

Recycling Rules

“Implementation”

March 22, 2004

On January 21, 2004 the Colorado Board of Health approved recycling rules to be included in the Regulations Pertaining to Solid Waste Disposal Sites and Facilities (6 CCR 1007-2) as Section 8. These rules will become effective April 1, 2004.

What do these rules do and how may they affect your recycling business?

The purposes of the new rules are to establish minimum operational standards, track quantities of materials recycled in the state, and minimize the potential of sham recycling.

What the law and the regulations require.

1. Recyclers are to register within 180 days of the effective date of this rule. A facility may eventually register online at www.cdphe.state.co.us/hm/. For the immediate future please print the form and either send it to Colorado Dept. of Public Health and Environment, HMWMD SW, 4300 Cherry Creek Drive South, Denver, CO 80246 or fax it to the Solid Waste Unit at 303/759-5355.
2. Registration is to be done by October 1, 2004.
3. By May 1, 2005 and annually thereafter facilities are to complete the report on materials and volumes/weights of materials that have been recycled in the previous calendar year. The reporting form may be found on the Division Topical Listing under “R” for Recycling at www.cdphe.state.co.us/hm/, to be downloaded and either sent or faxed per #1 above.
4. Facilities are allowed to accumulate recycled materials (an initial accumulation period) based on a 3-year rolling average for each material.
5. Facilities are to recycle 75% of the accumulated material each calendar year. Variances are available by sending a written justification to the Department per 8.3.1(B) of the regulations.
6. Facility types that are exempt for this rule may be found in subsection 8.2.7 of the rule. (See www.cdphe.state.co.us/op/regs/solidwasteregs.asp to read the rule.)
7. The facility is to be operated in a manner to minimize nuisance conditions.

The rules are intended to be self-implementing. Facilities that operate in compliance with the rules do not require a certificate of designation under the solid waste regulations. Those that are found to be in violation may be subject to enforcement action under the solid waste rules. You may access the rule by going to the webpage listed above for the Regulations Pertaining to Solid Waste Disposal Sites and Facilities, Section 8.

Some Questions and Answers

1. Are composting sites and facilities considered recycling facilities under Section 8?

No. Composting facilities are defined as solid waste sites and facilities and are to comply with Section 14 of the rules. There is a statutory restriction that does not allow the definition of recycling to include a facility that may contaminate ground water or create odors.

2. Do composting sites and facilities need to report annually?

Yes. Section 14 requires that an annual report be filed by composting sites and facilities each May 1st.

3. Do landfills that have a recycling operation as part of their facility operations need to file an annual report under Section 8?

No. Landfills are required to file a quarterly report on waste volumes and submit the solid waste tipping fee 30-days following the end of each calendar quarter.

4. What are “self-implementing rules”?

Under the law facilities are required to know what statutes apply to them as a part of their business. In this instance the facility is required to be registered, file the annual report, and operate in a manner not to cause a nuisance. The Department will notify facilities of their need to comply via a mailing, based on complaints, and other means that may become available.

5. Can a local governing body require a Certificate of Designation for recycling facilities?

No. Recycling facilities that comply with the law are exempt from being a “solid waste disposal site and facility” under the law and therefore exempt from having to obtain a Certificate of Designation. However, facilities that do not operate in compliance with the rules may face enforcement action and the potential of a Certificate of Designation. Also, local governments may have restrictions or permits for recycling facilities.

6. Is a facility required to notify the local government of their activities?

Yes, under local zoning, land use, or similar ordinances. The recycling rule requires that operations are to be conducted in full compliance with all local requirements.

7. Is a recycling facility required to notify the Department if they decide to close?

Yes. Under 8.6.1 the facility is required to notify the Department, in writing, prior to its closure.

8. Do the rules limit the storage of waste material on a site before recycling?

The regulations are intended, in part, to prohibit sham recycling so the accumulation of a material with the intent to recycle and not proceeding to recycle would be a violation subject to enforcement. While it would be acceptable to accumulate material at a rate higher than is being recycled the business is accountable to the 75% requirement set forth in the rule. This means that 75% of material accumulated is to be recycled each year unless a variance is obtained for a different amount. Also, the business is to be in full compliance with any local permits, restrictions, or ordinances that could limit the accumulation.

9. Will the Department allow for electronic reporting?

Yes. The Department is committed to do this. However the Department has yet to select the technical mechanism to allow for this.