state marketers to in-state and out-of-state entities;
    - e. Out-of-state entities to in-state burners; and
    - f. Out-of-state entities to in-state marketers.
- (g) A responsible company official shall certify, as specified in Env-Hw 207, the report.

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(h) The report shall be submitted to the department by March 1 of the year immediately following the reporting 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; ss by #12350, eff 8-14-17

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

(a) The following persons shall be classified as used oil marketers:

- (1) Generators who market their used oil directly to one or more burners;
- (2) 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
- (3) Persons, including transporters who take ownership of the oil they collect, who distribute but do not process or blend used oil.

(b) Subject to (c), 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:

- (1) Used oil generators; and
- (2) Transporters who transport used oil received only from generators.

(c) A person who burns some used oil fuel incidental to processing or other treatment to produce used oil fuel for marketing shall not be classified as a used oil fuel burner who is subject to Env-Hw 807.10.

(d) Generators, and transporters who collect used oil only from generators, who transfer used oil only to incidental burners as described in (c), above, shall not be classified as marketers who are 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; ss by #12350, eff 8-14-17

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

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

(b) A used oil marketer shall comply with the following requirements:

- (1) A used oil marketer shall notify the department of used oil management activities by completing and submitting to the department a notification form obtained from the department that includes the following:

- a. The information specified in Env-Hw 504.02(a), as applicable; and



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- b. A statement signed by the marketer's authorized representative certifying, as specified in Env-Hw 207, the information provided on the notification form.
- (2) A used oil marketer shall notify the department of used oil management activities even if the used oil marketer has previously obtained an EPA identification number for other hazardous waste management activities;
- (3) A marketer 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 marketer shall assign a unique number or code to each batch of used oil tested and record the number or code on the corresponding analytical reports and on the bill of lading or hazardous waste manifest documenting shipment 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 consolidated batch and testing shall be repeated prior to marketing;
- (6) A marketer 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)(11);
- (8) In addition to the information required by Env-Hw 807.06(b)(11), a marketer shall indicate, on the bill of lading, 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 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, as specified in Env-Hw 207, 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 that complies with Env-Hw 807.10; and
  - b. Before accepting the first shipment of used oil from another marketer subject to this section, the receiving marketer shall provide the shipping marketer with a one-time written and signed notice certifying, as specified in Env-Hw 207, that the receiving marketer has notified the department of the receiving marketer's used oil management activities;

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- (12) A marketer shall keep the following records on file:
- 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 automatically while any enforcement action is pending.

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; ss by #12350, eff 8-14-17

### 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 an owner or operator of an industrial furnace, boiler, or space heater identified in (b)(4) - (6), below, that burns used oil fuel, except as specified in Env-Hw 807.08(c).

(b) A UOF burner shall comply with the following standards:

- (1) A UOF burner shall notify the department of its used oil management activities by completing and submitting to the department a notification form obtained from the department that includes the following:
  - a. The information specified in Env-Hw 504.02(a), as applicable; and
  - b. A statement signed by the burner’s authorized representative certifying, as specified in Env-Hw 207, the information provided on the notification form.
- (2) A UOF burner shall notify the department of used oil management activities even if the UOF burner has previously obtained an EPA identification number for other hazardous waste 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:

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- a. Industrial furnaces as defined in Env-Hw 103;
  - b. Boilers, as defined in Env-Hw 103, that are:
    1. 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
    2. Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale; or
  - 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 ppm PCBs shall be burned only in units allowed under 40 CFR 761.60, pursuant to the Toxic Substances Control Act;
- (7) A UOF burner 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 resulting analytical report 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, a UOF burner shall provide the marketer a one-time written and signed notice certifying, as specified in Env-Hw 207, 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 in this section;
- (9) A UOF burner shall keep the following records on file:

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- 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;
  - b. Copies of all used oil 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;
- (10) The 3-year record retention period specified in (b)(9), above, shall be extended automatically while any enforcement action is pending; and
- (11) A UOF burner shall comply with all applicable state and local requirements pertaining to the burning of petroleum products, including provisions of the state fire code that apply to oil burning equipment, currently at Saf-C 6012, as may be amended pursuant to RSA 153:5, I.

