

455D.4A Recycling.

1. For the purpose of [this section](#), “*recycling facility*” means any facility, business, or operation that has the stated primary purpose of facilitating the recycling of materials that would otherwise be solid waste.

2. Recycling of materials for the purpose of being excluded from the solid waste provisions of [chapter 455B, division IV, part 1](#), must be legitimate. A material that is not legitimately recycled is discarded material and is a solid waste. In determining if recycling is legitimate, a recycling facility must establish all of the following:

a. The material is potentially recyclable and has a feasible means of being recycled into a valuable product.

b. The material is being managed as a valuable commodity while under the facility’s control.

c. The material is not being accumulated speculatively pursuant to [subsection 7](#).

3. If the department determines that a facility is not legitimately recycling material, the department may allow the facility owner or operator an opportunity to comply with the criteria in [subsection 2](#), or may immediately deem the facility subject to the solid waste provisions of [chapter 455B, division IV, part 1](#).

4. The criteria in [subsection 2](#) are intended to mitigate the risk posed by facilities that accumulate materials speculatively prior to recycling by preventing materials that are not otherwise regulated under [chapter 455B, division IV, part 1](#), from being stored indefinitely and potentially causing a public health nuisance or adverse environmental impact. In response to enforcement initiated by the department for alleged violations of [this section](#), the burden of proof falls on the recycling facility owner or operator to establish that materials are being legitimately recycled.

5. To establish that a material is potentially recyclable and has a feasible means of being recycled into a valuable product, a recycling facility owner or operator shall maintain with an end user at least one purchase contract, a letter of understanding, or other formal agreement. Such documentation must be provided to the department upon request. In addition, if the material is going to be recycled in an unusual manner, the owner or operator may use technical specifications from the end user or other documentation to prove recycling the material in such manner will result in a valuable product.

6. To establish that a material is being managed as a valuable commodity while under the facility’s control, a recycling facility owner or operator shall ensure that stockpiled material is not speculatively accumulated by maintaining current inventory records and is managed in a manner consistent with comparable recyclable materials or products in an equally protective manner.

7. To establish that a material is not being accumulated speculatively, the recycling facility owner or operator must document that, during a given calendar year, the amount of material that is recycled, or transferred to a different site for recycling, equals at least seventy-five percent by weight or volume of the amount of material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method.

8. Failure to provide documentation upon request to the department relative to the requirements of [this section](#) is grounds for the department to immediately deem the facility not in compliance with [this section](#).

9. Scrap metal is not subject to the provisions of [this section](#).

[2018 Acts, ch 1023, §7](#); [2019 Acts, ch 59, §139 – 141](#)

Referred to in [§455B.301](#), [455D.1](#), [455D.22](#), [455D.23](#), [455D.25](#)