

1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

2  
3 Solid and Hazardous Waste Commission/Hazardous Materials and  
4 Waste Management Division

5  
6 6 CCR 1007-2

7 PART 1 REGULATIONS PERTAINING TO SOLID WASTE SITES AND FACILITIES  
8

9 Amendment of Section 8.5.4 (Facility Registration) and Section 8.5.5 (General Site  
10 Requirements) for Industrial Recycling Operations

11  
12  
13 1) Section 8.5.4 (Facility Registration) is amended to read as follows:

14 SECTION 8

15 RECYCLING & BENEFICIAL USE

16 8.5 INDUSTRIAL RECYCLING OPERATIONS

17 \*\*\*\*\*

18  
19 8.5.4 Facility Registration

20  
21 Prior to receiving recyclable materials, the owner/operator of All an industrial recycling operations shall  
22 register with the Department and must submit, for Department review and approval, the following required  
23 information on the an Industrial Material Recycling Facility Initial Registration Form. The registration must  
24 provide the following information:

- 25  
26 (A) The name, physical and mailing address of the facility, including a business and corporate  
27 name as necessary;  
28  
29 (B) The name, ~~and~~ address and other contact information of the facility owner and ~~the~~ operator;  
30  
31 (C) The name, address and other contact information of the property owner;  
32  
33 (D) The emergency contact for a 24-hour contact; and  
34  
35 (E) Types of recyclable material collected; and  
36  
37 (F) Either an Industrial Recycling Facility Operations Plan or Industrial Recycling Facility Design  
38 and Operations Plan as specified in Section 8.5.5.  
39  
40

41 **2) Section 8.5.5 (General Site Requirements) is amended to read as follows:**

42 **SECTION 8**

43 **RECYCLING & BENEFICIAL USE**

44 **8.5 INDUSTRIAL RECYCLING OPERATIONS**

45 \*\*\*\*\*

46  
47 **8.5.5 General Site Requirements**

48  
49 (A) All ~~sites defined as~~ industrial recycling operations ~~shall have an operations plan~~ must submit  
50 to the Department, for review and approval, either an Industrial Recycling Facility Operations  
51 Plan or an Industrial Recycling Facility Design and Operations Plan detailing how the facility  
52 will operate in accordance with § 30-20-102(5), C.R.S., ~~prior to the importation of recyclable~~  
53 materials. ~~Facilities may request a plan review by the Department. The operations plan shall~~  
54 ~~include the following:~~

55  
56 ~~(1) — A physical description of the facility and the types of recyclable materials managed;~~

57  
58 ~~(2) — Methods to prevent unauthorized vehicle traffic and illegal dumping by adequate~~  
59 ~~fencing or other security means;~~

60  
61 ~~(3) — Procedures for preventing receipt of unauthorized waste; and~~

62  
63 ~~(4) — A closure plan including a plan for the disposition of collected materials on-site at the~~  
64 ~~time of closure.~~

65  
66 (B) All industrial recycling operations that process liquid or leachable recyclable materials ~~shall have~~  
67 ~~a design and operations plan approved by the Department prior to receiving recyclable materials~~  
68 must submit an Industrial Recycling Facility Design and Operations Plan to document the  
69 operations will not contaminate ground water. The design and operations plan must include the  
70 following information:

71  
72 (1) A physical description of the facility and the types of recyclable materials managed;

73  
74 (2) Methods to prevent unauthorized vehicle traffic and illegal dumping by adequate  
75 fencing or other security means;

76  
77 (3) Procedures for preventing receipt of unauthorized waste and procedures for safely  
78 managing and properly disposing of unauthorized waste;

79  
80 (4) An initial accumulation plan that includes a time frame for the initial accumulation of  
81 recyclable materials and the maximum volume and weight of the recyclable materials  
82 to be received during the initial accumulation period. This time frame may differ for  
83 individual recyclable materials as approved by the Department;

84  
85 (5) A facility engineering design showing engineered features that will prevent liquid and  
86 leachable materials from negatively impacting groundwater; and

87  
88 (6) A closure plan including a plan for the disposition of collected materials on-site at the  
89 time of closure.