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; ss by #12350, eff 8-14-17

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

#### Env-Hw 808.01 Applicability and Exemptions.

(a) This part shall apply to recyclable materials used for precious metal recovery and any person who generates, transports, or stores recyclable materials used for precious metal recovery, except as specified in Env-Hw 808.06.

(b) Subject to Env-Hw 808.02, Env-Hw 808.05, and Env-Hw 808.06, Env-Hw 500 shall not apply to a person who generates recyclable materials used for precious metal recovery.

(c) Subject to Env-Hw 808.03, Env-Hw 808.05, and Env-Hw 808.06, Env-Hw 600 shall not apply to a person who transports recyclable materials used for precious metal recovery.

(d) Subject to Env-Hw 808.04, Env-Hw 808.05, and Env-Hw 808.06, Env-Hw 300 and Env-Hw 700 shall not apply to a person who stores recyclable materials used for precious metal recovery.

Source. #12350, eff 8-14-17

Env-Hw 808.02 Generator Requirements. Any person who generates recyclable materials used for precious metal recovery shall comply with:

- (a) The notification requirements of Env-Hw 504;
- (b) The manifest requirements of Env-Hw 510;
- (c) As applicable, either:
  - (1) The small quantity generator self-certification requirements of Env-Hw 514; or
  - (2) The certified hazardous waste coordinator requirements of Env-Hw 509.04;
- (d) The notification requirements of Env-Hw 1200; and

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(e) For precious metals exported to or imported from other countries for recovery, 40 CFR 262 Subpart H and 40 CFR 265.12.

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; ss by #10494, eff 1-1-14; ss by #12350, eff 8-14-17 (formerly Env-Hw 808.01); ss by #12922, eff 11-23-19

Env-Hw 808.03 Transporter Requirements. Any person who transports recyclable materials used for precious metal recovery shall comply with:

- (a) The notification requirements of Env-Hw 602;
- (b) The manifest requirements of Env-Hw 604;
- (c) The delivery requirements of Env-Hw 606;
- (d) The registration requirements of Env-Hw 609; and

(e) For precious metals exported to or imported from other countries for recovery, 40 CFR 262 Subpart H and 40 CFR 265.12.

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; ss by #12350, eff 8-14-17 (formerly Env-Hw 808.02); ss by #12922, eff 11-23-19

Env-Hw 808.04 Storage Facility Requirements. Any person who stores recyclable materials used for precious metal recovery shall:

(a) Comply with:

- (1) The notification requirements of Env-Hw 702;
- (2) The manifest requirements of Env-Hw 703; and
- (3) For precious metals exported to or imported from other countries for recovery, 40 CFR 262 Subpart H and 40 CFR 265.12; and

(b) To document that the materials are not being accumulated speculatively, as determined under Env-Hw 811, maintain records of:

- (1) The amount of materials stored at the beginning of the calendar year;
- (2) The amount of materials generated or received during the calendar year; and
- (3) 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; ss by #12350, eff 8-14-17 (formerly Env-Hw 808.03); ss by #12922, eff 11-23-19

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Env-Hw 808.05 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 this chapter.

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; ss by #12350, eff 8-14-17 (formerly Env-Hw 808.04)

Env-Hw 808.06 Increased Regulation of Recyclable Materials Used for Precious Metal Recovery.

(a) Any person who accumulates or stores recyclable materials used for precious metal recovery in a manner that does not protect human health and the environment, as determined in accordance with 40 CFR 260.40, shall comply with Env-Hw 300, 500, 600, and 700, as applicable.

(b) For purposes of making a determination pursuant to (a), above, the department shall use the standards and procedures established in 40 CFR 260.40 and 40 CFR 260.41, 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 40 CFR 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 40 CFR 260.41(b) shall mean Env-Hw 300.

