

CHAPTER 247

HEALTH AND ENVIRONMENT

SENATE BILL 06-171

BY SENATOR(S) Johnson, and Evans;
also REPRESENTATIVE(S) Lindstrom.**AN ACT****CONCERNING THE TRANSFER OF CERTAIN AUTHORITIES OF THE STATE BOARD OF HEALTH TO OTHER
GOVERNMENTAL ENTITIES, AND MAKING AN APPROPRIATION THEREWITH.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1. Repeal.** 25-1-108 (1) (c) (V), Colorado Revised Statutes, is repealed as follows:**25-1-108. Powers and duties of the state board of health - report.** (1) In addition to all other powers and duties conferred and imposed upon the state board of health by the provisions of this part 1, the board has the following specific powers and duties:

(c) (V) ~~To adopt rules and regulations concerning solid wastes disposal sites and facilities.~~

SECTION 2. 25-1.5-202 (2) and (3) (a), the introductory portion to 25-1.5-202 (3) (b), 25-1.5-202 (4) (a), and the introductory portion to 25-1.5-202 (4) (b), Colorado Revised Statutes, are amended, and the said 25-1.5-202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:**25-1.5-202. Water - minimum general sanitary standards.** (2) Minimum general sanitary standards for the quality of water supplied to the public shall be no more stringent than the drinking water standards promulgated pursuant to the federal "Safe Drinking Water Act", if such standards exist. If no standards have been promulgated pursuant to the federal "Safe Drinking Water Act" regarding the permissible concentration of any contaminant or any substance in drinking water, the department may recommend to the ~~board~~ WATER QUALITY CONTROL COMMISSION for promulgation minimum general sanitary standards regarding such

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

contaminant or substance.

(3) (a) The department shall annually establish and revise a priority list of contaminants or substances for which standards may be considered and shall submit said list to the ~~board~~ WATER QUALITY CONTROL COMMISSION for review and approval.

(b) The priority list of contaminants or substances, together with the department's evaluation of the considerations listed in this paragraph (b), shall be submitted to the ~~board~~ WATER QUALITY CONTROL COMMISSION for review and approval. The priority list shall be prepared according to a ranking process ~~which~~ THAT incorporates the following considerations:

(4) (a) Following the department's submission of recommended standards to the ~~board~~ WATER QUALITY CONTROL COMMISSION, the ~~board~~ COMMISSION may promulgate standards for contaminants or substances that are not the subject of a standard set pursuant to the federal "Safe Drinking Water Act".

(b) In the promulgation of such standards, the ~~board~~ WATER QUALITY CONTROL COMMISSION shall find that the standards are necessary to protect public health and have a demonstrated medical, technological, and scientific basis and that:

(5) ALL ACTS, ORDERS, AND RULES ADOPTED BY THE STATE BOARD OF HEALTH UNDER THE AUTHORITY OF THIS PART 2 PRIOR TO JULY 1, 2006, THAT WERE VALID PRIOR TO SAID DATE AND NOT OTHERWISE SUBJECT TO JUDICIAL REVIEW SHALL, TO THE EXTENT THAT THEY ARE NOT INCONSISTENT WITH SAID PROVISIONS, BE DEEMED AND HELD TO BE LEGAL AND VALID IN ALL RESPECTS, AS THOUGH ISSUED BY THE WATER QUALITY CONTROL COMMISSION UNDER THE AUTHORITY OF THIS PART 2. NO PROVISION OF THIS PART 2 SHALL BE CONSTRUED TO VALIDATE ANY ACTIONS, ORDERS, OR RULES THAT WERE NOT VALID WHEN ADOPTED BY THE BOARD OF HEALTH PRIOR TO SUCH DATE.

SECTION 3. 25-1.5-208 (2), Colorado Revised Statutes, is amended to read:

25-1.5-208. Water - grant program for water treatment systems. (2) The ~~state board of health~~ WATER QUALITY CONTROL COMMISSION shall promulgate rules for the administration of any appropriated grant moneys pursuant to this section and for prioritizing proposed water treatment system projects based upon public health impact and compliance with applicable ~~regulations~~ RULES.

