

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

Amendment of Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2 Part 1) – Sections 1.7.1, 1.7.2 and 1.7.3

Basis and Purpose

These amendments to 6 CCR 1007-2, Sections 1.7.2 and 1.7.3 are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in Sections 25-15-302(4.5) and 30-20-109(2.5), C.R.S.

The purpose of these amendments to Sections 1.7.2 and 1.7.3 are twofold. First, Section 1.7.2 clarifies and establishes hourly activity fees, billable activities and billable ceilings for activity fees. Second, Section 1.7.3 establishes annual fees for facilities that are not subject to Solid Waste User Fees as established in 25-16-104.5 C.R.S.

Background

The HMWMD initiated a legislative stakeholder process in October 2006 for the development of language pertaining to House Bill 07 1288. In an effort to support the Bill, draft implementing regulations for Sections 1.7.2 and 1.7.3 were developed, shared, discussed, reviewed, and edited as part of the legislative stakeholder process. After the legislative session, a follow-up stakeholder process was begun in June 2007. Local governments, solid waste facility owners and operators, consultants, interest groups, lobbyists and state representatives attended the first meeting. Additional meetings were conducted between October 2007 and November 2007. The waste management industry and local governments participated in these meetings. The HMWMD accommodated potentially interested parties located in outlying areas of the state by making it possible to participate in these meetings via simulcast conference call and internet video conferencing.

Summary of Regulatory Proposal

The Solid Waste Unit of the Hazardous Materials and Waste Management Division does not receive any general fund monies. Fees support 100% of unit activities. The fees were historically comprised of two sources including: 1) the Solid Waste User Fees (SWUF) also referred to as the Hazardous Substance Response Fee or tipping fees and 2) hourly activity fees. The SWUF and hourly activity fees were established in statute and regulation respectively. The majority of the fees to support the Solid Waste

Unit are derived from the SWUF, which is a fee based on the volume or weight of waste placed at attended solid waste disposal sites and facilities.

House Bill 07-1288 approved an increase in the SWUF and allowed for the addition of four FTE to the solid waste staff. Two staff members were designated to assist with the current workload and two staff members were designated to collect data to better define the composition and flow of waste and recyclable materials in Colorado. The data personnel are new and unique positions for the Solid Waste Unit. One goal for the data personnel is to collect material flow information and inform Colorado's marketplace to facilitate development of an integrated material management system for the state.

As part of the HB 07-1288 legislative stakeholder process, three fee mechanisms were developed to fund the four additional solid waste FTE as follows: 1) an increase in the Solid Waste User Fee (this fee is set in statute), 2) a broadening of activities eligible for the hourly activity fee, and 3) annual facility fees for solid waste facilities not previously subject the SWUF.

Through interactive stakeholder negotiations and Statewide discussions, the following fee structure was developed for the hourly fee and the annual fees:

- 1) The hourly fee will be increased from \$72.41 to \$125.00 per hour. The hourly fee has not been adjusted since 1991. The current fee proposal of \$125.00 per hour is set to cover the actual hourly expense of solid waste staff plus all overhead and indirect costs of each hour of staff time. Regulation § 1.7.2 also includes provisions to broaden and specifically identify the billable activity categories and allows billing for time spent on historic and closed facilities. In addition, the fee structure establishes maximum billable amounts (ceilings) for each activity. Therefore, under § 1.7.2 we will be billing at our actual expense rate to recover actual documented costs, supported by invoices to our customers.
- 2) A significant majority of the stakeholders in both the legislative and regulatory processes supported the development and implementation of an annual facility fee for solid waste sites and facilities not subject to the SWUF. These facilities do not currently pay a fee to support the costs of the Solid Waste Unit's time and effort incurred in providing oversight, assistance, and enforcement at these locations. The stakeholders involved in the legislative and regulatory stakeholder processes deemed the \$1,000 per year fee to be reasonable

In summary, the adjusted hourly activity fees and annual facility fees will help off-set the SWUF increases needed to support the unit's activities and efforts.