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; ss by #12350, eff 8-14-17 (formerly Env-Hw 808.05)

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

Env-Hw 809.01 Applicability.

(a) This part shall apply to any person who:

- (1) Generates or collects spent lead-acid batteries destined for reclamation;
- (2) Transports spent lead-acid batteries destined for reclamation;
- (3) Reclaims spent lead-acid batteries; or
- (4) Exports or imports spent lead-acid batteries for reclamation.

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(b) The reclamation of spent lead-acid batteries through regeneration, such as by electrolyte replacement, shall be subject to Env-Hw 400 and Env-Hw 502, 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; ss by #12350, eff 8-14-17; ss by #12922, eff 11-23-19

Env-Hw 809.02 Requirements for Persons Who Generate, Collect, or Store But Do Not Reclaim. Any person who generates, collects, or stores spent lead-acid batteries destined for reclamation, other than through regeneration, but does not reclaim them shall:

(a) 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; and

(b) Comply with Env-Hw 400, Env-Hw 502, and the applicable requirements of Env-Hw 1200.

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; ss by #12350, eff 8-14-17; ss by #12922, eff 11-23-19

Env-Hw 809.03 Transporter Requirements. A transporter of lead-acid batteries destined for reclamation, other than through regeneration, shall:

(a) Ensure that the batteries are loaded and braced so as to prevent damage and short circuits while in transit;

(b) Comply with 49 CFR 173.159(e), Saf-C 600, Env-Hw 400, Env-Hw 502, and the applicable requirements of Env-Hw 1200; and

(c) If transporting within the United States to export the batteries for reclamation in a foreign country, comply with the applicable requirements of 40 CFR 262 Subpart H.

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 #7578, eff 10-13-01; (See Revision Note at chapter heading for Env-Hw 800); ss by #9367, eff 1-28-09; ss by #12350, eff 8-14-17; ss by #12922, eff 11-23-19

Env-Hw 809.04 Reclamation Facility Requirements. An owner or operator of a facility at which spent lead-acid batteries are reclaimed other than through regeneration shall:

(a) Comply with Env-Hw 400, Env-Hw 502, and the applicable requirements of Env-Hw 1200; and

(b) If spent lead-acid batteries are stored at the facility prior to reclamation, the owner or operator shall be subject to the:

(1) Storage facility permit requirements specified in Env-Hw 300; and

(2) Facility requirements specified in Env-Hw 700, except for:

a. The waste analysis requirements of Env-Hw 707.03(a)(2) and Env-Hw 708.02(a)(2); and

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### b. 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; amd by #10205, eff 10-19-12; ss by #12350, eff 8-14-17; ss by #12922, eff 11-23-19

Env-Hw 809.05 Exporter Requirements. An exporter of spent lead-acid batteries destined for reclamation in a foreign country shall be subject to Env-Hw 400, Env-Hw 502, Env-Hw 504, and 40 CFR 262 Subpart H.

Source. #12350, eff 8-14-17; ss by #12922, eff 11-23-19

### Env-Hw 809.06 Importer Requirements.

(a) An importer of spent lead-acid batteries that will be reclaimed other than through regeneration shall comply with Env-Hw 400, Env-Hw 502, Env-Hw 504, the applicable requirements of Env-Hw 1200, and 40 CFR 262 Subpart H.

(b) In addition to the requirements in (a), above, an importer who stores spent lead-acid batteries before reclaiming them other than through regeneration shall be subject to Env-Hw 809.04(b).

Source. #12922, eff 11-23-19

## PART Env-Hw 810 WAIVERS

Env-Hw 810.01 Waivers. The following requests for waivers shall be processed as specified in Env-Hw 202:

(a) Waivers from classification as a waste pursuant to Env-Hw 803; and

(b) Waivers to classify a combustion device as a boiler for purposes of Env-Hw 806.05 when such device does not satisfy the definition of a boiler in Env-Hw 103.