SECTION 4. The introductory portion to 25-8-202 (1), Colorado Revised Statutes, is amended, and the said 25-8-202 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

25-8-202. Duties of the commission. (1) The commission shall develop and maintain a comprehensive and effective program for prevention, control, and abatement of water pollution and for water quality protection throughout the entire state and TO ENSURE PROVISION OF CONTINUOUSLY SAFE DRINKING WATER BY PUBLIC WATER SYSTEMS, AND, in connection therewith, shall:

(m) ADOPT GUIDELINES FOR RULES PROVIDING MINIMUM STANDARDS FOR THE

LOCATION, CONSTRUCTION, PERFORMANCE, INSTALLATION, ALTERATION, AND USE OF INDIVIDUAL SEWAGE DISPOSAL SYSTEMS WITHIN THE STATE OF COLORADO, IN ACCORDANCE WITH SECTION 25-10-104;

(n) ADOPT MINIMUM GENERAL SANITARY STANDARDS FOR DRINKING WATER SYSTEMS IN ACCORDANCE WITH SECTION 25-1.5-202;

(o) DEVELOP ADDITIONS OR MODIFICATIONS TO THE DRINKING WATER PROJECT ELIGIBILITY LIST IN ACCORDANCE WITH SECTION 37-95-107.8, C.R.S.; AND

(p) ESTABLISH, AND REVISE AS NECESSARY, A SCHEDULE OF NONREFUNDABLE FEES TO COVER THE REASONABLE COSTS OF IMPLEMENTING A PROGRAM FOR THE BENEFICIAL USE OF BIOSOLIDS, IN ACCORDANCE WITH SECTION 30-20-110.5, C.R.S.

SECTION 5. 25-8-206, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-8-206. Prior acts validated. (3) ALL ACTS, ORDERS, AND RULES ADOPTED BY THE STATE BOARD OF HEALTH UNDER THE AUTHORITY OF PART 2 OF ARTICLE 1.5 OF THIS TITLE, PART 1 OF ARTICLE 10 OF THIS TITLE, AND SECTION 30-20-110.5, C.R.S., PRIOR TO JULY 1, 2006, THAT WERE VALID PRIOR TO SAID DATE AND NOT OTHERWISE SUBJECT TO JUDICIAL REVIEW SHALL, TO THE EXTENT THAT THEY ARE NOT INCONSISTENT WITH SAID PROVISIONS, BE DEEMED AND HELD TO BE LEGAL AND VALID IN ALL RESPECTS, AS THOUGH ISSUED BY THE COMMISSION UNDER THE AUTHORITY OF SUCH PROVISIONS OF LAW. NO PROVISION OF THIS ARTICLE SHALL BE CONSTRUED TO VALIDATE ANY ACTIONS, ORDERS, OR RULES THAT WERE NOT VALID WHEN ADOPTED BY THE BOARD OF HEALTH PRIOR TO SUCH DATE.

SECTION 6. 25-10-103 (8) and (21), Colorado Revised Statutes, are amended, and the said 25-10-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25-10-103. Definitions. As used in this article, unless the context otherwise requires:

(2.5) "COMMISSION" MEANS THE WATER QUALITY CONTROL COMMISSION CREATED BY SECTION 25-8-201.

(8) "Guidelines for rules" means guidelines for individual sewage disposal systems adopted and revised by the ~~state board~~ COMMISSION pursuant to the authority granted to the ~~state board~~ COMMISSION under this article.

(21) "~~State board~~" means the ~~state board of health created by section 25-1-103.~~

SECTION 7. 25-10-104 (1), (2), (3), and (4), Colorado Revised Statutes, are amended to read:

25-10-104. Regulation of individual sewage disposal systems. (1) The division shall develop and the ~~state board~~ COMMISSION shall adopt guidelines for rules providing minimum standards for the location, construction, performance, installation, alteration, and use of individual sewage disposal systems within the

state of Colorado. ~~The state board is authorized to~~ COMMISSION MAY establish criteria for issuing variances in such guidelines. Such guidelines shall comply with ~~the provisions set forth in~~ section 25-10-105, and shall be the basis for the adoption of detailed rules by local boards of health pursuant to subsection (2) of this section.

