

- 29 h. Unattended facilities regulated under Parts 1 and 2 of these regulations that do
30 not pay fees under section 25-16-104.5, C.R.S., including:
- 31 i. Surface Impoundments,
- 32 ii. Landfills, and
- 33 iii. Monofills
- 34 (2) The facilities listed in Section 1.7.3(A)(1) above are subject to the annual operating fee
35 from the time such facilities first begin operating until final closure is certified and shall
36 provide payment to provide reimbursement to the Department for those costs incurred in
37 tracking, compliance monitoring, compliance assistance, plan review, enforcement, and
38 other recurring activities that are reasonable and necessary to ensure compliance with
39 these regulations.
- 40 (3) A post-closure fee of \$1,000 per year shall be paid annually by solid waste sites and
41 facilities regulated under the following Parts that are not subject to the Solid Waste User
42 Fee, except Part 8 as noted below:
- 43 a. Part 2,
- 44 b. Part 3,
- 45 c. ~~Reserved Part 7 (Transfer Stations),~~
- 46 d. ~~Reserved Part 8 Recycling: annual fee is \$150/facility/year,~~
- 47 e. Part 9 (Surface Impoundment Facilities),
- 48 f. Part 11 (Solid Waste Incinerator Facilities),
- 49 g. Part 13 (Medical Waste Facilities),
- 50 h. Part 14 (Compost Facilities),
- 51 i. Part 18 (Waste Grease Transporters, Facilities, and Personal Users of Waste
52 Grease): Annual fee per Section 1.7.5 of these regulations, and
- 53 j. Unattended facilities regulated under Parts 1 and 2 of these regulations,
54 including:
- 55 i. Surface impoundments,
- 56 ii. Landfills, and
- 57 iii. Monofills
- 58 (4) The facilities listed in Section 1.7.3(A)(3) above are subject to the post-closure fee for the
59 duration of the post-closure care period and shall provide payment to provide
60 reimbursement to the Department for those costs incurred in tracking, compliance
61 monitoring, compliance assistance, plan review, enforcement, and other recurring
62 activities that are reasonable and necessary to ensure compliance with these regulations.

63 (B) **Payment:** All owners and operators of facilities subject to the fees of this section shall provide
64 timely payment of the annual fees to the Treasurer of the State of Colorado, as provided in this
65 section. All annual fees shall be credited to the Solid Waste Management Fund created in section
66 30-20-118, C.R.S. A late payment fee of 2% per month or portion thereof shall be assessed on
67 any unpaid balance subject to the limitations of 24-79.5-101, et seq. C.R.S.

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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3 **Solid and Hazardous Waste Commission**

4 **Hazardous Materials and Waste Management Division (HMWMD)**

5 **6 CCR 1007-2**

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8 **STATEMENT OF BASIS AND PURPOSE**
9 **AND SPECIFIC STATUTORY AUTHORITY FOR**

10 **Amendment of Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2**
11 **Part 1) – Section 1.7.3 (Annual Fees)**

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13 **Basis and Purpose**

14 This amendment to 6 CCR 1007-2, Section 1.7.3 is made pursuant to the authority granted to the
15 Solid and Hazardous Waste Commission in Sections 25-15-302(4.5) and 30-20-109, C.R.S.

16 The purpose of this amendment to Section 1.7.3 is to remove Part 7 transfer stations and Part 8
17 recycling facilities from the list of solid waste facilities that are assessed an annual fee.
18 Currently, transfer stations are subject to an annual fee of \$1,000 and recycling facilities are
19 subject to an annual fee of \$150.

20 **Background**

21 The Section 1.7.3 Annual Facility Fee mechanism was developed as part of the HB 07-1288
22 legislative stakeholder process, and was implemented pursuant to the directives of Section 30-
23 20-109(2.5), C.R.S. Pursuant to § 30-20-109(2.5), C.R.S., the Solid and Hazardous Waste
24 Commission (the "Commission") shall promulgate rules pertaining to the assessment of annual
25 fees and document review and activity fees to offset program costs from solid waste disposal
26 sites and facilities. In accordance with § 30-20-109(2.5)(a), C.R.S, annual fees shall be
27 established for solid waste disposal sites and facilities that are not required to pay solid waste
28 user fees (SWUF) imposed pursuant to § 25-16-104.5, C.R.S. The annual fee shall be uniform
29 among owners of the same type of, and similarly sized, facility, and shall consider the
30 Department's level of effort in regulating the facilities.

31 As part of the stakeholder process, a significant majority of the stakeholders in both the legislative
32 and regulatory processes supported the development and implementation of an annual facility fee
33 for solid waste sites and facilities not subject to the SWUF. Through interactive stakeholder
34 negotiations and statewide discussions, an annual facility fee of \$1,000/year was established for
35 each facility type identified in Section 1.7.3. However, after additional stakeholder concerns were
36 raised indicating that the \$1,000/year fee per facility was too burdensome for some recycling
37 facilities, the fee for recycling facilities was reduced to \$150/facility/year.

38 The Division has recently discovered that inclusion of transfer stations and recycling facilities in
39 the list of facilities subject to the Section 1.7.3 annual fees is in direct conflict with the Solid Waste
40 Act. The wording of § 30-20-109(2.5), C.R.S. called for the establishment of annual fees for
41 "solid waste disposal sites and facilities." However, sections 30-20-102(5) and 30-20-102(7),
42 C.R.S. specifically state that recycling facilities and transfer stations "shall not be deemed to be a
43 solid waste disposal site and facility."

44 **Summary of Regulatory Proposal**

45 To correct the existing conflict with the statutory language, this amendment to Section 1.7.3(A)(1)
46 and 1.7.3(A)(3) removes Part 7 transfer stations and Part 8 recycling facilities from the list of solid
47 waste facilities that are assessed an annual fee.