

Subchapter 6: STANDARDS FOR HAZARDOUS WASTES THAT ARE RECYCLED

§ 7-601 PURPOSE, SCOPE, APPLICABILITY

This subchapter defines “hazardous waste recycling,” establishes management standards for facilities that recycle hazardous waste, and provides a mechanism for the Secretary to, on a case-by-case basis, exempt a waste that is recycled or reused from part or all of these regulations.

§ 7-602 DEFINITION OF HAZARDOUS WASTE RECYCLING

Hazardous waste is recycled if it is used, reused, or reclaimed as follows:

- (a) A hazardous waste is used or reused if it is:
 - (1) Used or reused as an ingredient in an industrial process to make a product, provided the waste is not first being processed or reclaimed; or
 - (2) Used or reused as an effective substitute for a commercial product, provided the waste is not first being processed or reclaimed; or
 - (3) Returned to the original process from which the waste is generated, without first being reclaimed or land disposed. The waste must be returned as a substitute for a feedstock material. In cases where the original process to which the material is returned is a secondary process, the waste must be managed such that there is no placement on the land.

Note: Certain hazardous wastes that are recycled by being used or reused as described by **subsection (a) of this section** are exempted from regulation as hazardous waste under **§ 7-204(a)(1)**.

- (b) A hazardous waste is reclaimed if it is processed to recover the hazardous component of the waste as a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.

§ 7-603 OTHER SECTIONS OF THESE REGULATIONS APPLICABLE TO HAZARDOUS WASTE RECYCLING:

- (a) Definitions for the terms: “designated facility,” “discarded,” “reclaimed,” “staging,” and “used or reused” are provided in **§ 7-103**.
- (b) Exemptions for certain hazardous wastes that are recycled are provided in **§ 7-204**.

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- (c) **Subsections (3) and (4) of § 7-305(a)** specify how on-site recycled waste is counted toward generator status.
- (d) Exemptions for certain recycling activities, from subchapter 5 certification requirements, are provided in **§ 7-502(k)**.

§ 7-604 GENERAL STANDARDS APPLICABLE TO ALL HAZARDOUS WASTE RECYCLING ACTIVITIES:

- (a) Any residual material resulting from a recycling process must be evaluated in accordance with **§ 7-303** to determine whether it is subject to regulation as hazardous waste.
- (b) Any facility that treats hazardous waste without recycling it, or that treats hazardous waste prior to recycling it, is subject to regulation under subchapter 5.

Note: Generators that treat hazardous waste in containers or tanks, and comply with **§ 7-502(o)**, are exempt from regulation under subchapter 5.

- (c) Owners or operators of facilities otherwise subject to subchapter 5 certification requirements are subject to the requirements of **Subparts AA, BB and CC of 40 CFR Part 264 or 265** for hazardous waste management units that recycle hazardous wastes.

§ 7-605 HAZARDOUS WASTE RECYCLING BY GENERATORS

- (a) Hazardous waste that is recycled on-site by the generator of the waste, and not exempt under **§ 7-204(a)**, must be managed in accordance with:
 - (1) The requirements of **§ 7-604**; and
 - (2) All applicable standards of **subchapter 3** (i.e., standards applicable to conditionally exempt, small quantity, or large quantity generators) until such time that the recycling process is complete.
- (b) Generators that recycle their own hazardous waste on-site according to **subsection (a) of this section** are not subject to certification under **subchapter 5** (refer to **§ 7-502(k)**) for the recycling process.
- (c) Generators shipping hazardous waste off-site for recycling shall ship such waste to:
 - (1) A designated facility;
 - (2) A facility approved by the Secretary under a recycle/reuse exemption issued according to the requirements of **§ 7-608**; or

- (3) For hazardous waste that is not defined as hazardous in 40 CFR Part 261 (i.e., waste regulated as hazardous by Vermont), to a facility that is not a designated facility, located in a state other than Vermont provided the facility can receive such waste under applicable state and local laws, regulations and ordinances.

§ 7-606 HAZARDOUS WASTE RECYCLING AT OFF-SITE FACILITIES

- (a) Owners or operators of facilities that receive recyclable materials, stage such materials for no more than three days, and recycle them without storing them before they are recycled are subject to:
 - (1) The requirements of **§ 7-604**;
 - (2) The large quantity generator requirements of **§ 7-308**; and
 - (3) Financial Assurance

Prior to staging any material, demonstrate financial assurance for closure of the facility by:

- (A) Maintaining a closure cost estimate that meets the requirements of **40 CFR § 265.142**, and that has been approved by the Secretary; and
 - (B) Establishing financial assurance in accordance **40 CFR § 265.143**.
- (b) Owners or operators of facilities that store recyclable materials before they are recycled are subject to **§ 7-604** and all applicable provisions of **subchapters 1, 3, 5 and 7** of these regulations.

§ 7-607 RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL

Any recyclable materials that are applied to or placed on the land before or after mixing or combination with any other substance(s) shall be managed in accordance with **40 CFR §§ 266.20 through 266.23**. These materials are referred to as "materials used in a manner that constitutes disposal."

§ 7-608 RECYCLE/REUSE EXEMPTIONS FOR RECYCLABLE HAZARDOUS WASTES AND/OR RECYCLING ACTIVITIES

- (a) The Secretary may, on a case by case basis, exempt from part or all of the regulations, a waste generated by a particular generator, transported by a particular transporter, or treated or stored by a particular facility if the waste is legitimately recycled provided that:

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- (1) The recycled material is:
 - (A) Vermont regulated waste listed under § 7-211 of these regulations; or
 - (B) Recycled material described by **40 CFR § 260.30**.
 - (2) The procedural and durational requirements and the criteria and standards used by the Secretary in exempting waste under this section shall be no less stringent than those specified in **40 CFR §§ 260.30, 260.31, and 260.33**;
 - (3) The standards and requirements which apply to these wastes can be no less stringent than those outlined in **40 § CFR 261.6 and Part 266**, if the waste in question is one addressed by these sections of 40 CFR; and
 - (4) The recycling, reclamation, or reuse of the waste does not present an actual or potential threat to human health or the environment.
- (b) Any person seeking an exemption under this section shall apply to the Secretary using the **Exemption Procedures for the Recycle and Reuse of Hazardous Waste Form**.
 - (c) Any generator or facility whose waste is exempted under this section shall comply with those additional management standards and requirements that the Secretary, after an examination of the factors listed in § 7-216(c), deems to be necessary to protect human health and the environment.
 - (d) Recycle/Reuse exemptions shall be issued for a period not to exceed five (5) years.
 - (e) If the holder of a Recycle/Reuse exemption has submitted an administratively complete application to renew the exemption at least 30 calendar days prior to expiration of the effective exemption and the Secretary, through no fault of the Recycle/Reuse exemption holder, does not issue a new exemption with an effective date prior to the expiration date of the previous exemption, the conditions of the expired exemption continue in force until the effective date of a new exemption.
 - (f) Any Recycle/Reuse exemption without a durational requirement shall expire on July 1, 2013.