

STATE of VERMONT  
AGENCY of NATURAL RESOURCES

EXEMPTION PROCEDURES  
For  
RECYCLING/REUSE of HAZARDOUS WASTE

**A. General Information:**

Pursuant to section 7-608 of the Vermont Hazardous Waste Management Regulations (regulations), the Secretary of the Agency of Natural Resources (Secretary) may, on a case by case basis, exempt from part or all of the regulations, a waste that is legitimately recycled (See section C, below). Such exemptions shall be issued for a period not to exceed five (5) years.

The conditions of exemption are determined by the Secretary based on the type of waste involved and the potential threats posed to human health or the environment by the proposed recycling or reuse activity.

**B. Application Procedure:**

In order for the Secretary to grant a recycling/reuse exemption, the generator of the waste must submit a written request to the Agency accompanied by the fee specified under section D, below. This request may be in the form of a letter, but must contain the information listed below. Applications for variances from classification as a solid waste must address the relevant criteria in 40 CFR section 260.31.

1. Contact information (i.e., name, job title, telephone number, e-mail address) for the person or persons, employed by the generator of the waste, responsible for submitting or compiling the information required for the written recycle/reuse request;
2. An accurate description of the waste to be recycled or reused, including documentation of hazardous waste determination (See section 7-202 of the regulations), and analytical testing results from a complete chemical analysis of at least two consecutive batches of the waste for all hazardous constituents potentially contained in the waste;
3. A detailed description of the waste generating process including a detailed process flow diagram;
4. A summary of the anticipated amount of waste to be recycled or reused per calendar year;
5. A description of the type of packaging and mode of transportation to be used when transporting the waste to the designated recycling or reuse facility;
6. The name and location of the facility or facilities designated to recycle or reuse the

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waste;

7. Contact information (i.e., name, job title, telephone number, e-mail address) for a person at each facility designated to recycle or reuse the waste;
8. A description of the proposed recycling or reuse process that is sufficiently detailed to allow verification of the fate of all hazardous constituents in the waste;
9. A process flow diagram of the recycling or reuse process;
10. A description of how the recycling or reuse process meets all four factors described in section (C) below, or a copy of a legitimacy variance received from the Secretary pursuant to section (C);
11. If the recycling or reuse activity is to occur in Vermont, an accurate description of all wastes produced as a result of the recycling or reuse process including a description of how this waste will be handled and disposed;
12. If the recycling or reuse activity is to occur outside Vermont, a signed statement on the letterhead of the designated recycling or reuse facility verifying that the activity is legal in and approved by the state where the activity is to occur, accompanied by copies of current permits or other documents issued by the designated facility's state approving the recycling or reuse activity.
13. The following statement signed by the generator of the waste or by the generator's authorized representative:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Exemption request and all attached documents shall be submitted to the following address:

**Agency of Natural Resources  
Waste Management & Prevention Division  
One National Life Drive, Davis 1  
Montpelier, Vermont 05620-3704**

### **C. Legitimate Recycling of Hazardous Waste**

## Exemption Procedures for the Recycle/Reuse of Hazardous Waste

When evaluating a written request for a recycling/reuse exemption, the Secretary must determine if the proposed hazardous waste recycling/reuse activity is legitimate. Hazardous waste that is not legitimately recycled is discarded material subject to full regulation as hazardous waste under the regulations. In determining if a recycling/reuse activity is legitimate, the following requirements must be addressed (as applicable).

1. Legitimate recycling/reuse must involve a hazardous waste that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous waste provides a useful contribution if it:
  - (a) Contributes valuable ingredients to a product or intermediate;
  - (b) Replaces a catalyst or carrier in the recycling process;
  - (c) Is the source of a valuable constituent recovered in the recycling process;
  - (d) Is recovered or regenerated by the recycling process; or
  - (e) Is used as an effective substitute for a commercial product.
2. The recycling/reuse process must produce a valuable product or intermediate. The product or intermediate is valuable if it is:
  - (a) Sold to a third party; or
  - (b) Used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.
3. The generator and the recycler must manage the hazardous waste as a valuable commodity. Where there is an analogous raw material, the hazardous waste must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous waste must be contained. Hazardous wastes that are released to the environment and are not recovered immediately are discarded.
4. The product of the recycling/reuse process:
  - (a) Must contain concentrations of any hazardous constituents found in Appendix VIII of 40 CFR Part 261 at levels that are comparable to or lower than those found in analogous products; or
  - (b) Must not exhibit a hazardous characteristic (as defined in subchapter 3 of the regulations) that analogous products do not exhibit.

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An applicant may petition the Secretary for a formal determination that a recycling process is legitimate without meeting the requirements under subsections (3) or (4) of this section. The Secretary will use the procedures in 40 CFR section 260.33 in evaluating petitions for legitimacy variances. In making a determination on a petition for a legitimacy variance, the Secretary will evaluate all factors and consider legitimacy as a whole. In determining whether a process that does not meet one or both of the requirements under subsections (3) or (4) of this section is still legitimate, the Secretary can consider the protectiveness of the storage methods, exposure from toxics in the product, the bioavailability of the toxics in the product, and any other relevant considerations.

### **D. Fees:**

A fee, made payable to: Treasurer, State of Vermont, shall be submitted to the Secretary at the time of application. As specified under 3 V.S.A. § 2822 (Budget and report; powers), the fee for an initial recycling/reuse exemption is \$100.00.