

---

# Colorado Hazardous Waste Regulations

## Part 101

### Appeal Regulations; Appeals of Compliance Orders

(last amended 5/17/11, effective 6/30/11)

To obtain more information regarding the  
Colorado Hazardous Waste Regulations,  
please contact the Hazardous Materials and  
Waste Management Division at 303-692-3300.

---

**PART 101 DEPARTMENT COMPLIANCE ADVISORIES AND  
ENFORCEMENT ACTIONS**

**§ 101.1 COMPLIANCE ADVISORY**

(a) COMPLIANCE ADVISORY

Whenever the Department reasonably believes, based on information provided to the Department, discovered by the Department during an inspection or otherwise in the possession of the Department, that any person is or has been in violation of part 3 of the Colorado Hazardous Waste Act, §§ 25-15-301 to 316, C.R.S., or the Hazardous Waste Regulations, 6 CCR 1007-3, permits or orders issued pursuant thereto, hereinafter collectively referred to as the "Hazardous Waste Requirements," the Department may issue a Compliance Advisory to such person. All Compliance Advisories shall be hand delivered or sent to such person by certified or registered mail, return receipt requested. In addition, a copy of all compliance advisories shall be sent to the installation contact identified on EPA form 8700-12 ("Notification of Regulated Waste Activity"), or, where the Department has been notified in writing of a compliance advisory contact, to the compliance advisory contact.

A Compliance Advisory should be issued as soon as possible after the Department obtains the information which is the basis for the Department's belief that a violation has occurred or is occurring. A Compliance Advisory shall include a brief statement regarding the basis for the Department's belief that a violation has occurred or is occurring and shall serve as notice to such person of the matters addressed therein.

A Compliance Advisory may be prohibitory or mandatory in nature and may state what actions, including corrective action to prevent or remediate any releases of hazardous waste or hazardous constituents, such person may undertake to comply with the Hazardous Waste Requirements. A Compliance Advisory does not constitute final agency action for purposes of appeal.

(b) COMPLIANCE CONFERENCE

Each person to whom a Compliance Advisory is delivered or sent shall be provided an opportunity to confer with the Department on, or submit additional materials addressing, the basis for the Department's belief that a violation of the Hazardous Waste Requirements has occurred or is occurring, or the person's subsequent compliance with the Hazardous Waste Requirements.

(c) NO VIOLATION LETTER

If, after such conference or submittal, the Department finds that, based on the information presently available, some or all of the violations addressed in the Compliance Advisory did not occur, it shall so inform the person in writing and shall attach a copy of such correspondence to the Compliance Advisory in its files.

## § 101.2

### (d) NO FURTHER ACTION LETTER

If, after such conference or submittal, the Department finds that, based on the information presently available, compliance with some or all of the violations addressed in the Compliance Advisory has been achieved, it shall so inform the person in writing and shall attach a copy of such correspondence to the Compliance Advisory in its files.

The issuance of such a No Further Action letter shall not preclude the Department from issuing a compliance order or assessing an administrative penalty pursuant to § 101.2 or bringing a civil action or seeking a civil penalty pursuant to § 101.3 for the violations of the Hazardous Waste Requirements that were addressed therein.

## § 101.2 ADMINISTRATIVE ENFORCEMENT ACTIONS

### (a) COMPLIANCE ORDER

In accordance with § 25-15-308, C.R.S., whenever the Department finds, based on information provided to the Department, discovered by the Department during an inspection or otherwise in the possession of the Department, that any person is or has been in violation of the Hazardous Waste Requirements the Department may issue a Compliance Order to such person requiring the person to comply with the Hazardous Waste Requirements. All Compliance Orders shall be served upon such person by personal service or certified or registered mail, return receipt requested.

A Compliance Order shall identify the factual and legal elements of each violation with particularity. A Compliance Order may be prohibitory or mandatory in effect and may state what actions, including corrective action to prevent or remediate any releases of hazardous waste or hazardous constituents to the environment, such person must undertake to comply with the Hazardous Waste Requirements. The Department may issue a Compliance Order in addition to, or as an alternative to, the issuance of a Compliance Advisory under § 101.1(a).

