



2014-2015

Annual Report



COLORADO

**Solid & Hazardous
Waste Commission**

Department of Public Health & Environment

colorado.gov/cdphe/SHWCReport

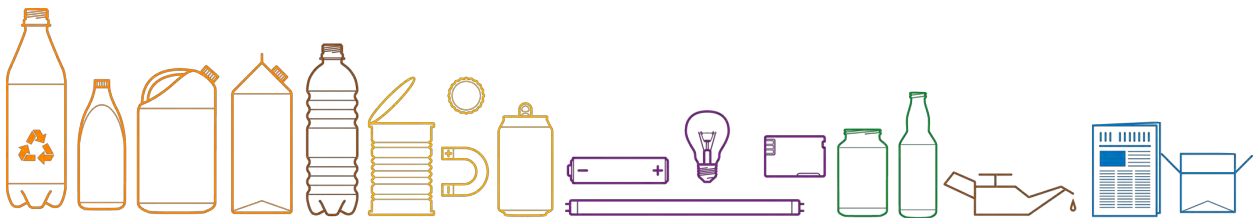
History

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:

- promulgates and adopts rules pertaining to solid and hazardous waste.
- sets fees and issues interpretive rules for solid and hazardous waste.
- hears appeals of administrative law judges' determinations regarding the amounts of administrative penalties for hazardous waste matters.

The Solid and Hazardous Waste Commission comprises 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 the state hazardous waste rules are consistent with the U.S. Environmental Protection Agency's requirements. This allows Colorado to retain its authorization and federal funding. 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. 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.



Members | Selected from regulated industry

James (Jim) Wilson, PE, Esq.

Over the past 25 years, Jim Wilson has continued to follow his interest in environmental protection while working throughout the United States, Europe and Puerto Rico, by managing compliance issues in the chemical and pharmaceutical industry while working for companies including Occidental Chemical Corporation, Bristol Myers Squibb, F. Hoffmann La Roche/Genentech, and Amgen. Jim currently is director of environment, health, safety and environment at Amgen, where he leads the global environment and sustainability program and is also head of environment, health and safety for Amgen Colorado operations.

Jim holds a law degree with honors from the University of Denver, master's degrees in engineering management and environmental engineering from Syracuse University, and undergraduate degrees in biology and chemical engineering from the State University of New York at Buffalo. Jim is licensed as a professional engineer and attorney in Colorado.

Jim has lived in Colorado since 1999, where he enjoys outdoor activities such as skiing, mountain biking, coaching youth sports and involvement in the Boy Scouts of America. Jim also has been an active advocate for diabetes research serving on the board of both the Juvenile Diabetes Research Foundation and the American Diabetes Association.

John (Jack) 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.

Jack 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.

Jack 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.

Members | Selected from regulated industry

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. Michael 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, Michael spearheaded the evaluation, due diligence and integration of numerous acquisitions in the Rocky Mountain region during the 1990s. While at Allied Waste, Michael held operational 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 master's of business administration degree.



Members | Selected from academia and local government

Christopher J. Neumann, Esq.

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 a bachelor's of civil engineering and environmental science degree from the University of Notre Dame and a law degree 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 a member of the Aircraft Owners and Pilots Association and the American Society of Civil Engineers. Chris is the current chair of the commission.

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. Cameron is the current secretary of the commission.

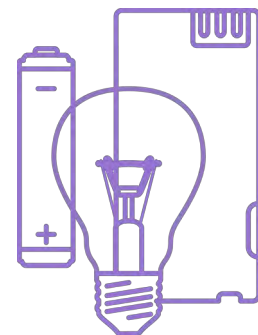
Cameron has worked in the private sector as a consultant, where he established waste management and compliance programs for businesses, including the oil and gas sector, streamlining the deployment of programs designed to minimize solid and hazardous waste disposal and energy consumption through the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

Members

| 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 15 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’s degree in earth resources management from the University of South Carolina. Charlotte is passionate about waste diversion and recycling and has been a strong advocate in the solid waste field for more than 20 years.



Members | Selected from the public at-large

Joseph (Joe) Prinster Jr. , PE

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 University of Denver in 1985.

Joe is a practicing civil engineer with Brown Civil Engineering (Lafayette, Colorado) and a registered professional engineer. His 18 years as a civil project manager include many residential and mixed-use urban projects, as well as educational, campus and 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 that also aligns with the available budget.

Randall (Randy) M. Weiner, Esq.

Randall M. Weiner has been practicing environmental law on behalf of environmental groups and individuals since 1986 in New York, Alaska and Colorado. Mr. Weiner is a graduate of Haverford College and the University of Pennsylvania Law School. He previously sat on the Colorado Pollution Prevention Advisory Board and Boulder's Environmental Advisory Board.

