



Oregon Department of Environmental Quality

# Documentation of Legitimate Recycling Hazardous Waste Program

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Persons performing the recycling of hazardous secondary material, also called HSM, must maintain documentation of their legitimacy determination on-site. Compliance Inspectors may request to review this documentation. Documentation must include a written description of how the recycling meets the first three factors of the legitimacy criteria in [40 CFR section 260.43\(a\)](#) as modified by [OAR 340-100-0043](#), and how factor 4 in [40 CFR section 260.43\(b\)](#) was considered in making a determination as to the overall legitimacy of a specific recycling activity. Documentation must be maintained for 3 years after the recycling activity has ceased. Refer to the last page of this document for additional regulatory citations.

## Instructions

There is no specific format required for this documentation. Hazardous secondary material generators may use this template to meet the requirements. Each hazardous secondary material requires its own documentation. Use as much space as necessary to thoroughly explain how each factor is met. Provide a narrative description of how the HSM is recycled by the generator or recycler.

Example narrative: *Spent solvents are reclaimed in an on-site distillation unit/system and the distillate is similar to commercial-grade solvent.*

For factors 1-3, check the box under each factor that most appropriately describes how your recycling activity meets each criteria factor. Add a narrative description explaining how the recycling meets each factor. For factor 4, check the boxes that most appropriately describe how this factor was considered in making an overall legitimacy determination. If the product does not meet factor 4, explain how this process is still legitimate. Add a narrative description explaining the relevant considerations in making that determination.

List and attach all supporting documentation used in making this determination, for instance, laboratory analysis that demonstrates that the end product of recycling meets the criteria of not having contaminants along for the ride. Other useful supporting documents include product safety data sheets, or SDS.

If you have questions or need assistance filling out this form, please contact the Hazardous Waste Program at [hazwaste@deq.oregon.gov](mailto:hazwaste@deq.oregon.gov) or 1-844-841-4938.

### Translation or other formats

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## Factor 1

Check at least one of the criteria below and describe how the HSM meets the criteria and provide a narrative description supporting this conclusion.

- Contributes valuable ingredients to a product or intermediate
- Replaces a catalyst or carrier in the recycling process
- Is the source of a valuable constituent recovered in the recycling process
- Is used as an effective substitute for a commercial product

Describe below:

## Factor 2

Check at least one of the criteria below and describe how the product or intermediate is valuable.

- Sold to a third party
- Used by the recycler or generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process

Describe below:

### Factor 3

Check the criteria below and describe how the HSM is properly contained and managed as a valuable commodity.

- The hazardous secondary material is contained, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner.

### Factor 4

Explain how the product of the recycling process is comparable to a legitimate product or intermediate.

- There is an analogous product or intermediate, and:**
  - The product does not contain significant concentrations of any hazardous constituents found in [Appendix VIII of part 261](#) that are not found in analogous products used for the purpose planned, **OR**
  - The product does not contain concentrations of any hazardous constituents found in [Appendix VIII of part 261](#) at levels that are significantly elevated from those found in analogous products, **AND**
  - The product of the recycling process does not exhibit a hazardous characteristic, as defined in [40 CFR 261 subpart C](#), that analogous products do not exhibit.
- There is no analogous product:**
  - The product of the recycling process is a commodity that meets widely recognized commodity standards and specifications, **OR**
  - The hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused.
- The product of the recycling process has levels of hazardous constituents that are significant, but the recycling is still legitimate:**
  - The recycling is still legitimate because there is a lack of exposure from the toxics in the product, **OR**
  - The recycling is still legitimate because there is a lack of bioavailability of the toxics in the product, **OR**
  - The recycling is still legitimate because of other relevant considerations that show the recycled product does not contain levels of hazardous constituents that pose a significant human health or environmental risk.

Describe below:

## Supporting documentation

List supporting documentation and attach copies to this form.

Date form completed:

### Definition of Solid Waste Rule Citations

Regulation	Federal Citation	Oregon Administrative Rule Citation
HSM exclusions: verified recycler, transfer-based, export	40 CFR 261.4(a)(23) – (25) 40 CFR 261.4(a)(27)	Excluded at OAR 340-101-0004 Excluded at OAR 340-101-0004
Speculative accumulation and HSM management	40 CFR 261.1(c)(8)	Adopted at OAR 340-100-0002
Legitimacy criteria	40 CFR 260.43	Modified at OAR 340-100-0043
Definition of contained	40 CFR 260.10 “Contained”	Modified at OAR 340-100-0010
Definition of Hazardous secondary material	40 CFR 260.10 “Hazardous secondary material”	Adopted at OAR 340-100-0002
Definition of Hazardous secondary material generator	40 CFR 260.10 “Hazardous secondary material generator”	Adopted at OAR 340-100-0002
Definition of sham recycling	40 CFR 261.2(g)	Adopted at OAR 340-100-0002

### Non-discrimination statement

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