

# **Solid and Hazardous Waste Commission Annual Report 2012-2013**



Colorado Department of Public Health and Environment  
Solid and Hazardous Waste Commission  
4300 Cherry Creek Drive South  
Denver, CO 80246

# Solid and Hazardous Waste Commission

## *Annual Report May 2012 – April 2013*

### *Commission and Its Members*

In 1992, §25-15-302, C.R.S. established the Hazardous Waste Commission. In 2006, as a result of Senate Bill 06-171, the Hazardous Waste Commission was renamed the Solid and Hazardous Waste Commission and assumed rulemaking responsibilities over solid waste from the State Board of Health. The Commission, a Type 1 agency located within the Colorado Department of Public Health and Environment but with authority independent of the executive director, has three primary duties. The Commission promulgates and adopts rules pertaining to solid and hazardous waste; sets fees and issues interpretive rules for hazardous waste; and hears appeals of administrative law judges' determinations regarding the amounts of administrative penalties for hazardous waste matters. The Solid and Hazardous Waste Commission is comprised of nine gubernatorial appointees: three members from industry, three members from the public at large, and three members from government or academia. While Commissioners are selected from these sectors, members take into account the interests of all Colorado citizens.

The federal government authorizes Colorado to implement a state hazardous waste program in lieu of a federal program as long as the state program meets certain criteria. One of the major tasks of the Commission is to ensure that the state hazardous waste rules are consistent with the U.S. Environmental Protection Agency's requirements so that Colorado retains its authorization and federal funds. The Commission has the authority to adopt rules that are more stringent than the federal requirements and to list or define as a hazardous waste a waste not regulated by the federal rules if certain conditions are met. The Commission must make a written finding, after public hearing and substantial evidence in the record, that the action is necessary to protect public health and environment. Additionally, six Commissioners must vote for the action and the Commission is required to issue an opinion referring to and evaluating public health and environmental information and studies that form the basis of the rules. The rules regarding mining and mineral processing waste, including exploration, mining, milling and smelting, and refining wastes, must be identical to the federal hazardous waste rules.

In May of 2009, the Commission authorized a standing subcommittee to examine greenhouse gas minimization and waste management strategies. Commissioner Roger Freeman chairs the Subcommittee on Carbon Reduction and Waste Minimization. The Subcommittee continues to explore a variety of avenues wherein the Commission can promote and advocate waste reduction, reuse and recycling efforts in the state. In November 2012, the full Commission adopted a policy on recycling, minimization and reuse of solid waste. The policy, initially developed by the Subcommittee, encourages the Department's staff to develop solid waste rules that consider alternatives that support recycling, reuse and solid waste minimization, and that maximize solid waste diversion from landfills where practical, sustainable, and economically feasible. The full text of the policy is available on the Commission's website: <http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251611209861>.

## *The Commissioners Selected from Industry*

- **Thomas Schweitzer:** Thomas Schweitzer received a Bachelor of Science degree in civil engineering from the South Dakota School of Mines and Technology in 1980. He is a Registered Professional Engineer in Colorado and North Dakota.

Mr. Schweitzer is currently a senior engineer with Waste Management of Colorado, with over 20 years of experience in permitting, design, construction management and regulatory compliance of the company's solid waste management facilities, and managing post-closure care and compliance activities for a closed hazardous waste disposal site. Mr. Schweitzer's experience also includes providing engineering and compliance support to Waste Management owned/operated solid waste disposal facilities in California, North Dakota and Utah.

Mr. Schweitzer is a past Vice President of the Colorado Chapter of the Solid Waste Association of North America.

- **John Kehoe:** John Kehoe received a Bachelor of Science degree in chemistry from George Mason University in 1982 and a Master of Science degree in environmental engineering from Johns Hopkins University in 1998.

John is currently the manager of the Clean Harbors Deer Trail hazardous waste treatment and land disposal facility where he is responsible for all operations and the environmental compliance of the facility. He previously held managerial and technical positions at a similar waste treatment and land disposal facility in Utah and managed contract operations for the hazardous and radioactive waste facility for a large federal government agency in Maryland.