90  
91 ~~The Department will then determine whether the facility is operated for the purpose of processing,~~  
92 ~~reclaiming, or recycling recyclable materials under § 30-20-102(5), C.R.S.~~  
93

94 (C) All other industrial recycling operations that do not fall within Paragraph (B) of this Section 8.5.5  
95 must submit an Industrial Recycling Facility Operations Plan. The operations plan must include  
96 the following information:  
97

98 (1) A physical description of the facility and the types of recyclable materials managed;  
99

100 (2) Methods to prevent unauthorized vehicle traffic and illegal dumping by adequate  
101 fencing or other security means;  
102

103 (3) Procedures for preventing receipt of unauthorized waste and procedures for safely  
104 managing and properly disposing of unauthorized waste;  
105

106 (4) An initial accumulation plan that includes a time frame for the initial accumulation of  
107 recyclable materials and the maximum volume and weight of the recyclable materials  
108 to be received during the initial accumulation period. This time frame may differ for  
109 individual recyclable materials as approved by the Department;~~An initial accumulation~~  
110 ~~plan that includes a time frame for the initial accumulation of recyclable materials and~~  
111 ~~the maximum volume and weight of the recyclable materials to be received during the~~  
112 ~~initial accumulation period; and~~  
113

114 (5) A closure plan including a plan for the disposition of collected materials on-site at the  
115 time of closure.  
116  
117

118 ~~(D)~~ Following the Department-approved a 1-year accumulation period not exceeding 365 days, the  
119 weight or volume of recyclable materials that are recycled ~~must~~shall be at least 75% of the total  
120 weight or volume (determined using a consistent measure) of recyclable materials received and  
121 currently in storage over a 3-year rolling average.  
122

123 (E) Industrial recycling operations must operate in accordance with their Department-approved  
124 Industrial Recycling Facility Operations Plan or Industrial Recycling Facility Design and  
125 Operations Plan.  
126

127 ~~(D)~~ Upon filing a written justification to the Department, a recycling facility may implement a  
128 commodity and site-specific variance to the accumulation period and/or recycling rate, and/or  
129 material specific variance to the accumulation period and/or recycling rate. The Department  
130 reserves the right to deny such a submittal based on the grounds of the facility operating in a  
131 manner that is producing, or could lead to nuisance conditions.  
132

133 (G) The owner or operator of an industrial recycling operation must submit a copy of the Industrial  
134 Recycling Facility Operations Plan or Industrial Recycling Facility Design and Operations Plan to  
135 the local governing body having jurisdiction at the time the plan is submitted to the Department.

1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

2  
3 Solid and Hazardous Waste Commission

4  
5 Hazardous Materials and Waste Management Division

6  
7 6 CCR 1007-2

8  
9 STATEMENT OF BASIS AND PURPOSE AND SPECIFIC STATUTORY  
10 AUTHORITY FOR

11  
12  
13 Revisions to the Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2 Part 1)  
14 –Revisions to Section 8 Recycling and Beneficial Use Regulations

15  
16  
17 Basis and Purpose

18  
19 I. Statutory Authority

20  
21 The Solid Waste Act (“the Act”) requires the Department to regulate solid waste management  
22 within the State. The Act requires the Department to develop, implement and continuously  
23 improve, as necessary, policies and procedures for carrying out its statutory responsibilities.  
24 § 30-20-101.5(2), C.R.S.

25  
26 The Act defines solid waste as “any garbage, refuse, sludge from a waste treatment plant,  
27 water supply treatment plant, or air pollution control facility, and other discarded material,  
28 including solid, liquid, semisolid, or contained gaseous material resulting from industrial or  
29 commercial operations or from community activities.” § 30-20-101(6)(a), C.R.S. Solid  
30 wastes disposal means “the storage, treatment, utilization, processing, or final disposal of  
31 solid wastes.” § 30-20-101(7), C.R.S. A person may only dispose of solid waste at a solid  
32 wastes disposal site and facility that has received a certificate of designation from the local  
33 governing body having jurisdiction. § 30-20-102, C.R.S.

34  
35 The Act provides the minimum criteria solid waste recycling facilities must meet to remain  
36 exempt from the requirement to obtain a Certificate of Designation. § 30-20-102(5), C.R.S.  
37 states “Any site and facility operated for the purpose of processing, reclaiming, or recycling  
38 recyclable materials shall not be considered a solid wastes disposal site and facility and shall  
39 not require a certificate of designation as a solid wastes disposal site and facility; except that,  
40 after an initial accumulation period specified by rule, such a site or facility shall maintain  
41 documentation that proves recyclable materials are being recycled at the site at a rate that  
42 approximately equals the rate at which recyclable materials are being collected. The solid and  
43 hazardous waste commission shall promulgate rules to specify what time periods and  
44 volumes of recyclable materials constitute operations that qualify for this exemption and to  
45 define what materials shall be deemed to be recyclable materials for the purposes of this  
46 subsection (5); except that such rules shall not define the term "recyclable materials" to  
47 include materials that are likely to contaminate groundwater or create off-site odors as a

48 result of processing, reclaiming, recycling, or storage prior to recycling. This subsection (5)  
49 does not apply to activities regulated under § 25-8-205 (1) (e), C.R.S.”

50  
51 § 30-20-102(5), C.R.S. grants the Solid and Hazardous Waste Commission the authority to  
52 specify by rule the initial accumulation periods, material types and quantities that a recycling  
53 facility may import and remain exempt from the requirement to obtain a Certificate of  
54 Designation.