Highlights of Randy's career include cases involving trash disposal practices, the Arctic National Wildlife Refuge, Community Right-to-Know and pesticide reform. In an effort to promote recycling and encourage a change in New York City's garbage disposal practices, Randy's legal efforts halted permitting for a garbage incinerator at New York City's Brooklyn Navy Yard and halted the infamous Long Island Garbage Barge from landing in the New York City area. To better protect the Arctic National Wildlife Refuge's natural environment, the Alaska Supreme Court ruled in his favor in two lawsuits to prevent leasing for oil drilling in state waters directly off the refuge's coast. Closer to home, Randy's efforts under the Emergency Planning and Community Right-to-Know Act resulted in a judgment against a company for failing to notify emergency response agencies of a rail car hazardous materials spill in Denver. Randy also successfully litigated an end to trash incineration in Jackson County and the remediation of arsenic-contaminated residential properties in north Denver (including damages to residents). Finally, his lawsuit in Hotchkiss, Colorado, garnered a permanent injunction to protect an organic farm from pesticide trespass.

Members | Selected from the public at-large

Garrett Clemons

Garrett Clemons has been a senior consultant with Antea Group, a worldwide environmental engineering firm, since 2014. From 2008 to 2012, Garrett was Vice President of Operations for Basic Materials & Services, LLC and Ohio Basic Minerals, LLC. Basic Materials & Services, LLC is a Denver-based company organized to make investments in small- to medium-sized companies in the natural resources and related service industries. From 2000 to 2008, Garrett was the air compliance manager for TransMontaigne Inc. located in Denver. TransMontaigne operates within the pipeline and refined petroleum storage industries. As the manager of air compliance, Garrett managed all air compliance items as well as ethanol, butane and above-ground storage tank compliance for 55 bulk chemical storage facilities nationwide. Garrett has served from 2005 to 2008 as chairman of the air committee, a subcommittee of the International Liquid Terminals Association, Washington D.C. Garrett also has served from 2006 to 2009 as a commissioner on the Colorado Air Quality Control Commission, to which he was appointed by Gov. Bill Owens. Garrett received a bachelor's degree in geology from the University of Arkansas and a master's degree in resource law studies from the University of Denver, Sturm College of Law.



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Rulemaking hearings & public outreach

May 20, 2014

On May 20, 2014, the Commission held its business and annual meeting.

6 CCR 1007-3, Part 266 - Financial Requirements (Financial Assurance Requirements)

Financial assurance is the mechanism the Hazardous Materials and Waste Management Division has to close and potentially remediate a site that can not perform closure on its own, either through bankruptcy or abandonment. The revisions to this regulation removed the corporate test and corporate guarantee as approved mechanisms, and strengthened the regulations for insurance and captive insurance mechanisms for financial assurance.

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 2014-2015. The fees, which fund the operation of the commission, were not modified.

6 CCR 1007-3, Parts 262 and 100 - Hazardous Waste Fees (Removal of Temporary Fee Decrease)

In 2009, the commission promulgated the current hazardous waste fees. Based on cost and revenue projections at that time, the 2009 fees were intended to be adequate to fund the Hazardous Waste Program for about two years. However, after two years, because of higher-than-expected revenue and lower-than-expected costs, the department determined that a one-year temporary decrease of 12% in hazardous waste fees was necessary to bring the Hazardous Waste Cash Fund balance back in line with allowable limits for cash fund carry-over. The commission agreed, and reduced the hazardous waste fees by 12% for calendar year 2011. As it turned out, the 12% fee reduction did not reduce the cash fund balance quickly enough. So a year later, the department determined that increasing the fee reduction to 30% for one additional year was necessary. Based on revenues, costs, and the fund balance at that time, the department suspected that the 30% fee reduction could possibly be extended into a second year. However, due to an uncertain economy, the department asked for, and the commission implemented, a 30% fee reduction only for calendar year 2012. A year later, additional analysis confirmed that this fee decrease could be extended, and the commission continued the fee reduction for another year, 2013. As 2013 ended, the department again evaluated cost, revenue, and fund balance trends. By this time, the 30% fee decrease had caused a significant decrease in the cash fund balance as was intended. However, it also was apparent that, by mid-2014, revenues would need to be increased to ensure the fund balance did not fall too far too fast. This rulemaking proposal to discontinue the fee decrease allows the fund balance to achieve allowable levels within about two years and avoids more significant fee increases in the short-term future that would result from the fund balance decreasing too quickly. In response, the commission approved a removal of the fee decrease and set the fees back to the 2009 levels.

