
Colorado Hazardous Waste Regulations

Part 267

Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (i.e., Recyclable Materials, Waste Burned for Energy Recovery, Precious Metal Recovery, Spent Lead-Acid Batteries)

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

PART 267 - STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES.

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Subparts A-B -- (Reserved)

Subpart C -- Recyclable Materials Used In A Manner Constituting Disposal

§ 267.20 Applicability.

(a) The regulations of this subpart apply to recyclable materials that are applied to or placed on the land:

(1) Without mixing with any other substance(s); or

(2) After mixing or combining with any other substance(s). These materials will be referred to throughout this subpart as "materials used in a manner that constitutes disposal".

(b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in Subpart D of Part 268 (or applicable prohibition levels in § 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain.

(c) Anti-skid/de-icing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in paragraph (b) of this section and remain subject to regulation.

(d) Fertilizers that contain recyclable materials are not subject to regulation provided that:

(1) They are zinc fertilizers excluded from the definition of solid waste according to § 261.4(a)(21) of these regulations; or

(2) They meet the applicable treatment standards in Subpart D of Part 268 of these regulations for each hazardous waste that they contain.

§ 267.21 Standards applicable to generators and transporters of materials used in a manner that constitute disposal.

Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of Parts 262 and 263 of these regulations, and the notification requirements of Part 99 of these regulations.

§ 267.22 Standards applicable to storers of materials that are to be used in a manner that constitutes disposal who are not the ultimate users.

Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of Subparts A through L of Parts 264 and 265 of these regulations; all applicable provisions of Part 100 of these regulations; and the notification requirements of Part 99 of these regulations.

§ 267.23 Standards applicable to users of Hazardous Waste that are used in a manner that constitutes disposal.

(a) Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of Subparts A through N of Parts 264, 265, and 268 of these regulations; the applicable provisions of Part 100 of these regulations; and the notification requirements of Part 99 of these regulations. (These requirements do not apply to products which contain these recyclable materials under the provisions of § 267.20(b) of these regulations.)

(b) The use of waste or used oil or other material, which is contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment is prohibited.

Subpart D -- Hazardous Waste Burned for Energy Recovery

§ 267.30 Applicability

(a) The regulations of this subpart apply to hazardous wastes that are burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of Part 264 and 265 of these regulations, except as provided by paragraph (b) of this section. Such hazardous wastes burned for energy recovery are termed "hazardous waste fuel". Fuel produced from hazardous waste by processing, blending or other treatment is also hazardous waste fuel. (These regulations do not apply, however, to gas recovered from hazardous waste management activities when such gas is burned for energy recovery.)

(b) The following hazardous wastes are not regulated under this subpart:

(1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of Part 261 of these regulations. Such used oil is subject to regulation under Part 279 of these regulations.

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(2) Hazardous wastes that are exempt from regulation under §§ 261.4 and 261.6(a)(3)(iv) through (vi) of these regulations, and hazardous wastes that are subject to the special requirements for small quantity generators under the provisions of § 261.5 of these regulations.

§ 267.31 Prohibitions.

(a) A person may market hazardous waste fuel only:

(1) To persons who have notified EPA or the Department of their hazardous waste fuel activities and have a U.S. EPA Identification Number; and

(2) If the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in paragraph (b) of this section.

(b) Hazardous waste fuel may be burned for energy recovery in only the following devices:

(1) Industrial furnaces identified in § 260.10 of these regulations;

(2) Boilers, as defined in § 260.10 of these regulations, that are identified as follows:

(i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(ii) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any hazardous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than 500,000 (based on the most recent census statistics) unless such kiln fully complies with these regulations that are applicable to incinerators.

§ 267.32 Standards applicable to generators of hazardous waste fuel.

(a) Generators of hazardous waste that is used as a fuel or used to produce a fuel are subject to Part 262 of these regulations.

(b) Generators who market hazardous waste fuel to a burner also are subject to § 267.34.

(c) Generators who are burners also are subject to § 267.35.

§ 267.33 Standards applicable to transporters of hazardous waste fuel.

Transporters of hazardous waste fuel (and hazardous waste that is used to produce a fuel) are subject to Part 263 of these regulations.

§ 267.34 Standards applicable to marketers of hazardous waste fuel.

Persons who market hazardous waste fuel are called "marketers", and are subject to the following requirements. Marketers include generators who market hazardous waste fuel directly to a burner, and persons who receive hazardous waste from generators and produce, process, or blend hazardous waste fuel from these hazardous wastes and persons who distribute but do not process or blend hazardous waste fuel.