(2) Every local board of health in the state shall develop and adopt rules for individual sewage disposal systems within their respective areas of jurisdiction. Such rules shall comply with the guidelines adopted by the ~~state board~~ COMMISSION pursuant to subsection (1) of this section and with the minimum requirements set forth in sections 25-10-105 and 25-10-106. Before finally adopting such rules or any amendment thereto, the local board of health shall hold a public hearing on the proposed rules or amendments thereto. Notice of the time and place of such hearing shall be given at least once, at least twenty days in advance thereof, in a newspaper of general circulation within its area of jurisdiction. The local board of health may make changes or revisions in the proposed rules or amendments thereto, after the public hearing and prior to final adoption, and no further public hearing shall be required regarding such changes or revisions. All rules and amendments thereto shall be transmitted to the department not later than five days after final adoption and shall become effective forty-five days after final adoption unless the department has sooner notified the local board of health that the rules or amendments thereto are not in compliance with sections 25-10-105 and 25-10-106.

(3) If a local board of health has not adopted rules in compliance with this section and submitted them to the ~~state board~~ COMMISSION, the ~~state board~~ COMMISSION shall then promulgate rules for such areas of the state for which no complying rules have been adopted, except for such areas as are serviced exclusively by a sewage treatment works. Rules promulgated by the ~~state board~~ COMMISSION shall comply with the guidelines and minimum requirements set forth in sections 25-10-105 and 25-10-106 and shall be the same for all the areas of the state for which the ~~state board~~ COMMISSION promulgates such rules except as may be appropriate to provide for differing geologic conditions.

(4) Rules may be adopted by a local board of health after action by the ~~state board~~ COMMISSION under subsection (3) of this section, if such rules are adopted in compliance with the procedural requirements of subsection (2) of this section and are no less stringent than those promulgated by the ~~state board~~ COMMISSION. Rules of the local board so adopted shall then become effective only after they are transmitted to the division and are found to be in compliance with the provisions of this subsection (4) and of sections 25-10-105 and 25-10-106.

SECTION 8. 25-10-105 (1) (g) and (2) (a), Colorado Revised Statutes, are amended to read:

25-10-105. Minimum standards for individual sewage disposal systems.

(1) Rules adopted by local boards of health under section 25-10-104 (2) or (4) or promulgated by the department under section 25-10-104 (3) shall govern all aspects of the performance, location, construction, alteration, installation, and use of individual sewage disposal systems and shall include, as a minimum, provisions regarding the following matters:

(g) For systems disposing of effluent into state waters: ~~In cooperation and~~

~~coordination with the water quality control commission;~~ Procedures for obtaining site location approval and discharge permits; general design criteria; adoption of effluent standards; requirement of design by a professional engineer; and mandatory review by the local health department of each application for such a system;

(2) (a) A local board of health shall have authority to grant variances to ISDS rules in accordance with the guidelines for rules adopted and revised by the ~~state board~~ COMMISSION pursuant to the authority granted to the ~~state board~~ COMMISSION under this article.

SECTION 9. 25-15-101 (1), Colorado Revised Statutes, is amended to read:

25-15-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Commission" means the SOLID AND hazardous waste commission created in part 3 of this article.

SECTION 10. 25-15-302 (1) (a) and (9) (a), Colorado Revised Statutes, are amended, and the said 25-15-302 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

25-15-302. Solid and hazardous waste commission - creation - membership - rules - administration. (1) (a) There is hereby created in the department of PUBLIC health AND ENVIRONMENT a SOLID AND hazardous waste commission, referred to in this part 3 as the "commission", which shall exercise its powers and perform its duties and functions as if it were transferred to said department by a **type 1** transfer. The commission shall consist of nine citizens of the state who shall be appointed by the governor, with the consent of the senate, for terms of three years each; except that, of the members appointed to take office initially, three shall be appointed for one-year terms, three shall be appointed for two-year terms, and three shall be appointed for three-year terms. Members of the commission shall be appointed so as to achieve geographical representation and to reflect the various interests in waste management in the state.

(4.5) THE COMMISSION SHALL ADOPT RULES CONCERNING SOLID WASTES DISPOSAL SITES AND FACILITIES IN ACCORDANCE WITH PART 1 OF ARTICLE 20 OF TITLE 30, C.R.S.