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; ss by #12350, eff 8-14-17

## PART Env-Hw 811 SPECULATIVE ACCUMULATION

### Env-Hw 811.01 Identification of Speculative Accumulation.

(a) A material that is accumulated before being recycled shall be deemed to be accumulated speculatively, unless the person accumulating the material can show that:

(1) The material has potential to be recycled;

(2) A feasible means of recycling exists for the material; and

(3) During the calendar year commencing on January 1, at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period is:

a. Recycled at the site where it is accumulated; or

b. Transferred to a different site for recycling.



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(b) Compliance with (a)(3), above, shall be determined as follows:

(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

(2) Materials exempt under Env-Hw 401.03(b)(12) 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; ss by #12350, eff 8-14-17

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APPENDIX A: STATE STATUTES, FEDERAL REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s)	Federal Regulation(s)
Env-Hw 801	RSA 147-A:3, I, IV	40 CFR 261; 40 CFR 266; 40 CFR 279
Env-Hw 802	RSA 147-A:3, I	40 CFR 261
Env-Hw 803	RSA 147-A:3, I, VI	40 CFR 261
Env-Hw 804	RSA 147-A:3, IV	40 CFR 261; 40 CFR 266; 40 CFR 279
Env-Hw 805	RSA 147-A:3, IV	40 CFR 266
Env-Hw 806	RSA 147-A:3, IV, VI	40 CFR 266
Env-Hw 807	RSA 147-A:3, I, IV, VI; RSA 147-B:14	40 CFR 261; 40 CFR 279
Env-Hw 808	RSA 147-A:3, III, IV, V, VI; RSA 147-A:5, III, IV	40 CFR 266
Env-Hw 809	RSA 147-A:3, III, IV, VI	40 CFR 266
Env-Hw 810	RSA 147-A:3, I, III, IV	40 CFR 260.30 - 260.33; 40 CFR 261
Env-Hw 811	RSA 147-A:3, IV, VI	40 CFR 261

APPENDIX B: INCORPORATION BY REFERENCE INFORMATION  
[NONE IN THIS CHAPTER]

APPENDIX C: STATE STATUTORY DEFINITIONS

**RSA 147-A:2**

III. “Disposal” means the discharge, deposit, incineration, injection, dumping, spilling, leaking or placing of any waste into or onto any land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or be discharged into any waters, including groundwaters.

IV. “Facility” means a location at which hazardous waste is subjected to treatment, storage or disposal and may include a facility where hazardous waste has been generated.

VI. “Generator” means any person who owns or operates a facility where hazardous waste is generated.

VII. “Hazardous waste” means a solid, semi-solid, liquid or contained gaseous waste, or any combination of these wastes:

- (a) Which, because of either quantity, concentration, or physical, chemical, or infectious characteristics may:
  - (1) Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or
  - (2) Pose a present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of or otherwise mismanaged.
- (b) Or which has been identified as a hazardous waste by the department using the criteria established under RSA 147-A:3, I or as listed under RSA 147-A:3, II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means. Such wastes do not include radioactive substances that are regulated by the Atomic Energy Act of 1954, as amended, or household pharmaceutical wastes collected pursuant to RSA 318-E.

VIII. “Hazardous waste management” means the systematic control of the generation, collection, sorting, storage, processing, treatment, recovery and disposal of hazardous waste.

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X. "Manifest" means the form used for identifying the origin, quantity, composition, routing and destination of hazardous waste.

XI. "Operator" means any person who, either directly or indirectly, operates or otherwise controls or directs activities at a facility.

XI-a. "Owner" means any person who, either directly or indirectly owns a facility. The term "owner" does not include a person who, without participation in the management or actual operation of a facility, holds indicia of ownership primarily to protect a mortgage on real property on which a facility is located or a security interest in personal property located at the facility.

XII. "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, United States government or any agency thereof, political subdivision of the state, or any interstate body.

XII-a. "Spent material" means any material that has been used and, as a result of contamination, can no longer serve the purpose for which it was produced without processing.