John has spent 28 years in the commercial hazardous waste management field and has been involved in all aspects of the collection, packaging and transportation of hazardous waste. He has managed and designed waste treatment systems for hazardous and radioactive waste, wastewater treatment operations and operation of final disposal sites.

- **Michael Dempsey:** Michael Dempsey is a Managing Director with Pebble Creek Partners LLC, a strategic consulting firm to growing companies, providing management consulting and financial advisory services to scores of companies in the environmental, clean energy, and business-to-business services industries. Mr. Dempsey has 25 years of experience in the environmental services industry with senior level financial and operational roles for Waste Management and Republic Services, and strategic consulting roles with Veolia Environmental Services and other publicly and privately held environmental services companies. While at Waste Management, Michael was integral to the development of the company's landfill gas to energy joint venture with Caterpillar Financial, including the integration of alternative energy production tax credits into the company's financial evaluation process. In his senior field financial roles at Waste Management, Mr. Dempsey spearheaded the evaluation, due diligence and integration of numerous acquisitions in the Rocky Mountain region during the 1990s. While at Allied Waste, Mr. Dempsey held operational and P&L responsibility for the company's Colorado operations, including a 175 truck hauling operation and two solid waste landfill sites.

Michael graduated with honors from Northern Illinois University and holds a Bachelor's degree in Finance and a Masters of Business Administration degree from NIU.

### *The Commissioners Selected from the Public at-Large*

- **Scott Myers:** Scott Myers is a Registered Professional Geologist (PG) with more than 25 years of experience managing corporate, consulting, construction, industrial, and retail compliance. As an Environmental, Health, and Safety Manager/Director for such notable companies as Johns Manville, Ashland Petroleum/Marathon/Valvoline, BASF, and Raytheon, Mr. Myers is familiar with implementing Sustainability Development strategies at corporate and line levels. He is proficient with respect to environmental requirements in more than 20 states as well as Europe, Canada, Mexico, Chile, Australia, New Zealand, and Antarctica. His work experience has given him an expert level understanding with respect to RCRA, CERCLA, NEPA, SPCC, OPA, Clean Air Act, Clean Water Act, and OSHA. In addition to his years in the petrochemical, manufacturing, and surface mining industries, Mr. Myers has extensive experience working for federal and state regulatory agencies. He worked as a surface mine inspector and as a RCRA/CERCLA inspector/permit writer for the State of Kentucky. Myers is currently the Director of Environmental Programs for Johns Manville. Mr. Myers' remediation experience includes oversight of soil and groundwater cleanup at six RCRA permitted facilities, 300+ sites contaminated by petroleum and solvents, and several multi-million dollar fuel spill responses and remediation.
- **Alek M Orloff:** Alek M. Orloff is Chief Financial Officer of Alpine Waste & Recycling, Colorado's largest integrated solid waste and recycling services firm. Alpine was named "Emerging Company of the Year" in 2012 by the Association for Corporate Growth, a "Colorado Company to Watch" by the Edward Lowe Foundation in 2010, the Colorado Association for Recycling's "Most Outstanding Business" in 2009, and "Top Company" by *ColoradoBiz* magazine in 2008. He directs all aspects of the company's financial management as well as all environmental site development and compliance activities. He has evaluated numerous acquisition and business development opportunities in that time and has carried out all related acquisition and development processes, including the permitting of waste treatment and disposal sites as well as a successful application for an environmental no-action determination related to the acquisition of a contaminated site. Alek serves on the Board of Directors for the Colorado Chapter of SWANA (Solid Waste Association of North America) as its Vice President and as Treasurer on the Board of Directors for the Adams 14 Education Foundation. During the 1990s, Alek worked as a management consultant for Deloitte & Touche in its Reorganization Services Group, advising distressed clients in the retail, manufacturing and financial services industries on financial and operational turnaround measures. Alek received an undergraduate degree (BA) in literature from Colorado College where he also studied petrology and mineralogy. Alek earned a master of business administration degree (MBA) in finance with honors from the UCLA Anderson School where he was awarded the John E. Anderson Fellowship and served as a teaching assistant in management communications. Alek is an accomplished amateur chef and is married with three children.