55  
56 II. Purpose of revised regulations

57  
58 The purpose of revising Sections 8.5.4 and 8.5.5 of the Solid Waste Regulations is to update  
59 the regulations applicable to industrial recycling operations. The proposed revisions are only  
60 applicable to new industrial recycling facilities that begin operations after the effective date  
61 of these regulatory changes. The need to revise these regulations stems from challenges the  
62 Division has encountered from the regulated community under the existing regulations.

63  
64 Under the existing regulations, new industrial recycling facilities do not have to seek Division  
65 approval of their registration form and operations plan prior to accepting recyclable material  
66 at the facility and are allowed to accumulate an unrestricted amount of recyclable materials  
67 on-site for an entire year before recycling activities begin. The current one year accumulation  
68 period was intended to allow facilities to collect enough inventory so their equipment can  
69 efficiently process recyclable materials with minimal down-time. However, some recyclable  
70 materials can be generated at very fast rates and the inventory necessary to allow the efficient  
71 processing of these materials can be accumulated in a much shorter time frame. Additionally,  
72 market conditions and pricing, particularly for high-volume materials, can quickly change.  
73 Any changes to market conditions and pricing not favorable to a commodity can result in the  
74 abandonment of large volumes of recyclable materials by new and/or poorly capitalized  
75 operators. When recyclable materials are abandoned, the Division does not have the financial  
76 means necessary to clean up the abandoned recycling facility because recycling facilities are  
77 statutorily exempt from having to provide financial assurance.

78  
79 The revisions to Section 8.5.4 of the Solid Waste Regulations specify the type of registration  
80 form an owner/operator of an industrial recycling facility must submit, require Department  
81 approval of the registration form prior to receiving recyclable materials at a facility, and set  
82 forth what information needs to be included as part of the registration form. The revisions to  
83 Section 8.5.5 of the Solid Waste Regulations clarify the type of operations plan that needs to  
84 be submitted as part of the registration, specify the information that must be included in an  
85 Industrial Recycling Facility Operations Plan, require an owner/operator to set forth the  
86 proposed initial accumulation period and maximum volume and weight to be collected during  
87 the initial accumulation period in an Industrial Recycling Facility Operations Plan, and  
88 require an owner/operator to obtain approval of the operations plan prior to importing  
89 recyclable material.

90  
91 The Department believes that by having the ability to review and approve the registration  
92 form and operations plan (which includes the initial accumulation period that must not exceed  
93 365 days and maximum weight and volume to be accumulated during the initial accumulation  
94 period) prior to allowing an industrial recycling facility to accept recyclable materials, the  
95 problems created by changing market conditions and facility abandonment can be avoided.  
96

97 The proposed changes also provide the Division the opportunity to approved different  
98 accumulation periods for different materials within the same recycling facility. This is an  
99 important addition because not all recyclable materials have the same demand and a facility  
100 may need to accept a specific amount of material before an end user can efficiently utilize the  
101 material as a manufacturing feedstock.

## 102 103 104 **Discussion of Regulatory Proposal**

### 105 106 I. Section and Subsection Titles

107  
108 The existing structure of Section 8 remains the same with minor modifications made to  
109 Sections 8.5.4 and 8.5.5.

### 110 111 II. Scope and Applicability (Sections 8.5.4 and 8.5.5)

112  
113 The requirement to submit a registration form and operations plan for Division review and  
114 approval and the requirement to submit an initial material accumulation plan as part of the  
115 Industrial Recycling Facility Operations Plan will only apply to new owners/operators of  
116 industrial recycling facilities registering after the effective date of this regulation revision.  
117 Industrial recycling facilities are facilities that accept non-municipal solid waste for  
118 recycling. Typical industrial recycling operations subject to Section 8.5 include: industrial  
119 wastewater recyclers and recyclers of various other types of construction and demolition  
120 debris.

## 121 122 **Description of Local Government Involvement in the Stakeholder Process**

123  
124 Executive Order D 2011-005 (EO5), “Establishing a Policy to Enhance the Relationship between  
125 State and Local Government” requires state rulemaking agencies to consult with and engage local  
126 governments prior to the promulgation of any rules containing mandates. The Department  
127 completed an EO5 – Internal Communication Form – Internal Conception Phase which was  
128 transmitted to local governments. The revised recycling regulations will have little effect on local  
129 governments.

## 130 131 **Issues Encountered During Stakeholder Process**

132  
133 No issues were encountered during the stakeholder process.

## 134 135 **Regulatory Alternatives**

136  
137 No other regulatory alternatives were evaluated.

## 138 139 **Cost/Benefit Analysis**

140  
141 A cost-benefit analysis will be performed if requested by the Colorado Department of Regulatory  
142 Services Agencies.