During the annual meeting, commissioners were briefed on the department's Environmental Leadership Program. Two award winners described their efforts to reduce waste and described their experiences in the program.

Rulemaking hearings & public outreach

July 15, 2014

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

At the February 2014 hearing, commissioners continued the rulemaking hearing to July 15, 2014, to allow additional work with the stakeholder group and parties to the hearing. After additional testimony, the commission closed the administrative record and continued the hearing to Aug. 19, 2014, to continue deliberations. The commission provided additional direction to the division and parties.

August 19, 2014

6 CCR 1007-2, Part 1, Section 1.7.6 - Waste Tire Fee

In House Bill 14-1352, legislation transferred the authority to collect waste tire fees from the Colorado Department of Revenue to the Colorado Department of Public Health and Environment. The commission maintained the \$1.50 fee on each new motor vehicle and trailer tire. The fee will be used to fund the Waste Tire Administration, Enforcement and Clean-Up Fund and the Waste Tire Market Development Fund.

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

After a year long effort, the commission wrapped up deliberations and adopted changes to Section 5.5, asbestos contaminated soils. This hearing involved several parties, including representatives from the federal government, regulated industry, and local governments. The purpose of the Section 5.5 revision was to update the regulations based on the Hazardous Materials and Waste Management Division's and stakeholders' experience gained from implementing the initial regulation since 2006. Consistent with the initial regulatory process, the division confirmed: 1) the risk associated with asbestos contaminated soil is from the inhalation of airborne fibers, and 2) it is virtually impossible to correlate the concentration of asbestos in the soil with the measured concentration of asbestos fibers in air. In addition, the division and stakeholders learned it is virtually impossible to control every fiber all the time to completely eliminate potential exposures. However, practical and implementable engineering controls, if applied properly, can be effective in controlling the release of asbestos fibers. Therefore, the proposed revisions to Section 5.5 and the associated definitions were aimed at improving the management of asbestos contaminated soil, while maintaining protectiveness of human health and the environment.

Rulemaking hearings & public outreach

November 18, 2014

6 CCR 1007-3, Part 261, Appendix IX to Conditionally Delist F006 Hazardous Waste Generated by Depuy Synthes located at 1051 Synthes Avenue in Monument, Colorado 80132

The commission approved a request to delist a wastewater treatment sludge produced from electroplating operations at Depuy Synthes. The petitioner demonstrated that the waste does not contain hazardous constituents that are the basis for the listing, does not meet criteria listed at Part 261.11(a)(3), does not exhibit any hazardous waste characteristics, and does not exceed acceptable risk levels.

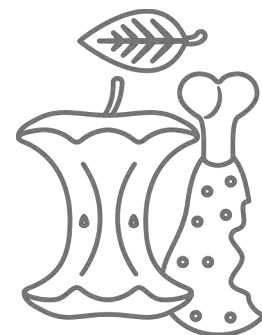
6 CCR 1007-2, Part 1, Sections 1.2, 10, and 16 - Waste Tire Facilities and Waste Tire Haulers and the repeal of 6 CCR 1007-2, Part 4 - Waste Tire Processor and End User Reimbursement Program

House Bill 14-1352 repealed and re-enacted the state’s waste tire laws, moving them into the Solid Waste Act. This required modifications to definitions and requirements for waste tire haulers, generators, monofills, and end users. The division also moved the requirements for the end user fund into Section 10, requiring the repeal of Part 4 of the solid waste regulations. House Bill 14-1352 also transferred all waste tire program regulatory authority to the Department of Public Health and Environment.

February 17, 2015

Repeal of 6 CCR 1007-7, Environmental Records Searches

Upon review of regulations pursuant to Executive Order D 2012-002, these regulations were identified to be in contradiction to the Colorado Open Records Act and, if retained, would need to be amended to be consistent with the Colorado Open Records Act. However, after investigation, these regulations were determined to be outdated and no longer utilized or enforced. Because the Colorado Open Records Act outlines a specific procedure for records searches, these rules are redundant, and the Hazardous Materials and Waste Management Division requested that they be repealed.



Interpretive rules & 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 2014.

Other activities and forecast for 2015-2016

The commission will continue to examine all proposed rules 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 likely will focus on the solid waste arena in 2015. The commission currently is working on revising the commission's procedural rules, will consider adoption of rules related to architectural paint stewardship, and will look at updating composting regulations.

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 the commission's electronic mailing list by contacting the commission office.

If you are interested in serving on the Solid and Hazardous Waste Commission, apply online at the Governor's Office of Boards and Commissions:

www.colorado.gov/cs/Satellite/GovHickenlooper/CBON/1249674847715