(a) **Prohibitions.** The prohibitions under § 267.31(a) apply to marketers of hazardous waste fuel.

(b) **Notification of hazardous waste fuel activities.** Even if marketer has previously notified EPA or this Department of his/her hazardous waste management activities and obtained a U.S. EPA Identification Number, he/she must renotify to identify his/her hazardous waste fuel activities.

(c) **Storage.** The applicable provisions of § 262.34, and Subparts A through L of Part 264, Subparts A through L of Part 265, Part 266 and Part 100 of these regulations;

(d) **Off-site shipment.** The standards for generators in Part 262 of these regulations when a marketer initiates a shipment of hazardous waste fuel;

(e) **Required notices.**

(1) Before a marketer initiates the first shipment of hazardous waste fuel to a burner or another marketer, he/she must obtain a one-time written and signed notice from the burner or marketer certifying that:

(i) The burner or marketer has notified EPA or the Department pursuant to Part 99 and identified his/her waste-as-fuel activities; and

(ii) If the recipient is a burner, the burner will burn the hazardous waste fuel only in an industrial furnace or boiler identified in § 267.31(b).

(2) Before a marketer accepts the first shipment of hazardous waste fuel from another marketer, he/she must provide the other marketer with a one-time written and signed certification that he/she has notified EPA or the Department pursuant to Part 99 and identified his/her hazardous waste fuel activities; and

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(f) **Recordkeeping.** In addition to the applicable recordkeeping requirements of Parts 262, 264, 265 and 266 of these regulations, a marketer must keep a copy of each certification notice he/she receives or sends for three years from the date he/she last engages in a hazardous waste fuel marketing transaction with the person who sends or receives the certification notice.

§ 267.35 Standards applicable to burners of hazardous waste fuel.

Owners or operators who burn or process hazardous waste in boilers or industrial furnaces are subject to the requirements of Part 264, Subpart O of these regulations.

Subpart E -- [Reserved]

Subpart F -- Recyclable Materials Utilized for Precious Metal Recovery

§ 267.70 Applicability and requirements.

(a) The regulations of this subpart apply to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this subpart are subject to the following requirements:

(1) The notification requirements of Part 99;

(2) Subpart B of Part 262 (for generators), §§ 263.20 and 263.21 (for transporters), and §§ 265.71 and 265.72 (for persons who store) of these regulations;

(3) For precious metals exported to or imported from designated OECD member countries for recovery, persons who generate, transport or store recyclable materials are subject to Subpart H of Part 262 and § 265.12(a)(2) of these regulations. For precious metals exported to or imported from non-OECD countries for recovery, persons who generate, transport or store recyclable materials are subject to Subparts E and F of Part 262.

(c) Persons who store recyclable materials that are regulated under this subpart must keep the following records to document that they are not accumulating these materials speculatively (as defined in § 261.1(d) of these regulations);

(1) Records showing the volume of these materials stored at the beginning of the calendar year;

(2) The amount of these materials generated or received during the calendar year; and

(3) The amount of materials remaining at the end of the calendar year.

(d) Recyclable materials that are regulated under this subpart that are accumulated speculatively (as defined in § 261.1(d) of these regulations) are subject to all applicable provisions of Parts 262 through 266, and Part 99 and 100 of these regulations.

Subpart G -- Spent Lead-Acid Batteries Being Reclaimed

§ 267.80 Applicability and requirements.

(a) Are spent lead-acid batteries exempt from hazardous waste management requirements?

If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the "Universal Waste" rule in Part 273 of these regulations.

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If your batteries ***	And if you ***	Then you ***	And you ***
(1) Will be reclaimed through regeneration (such as by electrolyte replacement).	are exempt from Parts 262 (except for § 262.11), 263, 264, 265, 267, 268, and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations.	are subject to Part 261 and § 262.11 of these regulations.
(2) Will be reclaimed other than through regeneration.	generate, collect and/or transport these batteries.	are exempt from Parts 262 (except for § 262.11), 263, 264, 265, 267, and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations.	are subject to Part 261, § 262.11, and applicable provisions under Part 268 of these regulations.
(3) Will be reclaimed other than through regeneration.	store these batteries but you aren't the reclaimer.	are exempt from Parts 262 (except for § 262.11), 263, 264, 265, 267, and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations.	are subject to Part 261, § 262.11, and applicable provisions under Part 268 of these regulations.
(4) Will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	must comply with § 267.80(b) of these regulations and as appropriate other regulatory provisions described in § 267.80(b).	are subject to Part 261, § 262.11, and applicable provisions under Part 268 of these regulations.
(5) Will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	are exempt from Parts 262 (except for § 262.11), 263, 264, 265, 267, and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations.	are subject to Part 261, § 262.11, and applicable provisions under Part 268 of these regulations.
(6) Will be reclaimed through regeneration or any other means.	export these batteries for reclamation in a foreign country.	are exempt from Parts 263, 264, 265, 267, 268 and Part 100 of these regulations, and the notification requirements of Part 99 of these	are subject to Part 261 and § 262.11, and either must comply with Part 262, Subpart H (if shipping to one of the OECD countries specified

