

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Solid and Hazardous Waste Commission

Hazardous Materials and Waste Management Division (HMWMD)

6 CCR 1007-2

STATEMENT OF BASIS AND PURPOSE AND SPECIFIC STATUTORY AUTHORITY FOR AMENDMENTS TO SECTION 1.7.2 (DOCUMENT REVIEW AND ACTIVITY FEES)

(Adopted by the Solid and Hazardous Waste Commission on May 17, 2011)

Basis and Purpose

These amendments to 6 CCR 1007-2, Section 1.7.2 are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in Sections 25-15-302 and 30-20-109, C.R.S. The purpose of the amendments to Section 1.7.2 is twofold. First, Section 1.7.2 establishes certificate of designation (CD) application or modification notification procedures to verify the Department's receipt of an application or modification and the allowable billing rates and ceiling for the Department's review efforts. Second, Section 1.7.2 establishes a procedure to provide the owner or operator with a project status report following thirty (30) hours of billable staff time.

Amendment of Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2 Part 1) – Section 1.7.2 (Document Review and Activity Fees)

Background

The Solid Waste and Materials Management Program (the Program) of the Hazardous Materials and Waste Management Division does not receive any general fund monies. Fees support 100% of unit activities. The fees are comprised of three sources including: 1) the Solid Waste User Fee also referred to as the Hazardous Substance Response Fee or tipping fees, 2) hourly activity fees for document review and evaluation activities and 3) annual facility fees applied to facilities that do not collect and remit the SWUF.

Section 1.7.2 of the Regulations already contains document review activity fee ceilings. The ceilings were established via a stakeholder process following passage of House Bill 07-1288. The ceilings were based on information regarding the number of staff hours required to complete the various document reviews. In addition, 30-20-103 C.R.S. contains allowable CD application review time frames - 30 days for a completeness review and 150 days for a technical review. Therefore, the Program is already limited in how much time it has to review an application or modification, and in how much it may charge for the review.

The Program occasionally receives complaints regarding the review time and fees, even though they are within established limits. To address these occasional complaints, the Program is proposing some accountability mechanisms be added to these regulations.

Summary of Regulatory Proposal

The amendment is comprised of two sets of regulatory modifications. The first regulatory modifications establish programmatic procedures to be implemented upon receipt of a CD application or modification. These procedures include notifying the applicant: 1) that the submittal was received, 2) of the project manager's contact information, 3) that two free meetings are available, 4) of the current hourly activity fee and 5) of the document category and allowable billing ceiling. The second regulatory modifications establish programmatic project status update procedures. These include: 1) written applicant notification when thirty hours of billable time has accumulated working on the submittal or document; 2) the amount of document review completed; and 3) that the Department shall continue work on the submittal or document unless the applicant directs the Department in writing to cease work on the project. If the applicant directs the Department to cease work, the applicant will still be responsible for reimbursing the Department for the hours of accumulated review time.

Stakeholder Issues:

This proposal is based on interaction between the Program and some recent complainants, and discussion with several regulated facilities, including one large facility owner/operator that can have multiple documents under review at any given time and many submittals over a year's time. These stakeholders said that they could live with these regulations, but that the affirmative response needed from them when 30 hours of review time had accumulated was burdensome. The large facility stakeholder is not among the complainants.

Regulatory Alternatives:

No other regulatory alternatives were evaluated.