XIII. "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of the hazardous wastes.

XIV. "Trade secret" means any confidential formula, pattern, device or compilation of information which is used in the employer's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. A trade secret is known to the employer and those employees to whom it is necessary to confide it.

XV. "Transport" means the movement of hazardous wastes from the point of generation to any intermediate points and, finally, to the point of ultimate storage or disposal.

XVI. "Transporter" means any person who transports hazardous waste.

XVII. "Treatment" means any process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize the waste or to render the waste not hazardous, safer for transport, amenable to recovery, amenable to storage or reduced in volume.

XVIII. "Waste" means any matter consisting of: garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other spent, discarded or abandoned material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include domestic sewage, irrigation return waters, wastewater discharges in compliance with applicable state or federal permits, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

### **RSA 147-B:2**

III. "Facility" means any site, area or location where hazardous waste or hazardous materials are or have been treated, stored, generated, disposed of, or otherwise come to be located.

## **APPENDIX D: FEDERAL DEFINITIONS AND REGULATIONS**

### **40 CFR 260.4**

(a) In any case in which the state in which waste is generated, or the state in which waste will be transported to a designated facility, requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the state in which the facility is located:

- (1) Complete the facility portion of the applicable manifest;

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- (2) Sign and date the facility certification;
- (3) Submit to the e-Manifest system a final copy of the manifest for data processing purposes; and
- (4) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of part 264 of this chapter.

### **40 CFR 260.5**

- (a) For purposes of this section, “state-only regulated waste” means:
  - (1) A non-RCRA waste that a state regulates more broadly under its state regulatory program, or
  - (2) A RCRA hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.
- (b) In any case in which a state requires a RCRA manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management shall:
  - (1) Comply with the provisions of §§ 264.71 (use of the manifest) and 264.72 (manifest discrepancies) of this chapter; and
  - (2) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of part 264 of this chapter.

### **40 CFR 260.10**

*Act* or *RCRA* means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. section 6901 *et seq.*

*Administrator* means the Administrator of the Environmental Protection Agency, or his designee.

*Aquifer* means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

*Authorized representative* means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

*Battery* means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

*Boiler* means an enclosed device using controlled flame combustion and having the following characteristics:

(1)(i) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(ii) The unit’s combustion chamber and primary energy recovery sections(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely

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because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

(iii) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(iv) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

(2) The unit is one which the Regional Administrator has determined, on a case-by-case basis, to be a boiler, after considering the standards in § 260.32.

*Certification* means a statement of professional opinion based upon knowledge and belief.

*Confined aquifer* means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.

*Container* means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

*Containment building* means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of subpart DD of parts 264 or 265 of this chapter.

*Contingency plan* means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

*Dike* means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

*Drip pad* is an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

*Electronic manifest* (or e-Manifest) means the electronic format of the hazardous waste manifest that is obtained from EPA's national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

*Electronic Manifest System* (or e-Manifest System) means EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

*Explosives or munitions emergency* means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

*Explosives or munitions emergency response* means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or

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uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

*Explosives or munitions emergency response specialist* means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

*Free liquids* means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

*Ground water* means water below the land surface in a zone of saturation.

*Incompatible waste* means a hazardous waste which is unsuitable for:

(1) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

(2) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

(See appendix V of parts 264 and 265 of this chapter for examples.)

*Injection well* means a well into which fluids are injected. (See also “underground injection”.)

*Inner liner* means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

*International shipment* means the transportation of hazardous waste into or out of the jurisdiction of the United States.

*Lamp*, also referred to as “universal waste lamp”, is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

*Land treatment facility* means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

*Leachate* means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

*Liner* means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

*Military munitions* means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and

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components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

*Mining overburden returned to the mine site* means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

*On-site* means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

*Pesticide* means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

- (1) Is a new animal drug under FFDCA section 201(w), or
- (2) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or
- (3) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph (1) or (2) of this definition.

