

STATE OF COLORADO

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Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

NOTICE OF PUBLIC RULEMAKING PROCEEDING BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

For consideration of revisions to section 64.7A(1) of the Biosolids Regulation, Regulation #64 (5 CCR 1002-64), to reduce the biosolids fees. The proposed revisions, along with a proposed Statement of Basis, Specific Statutory Authority, and Purpose, are attached to this Notice as Exhibit 1. In this attachment, proposed new language is shown with double-underlining and proposed deletions are shown with ~~strikeouts~~. Any alternative proposals related to the subject of this hearing will also be considered.

During the Commission's consideration of whether to approve this notice of rulemaking, the Commission determined that there is not a likelihood of significant controversy during the rulemaking process. Therefore, the Commission has chosen to pursue an alternative rulemaking process consistent with section 24-4-103(4)(a) C.R.S.; and section 21.3(C)(6) of the Procedural Rules. Questions or comments regarding this process are welcome.

It is the goal of the Commission to complete this rulemaking without oral testimony.

PARTY STATUS:

Pursuant to section 21.3(D) of the Commission's Procedural Rules, there shall be no party status for this rulemaking proceeding.

WRITTEN COMMENTS AND REBUTTAL STATEMENTS:

Initial written comments and evidence with respect to the proposed amendments are due in the Commission Office by December 4, 2007. In addition, any written rebuttal statements must be received in the Commission Office by January 2, 2008.

Anyone providing written comments and evidence or rebuttal statements should provide an original plus twenty-five copies to the Commission Office. Anyone for whom the expense of providing these copies presents an economic hardship should contact the Commission Office to make alternative arrangements. Those who wish to receive the written comments and rebuttal statements from other members of the public should so indicate in a cover letter with their submission of written comments.

RULEMAKING DELIBERATION SCHEDULE:

DATE: Monday, January 14, 2008
TIME: 9:00 a.m.
PLACE: Florence Sabin Conference Room
Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado

At this time and place, the Commission will conduct its deliberations, based on the written comments and evidence submitted.

SPECIFIC STATUTORY AUTHORITY:

The provisions of sections 25-8-202(1)(c) and (2); 25-8-205(1)(e); 25-8-501(1) and (2); and 25-8-509 C.R.S. provide the specific statutory authority for consideration of the regulatory amendments proposed by this notice.

Should the Commission adopt the regulatory language as proposed in this notice or alternative amendments, it will also adopt, in compliance with section 24-4-103(4) C.R.S., an appropriate Statement of Basis, Specific Statutory Authority, and Purpose.

NOTIFICATION OF POTENTIAL MATERIAL INJURY TO WATER RIGHTS:

In accordance with section 25-8-104(2)(d), C.R.S. any person who believes that the actions proposed in this notice have the potential to cause material injury to his or her water rights is requested to fully explain the basis for their claim in the written comments submitted. This explanation should identify and describe the water right(s), and explain how and to what degree the material injury will be incurred.

Dated this 11th day of October 2007 at Denver, Colorado

WATER QUALITY CONTROL COMMISSION

A handwritten signature in black ink, reading "Paul D. Frohardt". The signature is written in a cursive, flowing style.

Paul D. Frohardt, Administrator

EXHIBIT 1

WATER QUALITY CONTROL DIVISION

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL COMMISSION

5 CCR 1002-64

BIOSOLIDS REGULATION

REGULATION NO. 64

....

64.7 FEES

A. Assessment of Fees and Billing

- (1) A non-refundable fee of ~~two dollars and eleven cents (\$2.11)~~ one dollar and eighty-seven cents (\$1.87) per dry ton of biosolids shall be assessed to generators whose biosolids are used for beneficial purposes. The Division will notify generators when adjustments are made to the fee schedule and the effective date for implementing the changes.

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PROPOSED

64.30 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE: (January 2008 Hearing)

The provisions of Colorado Revised Statute Sections 25-8-202(1)(c) and (2), 25-8-205(1)(e), 25-8-501(1) and (2), and 25-8-509 C.R.S, provide the specific statutory authority for the Colorado Biosolids Regulations adopted by the Commission. The Commission has also adopted, in compliance with Colorado Revised Statute Section 24-4-203(4) C.R.S., the following Statement of Basis and Purpose.

BASIS AND PURPOSE

The Commission found that the reduction of the biosolids fees from \$2.11 per dry ton to \$1.87 per dry ton was necessary because the biosolids program has generated more revenue in the past three years than the legislature has given the program the authority to spend. Therefore the Division is seeking a fee reduction to avoid exceeding the allowable 16.5 % statutory fund balance carryover established under the TABOR amendment. The cost to operate the biosolids program has been below the revenues the program has generated.