(4.6) THE COMMISSION MAY ADOPT RULES THAT SPECIFY TYPES OF COMPOSTING FACILITIES, BY SIZE, VOLUME, OR OTHER SUITABLE CRITERIA THAT PROVIDE EQUIVALENT PROTECTION OF PUBLIC HEALTH AND THE ENVIRONMENT THAT WOULD NOT BE REQUIRED TO OBTAIN A CERTIFICATE OF DESIGNATION IN ACCORDANCE WITH SECTION 30-20-102, C.R.S.

(9) (a) The commission shall employ an administrator and shall delegate to such administrator such duties and responsibilities as it may deem necessary; except that no authority shall be delegated to such administrator to promulgate rules or to make determinations as provided in this part 3. Such administrator shall have appropriate practical, educational, technical, and administrative training or experience related to SOLID AND hazardous waste management and shall be employed pursuant to

section 13 of article XII of the Colorado constitution.

SECTION 11. 25-15-314 (1) (a) and (2), Colorado Revised Statutes, are amended to read:

25-15-314. Solid and hazardous waste commission funding. (1) The commission is hereby authorized to promulgate rules regarding the following:

(a) (I) The establishment of fees to offset the reasonable costs actually associated with the operations of the commission. Such fees may be imposed upon generators and transporters of hazardous wastes and upon facilities that treat, store, or dispose of hazardous wastes. Such fees may be based upon a consideration of the quantity of hazardous wastes ~~which~~ THAT is generated, transported, treated, stored, or disposed and the impact on small businesses. THE FEES IMPOSED BY THIS SUBPARAGRAPH (I) SHALL NOT EXCEED AN AMOUNT EQUAL TO ONE-HALF OF THE APPROPRIATION MADE BY THE GENERAL ASSEMBLY ANNUALLY PURSUANT TO SECTION 25-15-315.

(II) IN ADDITION TO THE FEES IMPOSED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), AN AMOUNT EQUAL TO ONE-HALF OF THE APPROPRIATION MADE BY THE GENERAL ASSEMBLY ANNUALLY PURSUANT TO SECTION 25-15-315 SHALL BE APPROPRIATED FROM THE SOLID WASTE MANAGEMENT FUND CREATED IN SECTION 30-20-118, C.R.S., TO BE EXPENDED FOR THE COMMISSION'S DIRECT AND INDIRECT COSTS PURSUANT TO THIS ARTICLE.

(2) All moneys collected pursuant to ~~the provisions of~~ this section by the commission shall be transmitted to the state treasurer, who shall credit the same to the SOLID AND hazardous waste commission fund created pursuant to section 25-15-315.

SECTION 12. 25-15-315, Colorado Revised Statutes, is amended to read:

25-15-315. Solid and hazardous waste commission fund - creation. There is hereby established in the state treasury a fund to be known as the SOLID AND hazardous waste commission fund, which shall consist of moneys collected pursuant to ~~the provisions of~~ section 25-15-314. All moneys in such fund shall be subject to annual appropriation by the general assembly to the department for the purpose of covering the reasonable costs actually associated with the operation of the SOLID AND hazardous waste commission. All moneys in the SOLID AND hazardous waste commission fund that are not appropriated shall remain in such fund and shall not be transferred or revert to the general fund at the end of any fiscal year. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the SOLID AND hazardous waste commission fund ~~during fiscal year 1994-95 and any subsequent fiscal year~~ shall be credited to the general fund.

SECTION 13. 25-15-316, Colorado Revised Statutes, is amended to read:

25-15-316. Prior acts validated and rules continued. (1) All acts, orders, AND rules ~~and regulations~~ adopted by the state board of health under the authority of this article prior to August 1, 1992, ~~which~~ THAT were valid prior to said date and not

otherwise subject to judicial review shall, to the extent that they are not inconsistent with this article, be deemed and held to be legal and valid in all respects, as though issued by the commission under the authority of this article. No provision of this part 3 shall be construed to validate any actions, orders, OR rules ~~or regulations~~ that were not valid when adopted by ~~said~~ THE board of health prior to such date.