### (b) ADMINISTRATIVE PENALTY ASSESSMENT

In accordance with § 25-15-309, C.R.S., the Department may assess an administrative penalty of no more than fifteen thousand dollars per day for each violation of the Hazardous Waste Requirements. A Compliance Order may, but need not, contain an administrative penalty assessment for the violations of the Hazardous Waste Requirements. The Department may assess an administrative penalty for the violations of the Hazardous Waste Requirements by separate order served upon such person by personal service or certified or registered mail, return receipt requested.

## § 101.3

### (c) EMERGENCY ORDERS

In accordance with § 25-15-301, C.R.S., whenever the Department finds, based on information provided to the Department, discovered by the Department during an inspection or otherwise in the possession of the Department, that an emergency involving hazardous waste exists, which presents an immediate and substantial threat to the public health and safety or the environment, the Department may issue an Emergency Order for the protection of public health and safety or the environment. All Emergency Orders shall be served upon such person by personal service or certified or registered mail, return receipt requested.

An Emergency Order shall identify the immediate and substantial threat to public health and safety or the environment with particularity and shall state what actions, including corrective actions to prevent or remediate any releases of hazardous waste or hazardous constituents to the environment, such person must undertake to abate the emergency and protect public health and safety or the environment. The Department may issue an Emergency Order in addition to, or as an alternative to, the issuance of a Compliance Advisory under § 101.1(a) or a Compliance Order under § 101.2(a).

## § 101.3 JUDICIAL ENFORCEMENT ACTIONS

### (a) CIVIL ACTION FOR INJUNCTIVE RELIEF

In accordance with § 25-15-308, C.R.S., whenever the Department finds, based on information provided to the Department, discovered by the Department during an inspection or otherwise in the possession of the Department, that any person is or has been in violation of the Hazardous Waste Requirements the Department may, at any time, commence a civil action for injunctive relief in the district court of the judicial district in which the violation occurs. The Department may file this civil action for injunctive relief in addition to, or as an alternative to, the issuance of a Compliance Advisory under § 101.1(a), a Compliance Order under § 101.2(a), or an Emergency Order under § 101.2(c).

### (b) CIVIL ACTION FOR PENALTIES

In accordance with § 25-15-309, C.R.S., the Department may, in lieu of imposing an administrative penalty pursuant to § 101.2(b), seek a civil penalty for each violation of the Hazardous Waste Requirements in the district court of the judicial district in which the violation occurs. The district court may impose a civil penalty of no more than twenty-five thousand dollars per day per violation.

**§ 101.4 APPEALS OF ADMINISTRATIVE ENFORCEMENT ACTIONS**

(a) COMPLIANCE ORDERS AND ADMINISTRATIVE PENALTY ASSESSMENTS

Unless provided otherwise in the Compliance Order or Administrative Penalty Assessment, all Compliance Orders and Administrative Penalty Assessments are effective upon receipt. All appeals of Compliance Orders or Administrative Penalty Assessments shall be taken in accordance with § 25-15-308(3), C.R.S., and shall be filed with the Division of Administrative Hearings no later than thirty calendar days after the effective date of the Compliance Order or the Administrative Penalty Assessment.

(b) EMERGENCY ORDERS

All emergency orders are effective upon receipt. Any person subject to an Emergency Order is entitled to an immediate hearing in accordance with § 24-4-105(12), C.R.S., and all requests for hearings on an Emergency Order shall be filed with the Division of Administrative Hearings no later than thirty calendar days after the effective date of the Emergency Order.

(c) APPEALS OF ADMINISTRATIVE DETERMINATIONS

All appeals of determinations by the Division of Administrative Hearings regarding Compliance Orders and Emergency Orders shall be taken in accordance with § 25-15-308(3)(h), C.R.S., and shall be filed with the Denver District Court no later than thirty calendar days after the effective date of the determination. All appeals of determinations by the Division of Administrative Hearings regarding Administrative Penalty Assessments shall be taken in accordance with § 25-15-308(3)(i), C.R.S., and shall be filed with the Administrator of the Solid and Hazardous Waste Commission no later than thirty calendar days after the effective date of the determination.