

Virginia Department of Environmental Quality

9 VAC 15-30-10 et seq.

Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes

Effective Date: August 1, 2001

9 VAC 15-30-10. Definitions incorporated by reference.

The definitions set out in Part I of the Virginia Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) are incorporated by reference.

9 VAC 15-30-20. Definitions.

The following terms have, for the purpose of this chapter, the following meaning:

"Act" means the Virginia Waste Management Act § 10.1-1400 et seq. of the Code of Virginia.

"Applicant" means any and all persons seeking certification of recycling machinery and equipment for local tax exemption purposes.

"Certification" means a signed statement by the Director of the Department of Environmental Quality that the identified machinery and equipment qualify as integral to the recycling process.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality or his designee.

"Finished product" means material that has been processed and is ready for sale except for packaging.

"Fixed location" means a site at which the processing or manufacturing is accomplished on a continuing basis.

"Integral to the recycling process" means that the machinery and equipment or system of machinery and equipment is used primarily to process recyclable material to meet a manufacturer's material input specifications or to incorporate recyclable material into a manufacturing process.

"Machinery and equipment" means a mechanical unit or system which processes material.

"Person" means an individual, corporation, partnership, association, or any other legal entity.

"Primarily" means greater than 50% of time, of usage, or of other appropriate measure.

Virginia Department of Environmental Quality

9 VAC 15-30-10 et seq.

Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes

Effective Date: August 1, 2001

"Process" or "processing" means preparation, treatment, or conversion of a product or material by an action, change or function or a series of actions, changes or functions that bring about a desired end result.

"Recyclable" means capable of being diverted or reclaimed from the waste stream and prepared for further beneficial use through the recycling process.

"Recycled" means having reached the end of one useful life or one intended purpose, and then being converted and utilized as a raw material in the production of another product, which may or may not be similar to the original product. The resultant manufactured product is said to have recycled content.

"Recycling" means the process of separating a given product or material from the waste stream and processing it so that it is used again as material input for a product, which may or may not be similar to the original product.

9 VAC 15-30-30. (Reserved)

9 VAC 15-30-40. Purpose of regulation.

The purpose of this regulation is to establish the procedure for certification of recycling machinery and equipment as integral to the recycling process and for use primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth, and used in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale recyclable items of tangible personal property at fixed locations in the Commonwealth. Such certification would allow the purchaser of such machinery and equipment to apply for an exemption from real or personal property taxes as authorized by the local taxing authority.

9 VAC 15-30-50. Administration of regulation.

The director is authorized to administer this regulation in accordance with Chapter 11.1, § 10.1-1182 et seq. of Title 10.1, of the Code of Virginia.

9 VAC 15-30-60. Applicability of regulation.

This chapter will be applicable to any applicant to the department for machinery and equipment certification, provided that this applicant has incurred or will incur a local tax liability to which the tax exemption can be applied pursuant to § 58.1-3661 of the Code of Virginia. As provided in § 10.1-1183 of the Code of Virginia, whenever a reference is made to the Department of Waste Management, it shall mean the Department of Environmental Quality.

9 VAC 15-30-70. Machinery and equipment.

A. Qualifying recycling machinery and equipment include any piece or system of machinery or equipment used at a fixed location in the Commonwealth primarily to process recyclable materials into a product suitable for sale. Such processing may include, but is not limited to, flattening, shredding, melting, pulping, compaction, granulation, liquefaction or classification.

B. Qualifying recycling machinery and equipment also include any piece or system of machinery or equipment in a manufacturing facility primarily used to incorporate recycled material into a manufacturing process.

C. The following shall not qualify as recycling machinery and equipment:

1. Machinery and equipment used in the preparation of all or any part of the municipal solid waste stream for the purpose of combustion, unless otherwise determined by the director to be a process with a significant recycling value.
2. Machinery and equipment used to incorporate a finished product with recycled content, which is no longer considered to be a solid waste, unless otherwise determined by the director.
3. Machinery and equipment used exclusively to handle finished products, unless otherwise determined by the director.
4. Non-processing or non-manufacturing machinery and equipment.
5. Buildings or other structures.
6. Repairs and maintenance items.