- **Joseph Prinster, Jr.**: Joseph Prinster received a Bachelor of Science degree in civil engineering from University of Notre Dame in 1976, a Master of Science degree in civil engineering from California Institute of Technology in 1977, and a Master of Business Administration from Denver University in 1985.

Joe is a practicing civil engineer with Brown Civil Engineering (Lafayette, CO) and a registered professional engineer in Colorado. His 17 years as a civil project manager include many residential & mixed-use urban projects, as well as educational, campus & commercial projects in numerous jurisdictions throughout Colorado. He is responsible for planning, coordinating and supervising the day-to-day work of a team of engineers and technicians. He also attends public meetings, prepares design reports and construction documents, and performs construction observation. Joe is LEED credentialed and strives during design to achieve a sustainable and low impact site concept which also aligns with the available budget.

While not actively involved in the solid or hazardous waste industry, as a Public Member at Large of the Solid & Hazardous Waste Commission Joe brings many years of experience in all aspects of both public & private infrastructure design and construction, utility and road improvements, as well as sewer lift station design with regulatory approval through CDPHE. A second generation Colorado native, Joe currently resides in Boulder.

#### *The Commissioners Selected from Academia and Local Government*

- **Christopher J. Neumann**: Christopher J. Neumann is an attorney with the law firm Greenberg Traurig, LLP where he counsels clients in the petroleum, natural gas, mining, airline and retail industries on a wide variety of litigation, environmental, natural resources, administrative and insurance coverage matters. Chris also assists clients in efforts to obtain land use approvals and financial incentives for Brownfield sites development projects and in efforts to resolve environmental concerns in complex business transactions. Prior to joining Greenberg Traurig, Chris served as a law clerk for the Environmental Enforcement Section of the U.S. Department of Justice and for Waste Management, Inc. Before attending law school, Chris studied and conducted research in the fields of groundwater hydrology, bioremediation and earthquake seismology at the University of Notre Dame and at Argonne National Laboratory near Chicago, Illinois. Chris received an undergraduate degree in civil engineering from the University of Notre Dame (B.S., engineering and environmental science) and a law degree (J.D.) and certificate in environmental and natural resources law from the Northwestern School of Law of Lewis and Clark College. Since 2005, Chris has served as an adjunct professor in the environmental and natural resources program at the University of Colorado School of Law, where he teaches courses in hazardous waste law and environmental litigation. Chris is an instrument-rated private pilot and is a member of the Aircraft Owners and Pilots Association and the American Society of Civil Engineers. Mr. Neumann is the current Vice-Chair of the Commission.

- **Roger Freeman:** Roger Freeman maintains a diverse practice with Davis Graham & Stubbs in environmental and occupational health law, helping clients address a range of issues, from environmental compliance to litigation and arbitration matters. He has organized and overseen numerous clean-up projects, including voluntary clean-up initiatives and other remediation efforts. Mr. Freeman applies his diverse background as an Adjunct Professor at the University of Denver, College of Law, and as a member of various environmental boards, to seek multi-faceted solutions to complex environmental problems on behalf of his clients. For example, he was a key player in the Brownfields clean-up surrounding the construction of the Pepsi Center Arena in Denver.

Mr. Freeman has a long and diverse history in the field of solid waste recycling, handling and disposal. He is currently engaged in projects ranging from composting to improving treatment technology for medical waste. He is a long-time advocate of recycling and other waste minimization programs and takes an active role in these issues on the Solid and Hazardous Waste Commission, where he formed a recycling and waste minimization subcommittee to address these matters.

