

STATE OF COLORADO

Bill Owens, Governor
Douglas H. Benevento, Acting Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530
Phone (303) 692-2000
TDD Line (303) 691-7700
Located in Glendale, Colorado

Laboratory and Radiation Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

SOLID WASTE GUIDANCE DOCUMENT

Title: Concerning One's Own Waste On One's Own Property

Date: February 25, 2003

Purpose: To clarify the statutory exemption for a Certificate of Designation for solid waste disposal of one's own waste on one's own property and to establish consistent interpretation of this section of the solid waste statute.

Proposed Distribution: Any interested party, by request, and the Division Homepage.

Statement of Fact: The Division has recognized the need to establish an improved level of consistency in the interpretation and application of the statutory exemption to a Certificate of Designation (CD) for solid waste disposal on one's own property. The Division seeks to promote consistency by summarizing the requirements and expectations of a landowner and the Division.

Background and Discussion:

The Colorado solid waste statute does allow for the disposal of a person's own waste on his own property without a Certificate of Designation for that disposal under law. This exemption is found in section 30-20-102(3), C.R.S. It says:

"Notwithstanding the provisions of subsections (1) and (2) of this section, any person other than a governmental unit may dispose of his own solid waste on his own property, as long as such solid wastes disposal site and facility complies with the rules and regulations of the state board of health and does not constitute a public nuisance. For the purposes of this part 1, such solid waste disposal site and facility shall be an approved site for which obtaining a certificate of designation under the provisions of section 30-20-105 shall be unnecessary. This subsection (3) shall not preclude any person from applying for a certificate of designation for the disposal of his own solid wastes on his own property." [Emphasis added]

While the phrase "one's own waste" is used, it is often misused or misunderstood.

According to the Colorado Solid Waste Act, each solid waste facility is required to get a Certificate of Designation before operating. However, according to section 30-20-102(3), Colorado Revised Statutes, if a person [or entity] disposes of his/her waste on

his/her own property (and is not a governmental unit), they do not have to obtain a certificate of designation, as long as the operation complies with the regulatory requirements. The person would not have to obtain a certificate of designation if they comply with solid waste rules and regulations and do not let their property become a nuisance. Some people interpret the exemption to mean that if you do not dispose of any waste other than their own, they are not required to follow the Solid Waste rules and regulations. That is not a correct interpretation.

What this exemption means is that so long as you take care of your property, and your disposal practices are to ensure that your property is meeting the minimum standards of the regulations, you do not need a certificate of designation. The minimum standards of the regulations require such things as: taking reasonable measures to collect, contain and dispose of litter; ensuring that noise, dust, and odors do not pose a health hazard; managing the site so that birds, insects, rodents, and other vectors do not pose a health hazard; and providing adequate cover so water does not pond on the site, and that wind erosion and/or water pollution does not become a problem. The minimum standards also contain a requirement that a facility or property shall submit a design and operations report to the Department for review and approval prior to disposing waste. In addition, once an owner sells his or her property, or ceases on-site disposal activities, the owner is required to leave the site in an orderly manner and with a good aesthetic appearance. The property owner will also have to inform prospective purchasers of the site, that solid waste had been disposed of on the property. Failure to follow these requirements is a violation of the Colorado law subject to enforcement.

Requirements:

Any person wishing to dispose of their waste on their own property must:

1. Inform the local government (county or municipality) having jurisdiction since they may have an ordinance that either limits the disposal of materials on private property or forbid it to occur. This is to be done in writing.
2. Once the local government has approved the concept of the disposal the landowner should submit to this Department and the local government the following: proof of ownership, a description of the location and an address of the property, a description of the material proposed to be disposed, photographs of the area in question, information on the soil type and ground water level, distances to water courses and wells, distances to the property lines, and distances to the nearest residences both on and off the property. The owner is not to proceed with his plans until he obtains a positive response from both the Department and the local governing authority.