*Pile* means any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

*Point source* means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

*Recognized trader* means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

*Representative sample* means a sample of a universe or whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole.

*Run-off* means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

*Run-on* means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

*Sludge* means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

*State* means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*Surface impoundment or impoundment* means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

*Tank* means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

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*Tank system* means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

*Totally enclosed treatment facility* means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

*Transport vehicle* means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

*Transportation* means the movement of hazardous waste by air, rail, highway, or water.

*Treatability Study* means a study in which a hazardous waste is subjected to a treatment process to determine: (1) Whether the waste is amenable to the treatment process, (2) what pretreatment (if any) is required, (3) the optimal process conditions needed to achieve the desired treatment, (4) the efficiency of a treatment process for a specific waste or wastes, or (5) the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the § 261.4 (e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A “treatability study” is not a means to commercially treat or dispose of hazardous waste.

*United States* means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*Universal Waste Transporter* means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

*Vessel* includes every description of watercraft, used or capable of being used as a means of transportation on the water.

*Wipe* means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

### **40 CFR 261.1(c)(3)**

A “by-product” is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public’s use and is ordinarily used in the form it is produced by the process.

### **40 CFR 261.1(c)(6)**

“Scrap metal” is 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.

### **40 CFR 261.1(c)(9)**

“Excluded scrap metal” is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

### **40 CFR 261.1(c)(10)**

“Processed scrap metal” is scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and, fines, drosses and related materials which have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (§ 261.4(a)(14)).



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### **40 CFR 261.1(c)(11)**

“Home scrap metal” is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

### **40 CFR 261.1(c)(12)**

“Prompt scrap metal” is scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

### **40 CFR 261.4(a)(1)(ii)**

“Domestic Sewage” means untreated sanitary wastes that pass through a sewer system.

### **40 CFR 262.81**

*EPA Acknowledgment of Consent (AOC)* means the letter EPA sends to the exporter documenting the specific terms of the country of import’s consent and the country(ies) of transit’s consent(s). The AOC meets the definition of an export license in U.S. Census Bureau regulations 15 CFR 30.1.

*Exporter*, also known as primary exporter on the RCRA hazardous waste manifest, means the person domiciled in the United States who is required to originate the movement document in accordance with § 262.83(d) or the manifest for a shipment of hazardous waste in accordance with subpart B of this part, or equivalent State provision, which specifies a foreign receiving facility as the facility to which the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

*Importer* means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the imported hazardous waste is received in the United States.

### **40 CFR 268.2(c), 7-1-16 edition**

*Land disposal* means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

### **40 CFR 270.2**

*Site* means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

### **40 CFR 273.2(c)(2)**

An unused battery becomes a waste on the date the handler decides to discard it.

### **40 CFR 273.3(c)(1)**

A recalled pesticide described in paragraph (a)(1) of this section becomes a waste on the first date on which both of the following conditions apply:

- (i) The generator of the recalled pesticide agrees to participate in the recall; and
- (ii) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).

### **40 CFR 273.3(c)(2)**

An unused pesticide product described in paragraph (a)(2) of this section becomes a waste on the date the generator decides to discard it.

### **40 CFR 273.4(c)(2)**

Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

### **40 CFR 273.5(c)(2)**

An unused lamp becomes a waste on the date the handler decides to discard it.

### **40 CFR 273.33(c)(2)**

A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

- (i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;
- (ii) Removes the ampules only over or in a containment device (*e.g.*, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
- (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that meets the requirements of 40 CFR 262.34;
- (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.34;
- (v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- (vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
- (vii) Stores removed ampules in closed, non-leaking containers that are in good condition;
- (viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

### **APPENDIX E: EMERGENCY TELEPHONE NUMBERS**

<b>Organization</b>	<b>Telephone Number</b>	<b>Days/Hours</b>
DES Emergency Response Team	(603) 271-3899	Monday through Friday; 8 a.m. to 4 p.m.
N.H. State Police Headquarters Communications Unit	(603) 223-4381	Every day; 24 hours per day