Mr. Freeman is active in a variety of renewable energy and transportation projects and groups throughout the Rocky Mountain West and California. He has worked with solar and waste-to-energy companies on government relations and legislative initiatives. Mr. Freeman uses his experience and understanding to help expedite project steps and creatively solve legal constraints to the development of renewable and advanced transportation projects. Mr. Freeman has vast expertise in environmental and safety issues surrounding traditional energy development as well. Building on his diverse experience with industry, conservation interests, and government entities, he specializes in building coalitions and overcoming project hurdles.

Mr. Freeman takes pride in giving pragmatic, sound counseling in all areas of law, often providing basic business counseling to his clients. He is an expert in seeking recovery for environmental costs under insurance policies. Whether through counseling, negotiation, litigation or alternative dispute resolution processes, Mr. Freeman emphasizes cost-effective solutions to environmental and occupational health issues for each of his clients.

- **Charlotte Pitt:** Charlotte Pitt is an Operations Manager for the City and County of Denver's Solid Waste Management Division. She has worked for Solid Waste Management for 13 years, where her primary focus has been managing the Denver Recycles waste diversion programs for the City. Charlotte came to the City from the University of South Carolina's Center for Environmental Policy and prior to that the South Carolina Office of Solid Waste Reduction and Recycling. She holds a Master Degree in Earth Resources Management from the University of South Carolina. Charlotte is very passionate about waste diversion and recycling, and has been a strong advocate for it in the solid waste field for more than 18 years.

*May 15, 2012*

On May 15, 2012, the Commission held its business and annual meeting.

Part 6, Section 6.04(a) of the Hazardous Waste Regulations was revised to reflect the annual Commission fees being assessed for fiscal year 2012-2013. The fees, which fund the operation of the Commission, were not modified.

The Commission also held a rulemaking hearing regarding amendments to Section 1.7.4 of Part 1 of the Solid Waste Regulations, the Solid Waste Authorization and Fees. The rule changed an effective date that was an administrative oversight during the previous revision of the rule. The amendment changed the effective date from April 1, 2011 to July 1, 2012.

The annual meeting, **“Pills, Spills, and Chem Demil: What’s Happening in the World of Waste”** focused on a variety of solid and hazardous waste issues.

Jared Torstenson, Hazardous Waste Permitting Unit, provided an overview of the activities of the Pueblo Chemical Depot and the planned activities of the Pueblo Chemical Agent Destruction Pilot Plant. In his presentation, he discussed the storage of chemical munitions at the Depot, the structure of the storage facilities, effects of the chemicals (mustard agent) stored at the facilities, and the schedule of the demilitarization of the chemical weapons.

Joe Schieffelin, Program Manager, Solid and Hazardous Waste Program, discussed the regulation that requires that all small quantity hazardous waste generators self-certify compliance with the hazardous waste regulations. He pointed out that due to the large number of small quantity generators, the Division was only able to inspect approximately 15% of the generators per year. In 2006, the Division created a regulatory requirement that all small quantity hazardous waste generators review an instruction booklet/guidance document and complete a self-certification checklist. This regulation intended to address the need for increased inspections, increase awareness of regulatory requirements and non-compliance consequences, and mitigate the effects of the high staff turnover for small quantity generators. Mr. Schieffelin provided data to show the self-certification program has been successful. Today, 100% of small quantity generators are “inspected” because they complete the self-certification; communication and compliance have increased; and the benefits of the program have been realized without any significant impact on Division resources.

Lillian Gonzalez, Health Care Sector Lead, Solid and Hazardous Waste Program, provided an overview of pharmaceutical wastes in the environment. Ms. Gonzales discussed the various reasons why pharmaceuticals are disposed, examples of hazardous pharmaceuticals, and evidence that most pharmaceuticals end up in municipal landfills. Ms. Gonzales told the Commission that the Division has developed written outreach materials and updated the website to educate individuals and facilities about the effects of pharmaceutical waste in the environment. The Division has also conducted training for health care facilities on appropriate disposal of pharmaceutical wastes.