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If your batteries ***	And if you ***	Then you ***	And you ***
		<p>regulations. You are also exempt from Part 262 (except for § 262.11), and except for the applicable requirements in either: (1) Part 262, Subpart H; or (2) § 262.53 "Notification of Intent to Export, § 262,56(a)(1) through (4), (6) and (b) "Annual Reports," and § 262.57 "Recordkeeping".</p>	<p>in § 262.58(a)(1)), or must: (a) Comply with the requirements applicable to a primary exporter in § 262.53, § 262.56(a)(1) through (4), (6), and (b)and § 262.57; and (b) Export these batteries only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in Subpart E of Part 262 of these regulations; and (c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.</p>
<p>(7) Will be reclaimed through regeneration or any other means.</p>	<p>transport these batteries in the U.S. to export them for reclamation in a foreign country.</p>	<p>are exempt from Parts 263, 264, 265, 267, 268 and Part 100 of these regulations, and the notification requirements of Part 99 of these regulations.</p>	<p>must comply with applicable requirements in Part 262, Subpart H (if shipping to one of the OECD countries specified in § 262.58(a)(1)), or must comply with the following: (a) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgement of Consent; (b) you must ensure that a copy of the EPA Acknowledgement of Consent accompanies the shipment; and (c) you must ensure that the shipment is delivered to the facility designated by the person initiating the shipment.</p>

(b) If I store spent lead-acid batteries before I reclaim them but not through regeneration, which requirements apply? The requirements of paragraph (b) of this section apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your RCRA permit status.

(1) For Interim Status Facilities, you must comply with:

- (i) Notification requirements under Part 99 of these regulations.
- (ii) All applicable provisions in Subpart A of Part 265 of these regulations.
- (iii) All applicable provisions in Subpart B of Part 265 of these regulations except § 265.13 (waste analysis).
- (iv) All applicable provisions in Subparts C and D of Part 265 of these regulations.
- (v) All applicable provisions in Subpart E of Part 265 of these regulations except §§ 265.71 and 265.72 (dealing with the use of the manifest and manifest discrepancies).
- (vi) All applicable provisions in Subparts F through L of Part 265 of these regulations.
- (vii) All applicable provisions in Part 100 of these regulations.

(2) For Permitted Facilities.

- (i) Notification requirements under Part 99 of these regulations.
- (ii) All applicable provisions in Subpart A of Part 264 of these regulations.
- (iii) All applicable provisions in Subpart B of Part 264 of these regulations except § 264.13 (waste analysis).
- (iv) All applicable provisions in Subparts C and D of Part 264 of these regulations.
- (v) All applicable provisions in Subpart E of Part 264 of these regulations except §§ 264.71 or 264.72 (dealing with the use of the manifest and manifest discrepancies).
- (vi) All applicable provisions in Subparts F through L of Part 264 of these regulations.
- (vii) All applicable provisions in Part 100 of these regulations.

Subparts H-L -- [Reserved]

Subpart M -- Military Munitions

§ 267.200 Applicability.

- (a) The regulations in this subpart identify when military munitions become a solid waste, and, if these wastes are also hazardous under this subpart or Part 261 of these regulations, the management standards that apply to these wastes.
- (b) Unless otherwise specified in this subpart, all applicable requirements in Parts 260 through 268, Part 99, and Part 100 of these regulations apply to waste military munitions.

§ 267.201 Definitions.

In addition to the definitions in § 260.10, the following definitions apply to this subpart:

"Explosives or munitions emergency response specialist" is as defined in § 260.10 of these regulations.

"Military" means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

"Military munitions" is as defined in § 260.10 of these regulations.

"Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

§ 267.202 Definition of solid waste.

For purposes of RCRA section 1004(27), a used or fired military munition is a solid waste, and, therefore, is potentially subject to RCRA corrective action authorities under sections 3004(u) and (v), and 3008(h), or imminent and substantial endangerment authorities under section 7003, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).