(2) ALL ACTS, ORDERS, AND RULES ADOPTED BY THE STATE BOARD OF HEALTH UNDER THE AUTHORITY OF PART 1 OF ARTICLE 20 OF TITLE 30, C.R.S., PRIOR TO JULY 1, 2006, THAT WERE VALID PRIOR TO SAID DATE AND NOT OTHERWISE SUBJECT TO JUDICIAL REVIEW SHALL, TO THE EXTENT THAT THEY ARE NOT INCONSISTENT WITH SAID PROVISIONS, BE DEEMED AND HELD TO BE LEGAL AND VALID IN ALL RESPECTS, AS THOUGH ISSUED BY THE COMMISSION UNDER THE AUTHORITY OF SAID PROVISIONS. NO PROVISION OF THIS PART 3 SHALL BE CONSTRUED TO VALIDATE ANY ACTIONS, ORDERS, OR RULES THAT WERE NOT VALID WHEN ADOPTED BY THE BOARD OF HEALTH PRIOR TO SUCH DATE.

SECTION 14. 30-20-101 (8.5), Colorado Revised Statutes, is amended, and the said 30-20-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

30-20-101. Definitions. As used in this part 1, unless the context otherwise requires:

(5.5) "SOLID AND HAZARDOUS WASTE COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE COMMISSION CREATED IN SECTION 25-15-302, C.R.S.

~~(8.5) "State board of health" means the state board of health created in section 25-1-103, C.R.S.~~

(10) "WATER QUALITY CONTROL COMMISSION" MEANS THE WATER QUALITY CONTROL COMMISSION CREATED IN SECTION 25-8-201, C.R.S.

SECTION 15. 30-20-102 (3), (5), (6), and (8), Colorado Revised Statutes, are amended to read:

30-20-102. Unlawful to operate site and facility without certificate of designation - exceptions. (3) Notwithstanding ~~the provisions of~~ subsections (1) and (2) of this section, any person other than a governmental unit may dispose of ~~his~~ THE PERSON'S own solid wastes on ~~his~~ THE PERSON'S own property, as long as such solid wastes disposal site and facility complies with the rules ~~and regulations~~ of the ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION and does not constitute a public nuisance. For the purposes of this part 1, such solid wastes disposal site and facility shall be an approved site for which obtaining a certificate of designation under the provisions of section 30-20-105 shall be unnecessary. This subsection (3) shall not preclude any person from applying for a certificate of designation for the disposal of ~~his~~ THE PERSON'S own solid wastes on ~~his~~ THE PERSON'S own property.

(5) Any site and facility operated for the purpose of processing, reclaiming, or recycling recyclable materials shall not be considered a solid wastes disposal site and facility and shall not require a certificate of designation as a solid wastes

disposal site and facility; except that, after an initial accumulation period specified by ~~regulation~~ RULE, such a site or facility shall maintain documentation that proves recyclable materials are being recycled at the site at a rate that approximately equals the rate at which recyclable materials are being collected. The ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION shall promulgate ~~regulations~~ RULES to specify what time periods and volumes of recyclable materials constitute operations that qualify for this exemption and to define what materials shall be deemed to be recyclable materials for the purposes of this subsection (5); except that such ~~regulations~~ RULES shall not define the term "recyclable materials" to include materials that are likely to contaminate ground water or create off-site odors as a result of processing, reclaiming, recycling, or storage prior to recycling. This subsection (5) does not apply to activities regulated under section 25-8-205 (1) (e), C.R.S.

(6) Notwithstanding the provisions of subsections (1) and (2) of this section, the final use for beneficial purposes, including fertilizer, soil conditioner, fuel, and livestock feed, of ~~sludge which has~~ BIOSOLIDS THAT HAVE been processed and certified or designated as meeting all applicable ~~regulations~~ RULES of the ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION and the department of agriculture shall not require a certificate of designation for such final use. In addition, the use of manure as a fertilizer or soil conditioner or the composting on the site of generation of manure with other compatible materials necessary for effective composting as part of a standard agricultural practice shall not require a certificate of designation.

(8) The ~~board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION, by ~~regulation~~ RULE, may specify types of composting facilities, by size, volume, or other suitable criteria that provide equivalent protection of public health and the environment that would not be required to obtain a certificate of designation.