Rob Beierle, Environmental Protection Specialist, Suncor Project Manager, briefed the Commission on the Department’s involvement with the Suncor Refinery. The information included a brief history of the site, detailed the discovery of light non-aqueous phase liquid (LNAPL) in the groundwater in 2010 and 2011, and the ongoing clean-up and remediation efforts. Mr. Beierle described the construction of an LNAPL recovery system along the property boundary, slurry walls, and the installation of an air sparging system. The air sparging system is designed to reduce benzene in the water by volatilization and evaporation.

Over lunch, the Commission reviewed posters and displays created by staff of the Hazardous Materials and Waste Management Division. The presentations included:

- Four Seasons Dry Cleaner Project – by Dave Walker, Environmental Protection Specialist, Remediation Expert
- Oden Property Gas Spill – by Cindy Smith, Environmental Protection Specialist, Solid Waste Inspector
- Recycling – Hub and Spoke – by Wolfgang Kray, Environmental Protection Specialist, Recycling Expert
- Water Balance Landfill Covers – by Larry Bruskin, Professional Engineer, Landfill Design Expert

A copy of all presentations and poster displays are available from the Commission Office.

### *August 21, 2012*

The August 21, 2012 meeting was cancelled.

### *November 20, 2012*

At this meeting, the Commission held eight different rulemaking hearings.

#### 6 CCR 1007-2, Part 4– Waste Tire Processor and End User Reimbursement Program

Due to the passage of HB 12-1034 in May 2012, the definition of an “end user” and conditions for reimbursement from the Waste Tire Processor and End User Reimbursement Fund (“Fund”) were modified. Under the changes, processors are eligible for reimbursement if they have demonstrated that they have used the tire-derived product or have sold it to an end use market. Additional amendments included changes to the application review process, appeals process, and other forms.

#### 6 CCR 1007-2, Part 1, Section 10 – Waste Tire Facilities and Waste Tire Haulers

Modifications to these rules included: (1) changing the definition of an end user; (2) extending the due date of the annual report for waste tire facilities and haulers to April 1<sup>st</sup> of each year; (3) clarifying the exemption language regarding transport of tires for road-side clean-up, and storage limits at exempted facilities; and (4) adding a storage quantity limit for waste tires that are stored at waste tire hauler facilities. These modifications were the result of legislation passed in 2012.

#### 6 CCR 1007-2, Part 1, Sections 1.2 and 18 – Waste Grease Regulations

As mandated by SB 12-077, the Commission removed yellow grease from the definition of grease and removed all requirements for persons who collect, transport, store, process, or dispose of yellow grease. Other changes mandated by the bill, such as a revised the definition of trap grease, were adopted by the Commission as were regulatory revisions recommended by the Office of Legislative Legal Services.

#### 6 CCR 1007-3, Parts 262 and 100, Sections 262.13 and 100.32 – Extension of Temporary Fee Decrease for Calendar Year 2013

In 2011, the Hazardous Waste fee account had accumulated too much money. As a result, the Commission passed a one-year fee decrease of 12% in February 2011. Because the account continued to have money in excess of the allowable 16.5%, in November 2011, the Commission extended and increased the fee reduction to 30% for calendar year 2012. Because projected revenues to the fund exceed expected expenditures, the Division asked the Commission to continue the 30% fee decrease for calendar year 2013. The Commission adopted this fee reduction.



6 CCR 1007-3, Part 261, Section 261.1(d) (4) – Definition of “Reclaimed”

The Commission adopted changes to the definition of “reclaimed”. This change provided consistency with the federal definition of “reclaimed” at 40 CFR § 261.1(c) (4).

6 CCR 1007-3, Part 261, Section 261.2(f) (1) – Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation

The Commission adopted changes that clarify that a hazardous waste recycler must be able to demonstrate that the recycling is legitimate, regardless of whether or not the Division is pursuing an enforcement action.

6 CCR 1007-3, Part 99 – Notification Regulations

The Commission adopted changes that require hazardous waste generators to notify the Division at the time of the generator status change, instead of at the time the annual Commission fee is due.