9 VAC 15-30-80. Location.

To qualify for certification, recycling machinery or equipment must be operated at a fixed location in the Commonwealth.

9 VAC 15-30-90. Pollution abatement.

Recycling includes the diversion of material from the waste stream, thereby reducing the amount of material that ultimately has to be deposited in a solid waste management disposal facility or discharged into the environment. Therefore, recycling can reduce the potential for pollution, and a facility (and the related machinery and equipment) that processes recyclables to a manufacturer's specifications or utilizes recycled materials in production shall qualify as a pollution abatement system for the purposes of certification.

9 VAC 15-30-100. Equipment documentation.

In order to be considered for certification, the purchaser of the recycling machinery and equipment must apply to the department, providing at a minimum:

1. The purchaser's name and address;
2. The name and location of the facility in which the machinery and equipment will be used;
3. A complete description of the machinery and equipment and a complete description of its intended use in the facility;
4. A statement by the purchaser of the machinery and equipment that would qualify the purchase for tax consideration; and
5. Documentation of ownership (copies of receipts, vouchers, or paid invoices) appropriate for filing with the local taxing authority.

9 VAC 15-30-110. Department certification.

The department will review the information provided to determine if the machinery or equipment meets the criteria specified in the Code of Virginia. This application review will follow the process established by 9 VAC 15-30-170.B.

9 VAC 15-30-120. Locality certification.

After receiving a copy of the machinery or equipment certification from the department, the applicant will be responsible for validating the installation and operation of the machinery and equipment to the satisfaction of the local taxing authority.

9 VAC 15-30-130. Certification period.

Machinery and equipment certified through this process shall retain certification status until its operation no longer complies with the standards established in 9 VAC 15-30-70 of this regulation.

9 VAC 15-30-140. Appeal procedure.

All appeals taken from actions of the director relative to the provisions of this chapter shall be governed by the Administrative Process Act Chapter 1.1:1 § 9-6-14:1 et seq. of Title 9 of the Code of Virginia.

9 VAC 15-30-150. (Repealed)

9 VAC 15-30-160. Petition for variance.

Any applicant affected by this chapter may petition the director to grant a variance or an exemption from any requirement of this chapter, subject to the provisions of 9 VAC 15-30-170.

9 VAC 15-30-170. Administrative procedures for variances.

A. General petitioning requirements. The petition shall be submitted to the director by certified mail and shall include:

1. The petitioner's name and address;
2. A statement of petitioner's interest in the proposed action;
3. A description of desired action and a citation of the regulation from which a variance is requested;
4. A description of need and justification for the proposed action;
5. The duration of the variance, if applicable;
6. The potential impact of the variance on public health or the environment;
7. Other information believed by the applicant to be pertinent; and
8. The following statement signed by the petitioner or authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

B. Petition processing.

1. After receiving a petition that includes the information required in 9 VAC 15-30-170.A, the director will determine whether the information received is sufficient to render the decision. If the information is deemed insufficient, the director will specify additional information needed and request that it be furnished.
2. The petitioner may submit the additional information requested, or may attempt to show that no reasonable basis exists for additional information. If the director

Virginia Department of Environmental Quality

9 VAC 15-30-10 et seq.

Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes

Effective Date: August 1, 2001

agrees that no reasonable basis exists for the request for additional information, he will act in accordance with 9 VAC 15-30-170.B.3. If the director continues to believe that a reasonable basis exists to require the submission of such information, he will proceed with the denial action in accordance with the Administrative Process Act.

3. Decisions to grant or deny a petition are subject to the provisions of Article 3 of the Virginia Administrative Process Act (§§ 9-6.14:11 through 9-6.14:14) of the Code of Virginia.

C. Petition resolution. If the director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the director that the petitioner has failed to comply with any requirements of the variance.

FORMS

Form DEQ 50-11, RECYCLING MACHINERY EQUIPMENT CERTIFICATION, dated 5/22/01.