SECTION 16. 30-20-103 (1), Colorado Revised Statutes, is amended to read:

30-20-103. Application for certificate. (1) Any person desiring to own or operate a solid wastes disposal site and facility shall make application to the governing body having jurisdiction over the area in which such site and facility is or is proposed to be located for a certificate of designation. Such application shall be accompanied by a fee to be established by the governing body having jurisdiction, which FEE shall be based on the anticipated costs that may be incurred by such governing board in the application review and approval process and shall not be refundable. ~~and it~~ THE APPLICATION shall set forth the location of the site and facility; the type of site and facility; the type of processing to be used, such as sanitary landfill, composting, or incineration; the hours of operation; the method of supervision; the rates to be charged, if any; and such other information as may be required by the governing body having jurisdiction over the area. The application shall also contain such engineering, geological, hydrological, and operational data as may be required by the department by ~~regulation~~ RULE. All such applications shall be referred to the department for review and for recommendation as to approval or disapproval, which shall be based upon criteria established by the ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION, the water quality control commission, and the air quality control commission. Such review and recommendation of an application by the department shall include a technical

review of the environmental and public health issues provided in section 30-20-110 ~~which~~ THAT are raised by the proposed site and facility. As a part of the department's review of an application for a solid wastes site and facility, the department shall provide a ~~time~~ period of not less than thirty days during which members of the public may review and make comments concerning such application.

SECTION 17. The introductory portion to 30-20-104.5 (1) and 30-20-104.5 (1) (e), (3) (a), and (4), Colorado Revised Statutes, are amended to read:

30-20-104.5. Closure and postclosure care estimates - corrective action cost estimates - financial assurance requirements - rules. (1) The ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION shall promulgate ~~regulations~~ RULES that implement financial assurance requirements for the final closure of solid wastes disposal sites and facilities, the conduct of postclosure care for such sites and facilities, and the undertaking of any corrective action made necessary by the migration of contaminants from such sites and facilities into ground water. Such ~~regulations~~ RULES shall include, but are not limited to, the following requirements:

(e) That the owner or operator of any solid wastes disposal site and facility shall comply with the financial assurance requirements mandated by the ~~regulations~~ RULES of the ~~department~~ SOLID AND HAZARDOUS WASTE COMMISSION promulgated pursuant to subsection (3) of this section.

(3) (a) The ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION shall promulgate ~~regulations which~~ RULES THAT require ~~that~~ the owner or operator of a solid wastes disposal site and facility TO establish sufficient financial assurance to pay for the cost estimates required by paragraphs (a) and (b) of subsection (1) of this section. No solid wastes disposal site and facility shall operate without being in compliance with the financial assurance requirements ~~of the department~~ contained in such ~~regulations~~ RULES. Such ~~regulations~~ RULES shall include, but shall not be limited to, provisions that define the mechanisms that may be used by the owner or operator of a solid wastes disposal site and facility to establish sufficient financial assurance pursuant to ~~the provisions of~~ this section. The mechanisms to establish financial assurance ~~which~~ THAT are defined by the ~~board~~ COMMISSION shall include, but are not limited to, those mechanisms authorized by ~~the provisions of~~ the federal regulations promulgated pursuant to subtitle D of the federal "Resource Conservation and Recovery Act of 1976", as amended.

(4) The ~~regulations~~ RULES promulgated by the ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION pursuant to ~~the provisions of~~ this section shall comply with ~~the provisions of~~ the federal regulations promulgated pursuant to subtitle D of the federal "Resource Conservation and Recovery Act of 1976", as amended. Such ~~regulations~~ RULES shall require that all solid wastes disposal sites and facilities be fully in compliance with such ~~regulations~~ RULES by the date established in the federal "Resource Conservation and Recovery Act of 1976", as amended, and its regulations.

SECTION 18. 30-20-105 (3), Colorado Revised Statutes, is amended to read:

30-20-105. Certificate - state financial assurance requirements. (3) The

department, on behalf of the ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION, shall consult the governing body having jurisdiction prior to the promulgation of the ~~regulations~~ RULES called for ~~herein~~ IN THIS SECTION and prior to accepting a financial assurance. The recommendations of such governing body shall be considered in formulating the ~~regulations~~ RULES and establishing the amount of financial assurance to be posted.