6 CCR 1007-3, Part 261, Section 261.32 – K903 Hydrolysate Listing

The Commission amended the K903 listing for hydrolysate. This new listing was necessary in order to classify hydrolysate under a new, non-acute hazardous waste listing. Mustard agent hydrolysate was previously designated as an acute hazardous waste listing, and therefore subject to stricter regulation. The new classification code allows for more flexibility in the regulation of storage, treatment, and management of the waste.

In addition to the rulemaking hearings, the Commission adopted Policy 2012-01 regarding recycling, minimization and the reuse of solid waste. The policy can be found on the Commission’s website:

<http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251634383502>

**February 19, 2013**

At the November 20, 2012 meeting the Commission adopted amendments to 6 CCR 1007-2, Part 4– Waste Tire Processor and End User Reimbursement Program and amendments to 6 CCR 1007-2, Part 1, Section 10 – Waste Tire Facilities and Waste Tire Haulers. At that meeting, a participant in the hearing informed the Commission that a requested regulatory analysis had not been completed. In the interest of disclosure and good faith, the Commission decided to allow the Division to complete a regulatory analysis, repeal the amendments adopted at the November 20, 2012 meeting, and hold a new rulemaking hearing on the proposed amendments. At the February 2013 meeting, the Commission adopted rules identical to those adopted in November 2012.

6 CCR 1007-2, Part 1, Sections 1.2 and 16 – Deletion and Replacement of existing Section 16 Regulations (Disposal of Motorized Equipment Wastes) with new Section 16 Regulations (Materials Prohibited from Disposal) and Associated Additions and Revisions to Section 1.2 Definitions

At this meeting, the Commission considered and adopted amendments to these solid waste rules that implement a statewide landfill ban for residentially generated electronic devices, or components of an electronic device. Senate Bill 12-133 required these changes and specified that banned electronic devices include televisions, computers, tablets, radios, and video game consoles.

6 CCR 1007-3, Part 264, Section 264.550(b) – Applicability of Corrective Action Management Unit (CAMU) Regulations

The Commission modified this section of the hazardous waste regulations to specify that corrective action management units (CAMUs) that met certain criteria<sup>1</sup> be subject to the requirements in Section 264.551 for grandfathered CAMUs. New CAMUs and applications that did not qualify for the

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<sup>1</sup> CAMUs approved prior to the April 22, 2002 effective date of the federal regulations, or for which substantially complete applications (or their equivalents) were submitted to the Environmental Protection Agency (EPA) on or before November 20, 2000.

“grandfathered” status, are subject to the CAMU requirements of § 264.552.

### *Interpretive Rules and Administrative Penalties*

The Commission has the authority to issue interpretive rules and review administrative law judges’ determinations regarding amounts of administrative penalties. The Commission did not review any administrative penalties or issue interpretive rules in 2012.

### *Other Activities and Forecast for 2013-2014*

The Commission will continue to examine all proposed rule for potential multimedia impacts, recycling and reuse opportunities, and regulatory necessity. As has been the case for the last several years, the Commission’s work will likely focus on the solid waste arena in 2013 and 2014. The Division will present a proposal in the summer of 2013 that will significantly change the current regulation of asbestos in soils. This and other changes will keep the Commission active and engaged for the near future.

The Commission encourages all interested parties to participate in its activities and welcomes any suggestions for amendments to the solid waste regulations and the hazardous waste regulations. Individuals or groups can be added to Commission’s electronic mailing list by contacting the Commission office.

Due to term limits of current Commission members, new members are being sought for the following positions: regulated industry representative and public at large representative. Interested persons are encouraged to apply to the Governor’s Office of Boards and Commissions. An application is available online at <http://www.colorado.gov/cs/Satellite/GovHickenlooper/CBON/1249674847715>

### *Commission Information*

Commission information can be found at the following website address:

<http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251611209861>

If you have suggestions or comments please let us know.

For more information on the Colorado Solid and Hazardous Waste Commission or its Annual Report, please call Brandy Valdez Murphy, Program Assistant at (303) 692-3467.

