

Solid and Hazardous Waste Commission Annual Report 2013-2014



Colorado Department
of Public Health
and Environment

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

Commission History

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>.

Commission Members

Selected from Regulated Industry

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 30 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.

Cameron Garcia

Cameron Garcia received a Bachelor of Science degree in Environmental Restoration and Waste Management from Colorado Mesa University, formerly Mesa State College, in 1996 and a Master's of Public Administration in 2007 from the University of Colorado at Denver. He has over 20 years of environmental and compliance related experience and has been employed with Mesa County Solid Waste Management since February 2000. Cameron is currently the Waste and Sustainability Division Director for the division and is responsible for implementing and managing county operated waste collection, disposal, recycling, and diversion programs to ensure the sustainable management of waste in an environmentally and fiscally responsible manner.

Mr. Garcia also has worked in the private sector as a consultant where he established waste management and compliance programs for businesses, including the oil and gas sector, streamlining the deployment of programs designed to minimize solid/hazardous waste disposal and energy consumption through the implementation of more efficient and cost effective management strategies. Cameron is a Certified Hazardous Materials Manager, Registered Environmental Manager, 40 Hour HAZWOPER certified, DOT Hazmat.

Selected from the Public at-Large

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 18 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.

Randall M. Weiner

Randall M. Weiner has been practicing environmental law on behalf of environmental groups and individuals since 1986 in New York, Alaska and Colorado. He is a graduate of Haverford College and the University of Pennsylvania Law School. His practice in Boulder focuses on pollution and environmental law. Mr. Weiner's cases have impacted the national landscape on issues involving trash disposal practices, the Arctic National Wildlife Refuge, Community-Right-to-Know, and pesticide reform.

Alek M. Orloff

Alek M. Orloff is Chief Financial Officer of Alpine Waste & Recycling, Colorado's largest privately-held 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 processing 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 President, and on the Board of Directors for the Adams 14 Education Foundation as its Treasurer. 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. Mr. Orloff is the current Vice-Chair of the Commission.

Selected from Academia and Local Government

Charlotte Pitt

Charlotte Pitt is a Manager for the City and County of Denver's Solid Waste Management Division. She has worked for Solid Waste Management for 14 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 19 years.

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 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.

Commission Staff and Contact Information

Michael Silverstein

Commission Administrator michael.silverstein@state.co.us

Brandy Valdez Murphy

Commission Assistant brandy.valdezmurphy@state.co.us

Contact Us:

4300 Cherry Creek Drive South
Denver, CO 80246

<http://www.colorado.gov/shwc>

cdphe.hwcrequests@state.co.us

Rulemaking Hearings and Public Outreach

May 29, 2013:

On May 29, 2013, the Commission held its business and annual meeting.

The Commission held four rulemaking hearings:

6 CCR 1007-3, Part 6 – Solid and Hazardous Waste Commission Annual Fee

Part 6, Section 6.04(a) of the Hazardous Waste Regulations was revised to reflect the annual Commission fees being assessed for fiscal year 2013-2014. The fees, which fund the operation of the Commission, were not modified.

6 CCR 1007-3, Part 260, Part 261, Part 264, Part 265, Part 268, Part 279, Part 100 and associated Appendices – Methods Innovation Rule and Final Update IIIB

The Methods Innovation Rule and SW-846 Final Update IIIB amended the state analogs to the federal provisions promulgated by the Environmental Protection Agency under the Methods Innovation Rule (MIR) and SW-846 Final Update IIIB Final Rule published in the Federal Register on June 14, 2005 {70 FR 34538-34592}. The Final Rule updated and reformed the testing and monitoring requirements under RCRA to provide more flexibility in method selection and use.

6 CCR 1007-3, Parts 261 and 268 – Removal of Saccharin and its Salts from the Lists of Hazardous Constituents and Hazardous Wastes

The Environmental Protection Agency determined that saccharin is not a chemical that requires further management as a hazardous waste. Saccharin is a common product that is found in commercial products and artificial sweeteners. With these amendments, these wastes will no longer be subject to the U202 listing.

6 CCR 1007-3, Part 268 – Revision of Land Disposal Treatment Standards for Carbamate Wastes

The Environmental Protection Agency revised the treatment standards for carbamate wastes, as there were analytical difficulties in meeting the concentration based treatment standards for carbamate waste. There is now a specified method of treatment or technology standard for carbamate wastes. At the present time, there are no facilities in Colorado that generate carbamate waste.

After this meeting, the Commission visited two facilities for a site tour. At Alpine Waste and Recycling, Commissioners witnessed day to day operations of a single stream recycling center. The Commissioners also visited Waste Management's Product Recovery Services – an electronic waste recycler.

August 20, 2013:

The August 20, 2013 meeting was cancelled.

November 19, 2013:

At this meeting, the Commission held two rulemaking hearings.

6 CCR 1007-2, Part 1, Section 1 – Solid Waste User Fee

Changes were made to the table included in Section 1.7.4, related to the Recycling Resources Economic Opportunity (RREO) user fee. SB 13-050 established a progressive fee, which defines the amounts of the fee in forthcoming years. These amendments removed references to the fee in regulation as the fee is set in statute. This eliminated the need for regular modifications to the regulation.

6 CCR 1007-2, Part 1, Section 16 – Management and Disposal of Residentially Generated Waste Tires

In SB 09-289, legislation required retailers and wholesalers to not refuse to accept waste tires from customers. The Office of Legislative Legal Services requested a minor change to the current regulatory language from “may accept” (waste tires) to “may not refuse to accept” (waste tires) to conform to the legislative intent of the bill.

December 12, 2013:

In August 2013, a notice of proposed rulemaking was filed with the Colorado Secretary of State proposing amendments to Section 5.5 of 6 CCR 1007-2, Part 1, Section 5.5 in regard to asbestos contaminated soils. The Commission decided to implement its pre-hearing process to prepare for this hearing. Several entities joined as parties to the hearing, and due to the federal government shutdown, the hearing was delayed until December 12, 2013.

At the December 12, 2013 meeting, the Commission heard testimony and rebuttal from the Division and participating parties. The Commission closed the administrative record and voted to continue deliberations at February 18, 2014.

February 18, 2014:

Continuation of 6 CCR 1007-2, Part 1, Section 5.5 – Asbestos Contaminated Soils

At the February hearing, Commissioners considered a Motion to Vacate the hearing regarding the proposed amendments to Section 5.5. Division staff requested the opportunity to take new information back to the general stakeholder group for consideration. After considering the Motion, the Commission instead chose to continue the hearing, and the administrative record was re-opened and continued to July 15, 2014. A new notice of proposed rulemaking will be filed, and additional written public comments will be considered at the July hearing. The Commission encouraged the Division to work the stakeholder group and parties to the hearing to prepare for the July hearing.

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 2013.

Other Activities and Forecast for 2014-2015

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 2014. The Commission is currently considering amendments that will significantly change the current regulation of asbestos in soils. The Commission intends to conclude this hearing in the summer of 2014. The Commission will also consider changes to composting regulations later in the year.

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.

Two of the current Commission members, new members are nearing the end of their terms. Thus, new members are being sought for the following positions: local government or academia representative, and public at large representative. Interested persons are encouraged to apply to the Governor's Office of Boards and Commissions online at <http://www.colorado.gov/cs/Satellite/GovHickenlooper/CBON/1249674847715>.