SECTION 19. The introductory portions to 30-20-109 (1) and (2) and 30-20-109 (4), Colorado Revised Statutes, are amended to read:

30-20-109. Commission to promulgate rules. (1) The ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION shall promulgate rules ~~and regulations~~ for the engineering design and operation of solid wastes disposal sites and facilities, which may include:

(2) The ~~state board of health shall have the authority to~~ SOLID AND HAZARDOUS WASTE COMMISSION MAY promulgate rules concerning:

(4) (a) Any and all rules promulgated by the department of public health and environment prior to the transfer of its rule-making authority under this section to the state board of health shall remain in full force and effect after the date of such transfer.

(b) ALL ACTS, ORDERS, AND RULES ADOPTED BY THE STATE BOARD OF HEALTH UNDER THE AUTHORITY OF THIS PART 1 PRIOR TO JULY 1, 2006, THAT WERE VALID PRIOR TO SAID DATE AND NOT OTHERWISE SUBJECT TO JUDICIAL REVIEW SHALL, TO THE EXTENT THAT THEY ARE NOT INCONSISTENT WITH SAID PART, BE DEEMED AND HELD TO BE LEGAL AND VALID IN ALL RESPECTS, AS THOUGH ISSUED BY THE SOLID AND HAZARDOUS WASTE COMMISSION UNDER THE AUTHORITY OF THIS PART 1. NO PROVISION OF THIS PART 1 SHALL BE CONSTRUED TO VALIDATE ANY ACTIONS, ORDERS, OR RULES THAT WERE NOT VALID WHEN ADOPTED BY THE BOARD OF HEALTH PRIOR TO SUCH DATE.

SECTION 20. The introductory portion to 30-20-110 (1), Colorado Revised Statutes, is amended to read:

30-20-110. Minimum standards. (1) The rules ~~and regulations~~ promulgated by the ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION and implemented by the department shall contain the following minimum standards:

SECTION 21. 30-20-110.5 (1) and (3), Colorado Revised Statutes, are amended to read:

30-20-110.5. Beneficial use of biosolids - water quality control commission to set fees - fund created. (1) The ~~state board of health~~ WATER QUALITY CONTROL COMMISSION shall establish, and may revise as necessary, a schedule of nonrefundable fees to cover the reasonable costs of implementing a program for the ~~agricultural~~ BENEFICIAL use of ~~sludge~~. Commencing July 1, 1986, BIOSOLIDS. Such fees shall be imposed upon the producers of ~~domestic sewage sludge whose sludge is utilized for agricultural purposes pursuant to such program for the agricultural use of sludge~~ BIOSOLIDS THAT ARE APPLIED FOR BENEFICIAL USE. In no event shall the

fee exceed two dollars and forty cents per dry ton of ~~sludge~~ BIOSOLIDS.

(3) All fees collected pursuant to subsection (1) of this section shall be transmitted to the state treasurer, who shall credit the same to the ~~sludge~~ BIOSOLIDS management program fund, which fund is hereby created. The moneys in such fund shall be subject to annual appropriation to the department by the general assembly, which shall review expenditures of such moneys to assure that they are used to accomplish the purposes of this section. Any interest earned on moneys in the fund shall remain in the fund to be used for purposes of this section.

SECTION 22. 30-20-113 (7) and (9), Colorado Revised Statutes, are amended to read:

30-20-113. Inspection - enforcement - nuisances - violations - civil penalty.

(7) The ~~state board of health~~ SOLID AND HAZARDOUS WASTE COMMISSION shall establish such rules and regulations as are necessary to implement the provisions of this section.

(9) Notwithstanding any other provision of this part 1 or part 10 of this article OTHER THAN SECTION 30-20-110.5, the processing, application, storage, or composting of biosolids or other materials under ~~regulations~~ RULES promulgated pursuant to section 25-8-205 (1) (e), C.R.S., shall be excluded from the provisions of this part 1 and part 10 of this article.

SECTION 23. 30-20-118 (1), Colorado Revised Statutes, is amended to read:

30-20-118. Solid waste management fund - created. (1) There is hereby created in the state treasury a fund to be known as the solid waste management fund, which shall consist of moneys collected pursuant to ~~section 30-20-109 and section~~ SECTIONS 30-20-103.7 AND 30-20-109, as well as that portion of the fee designated for solid waste management under section 25-16-104.5 (2), C.R.S. Such moneys shall be appropriated annually to the department by the general assembly. EXCEPT AS PROVIDED IN SECTION 25-15-314, C.R.S., the moneys in the solid waste management fund shall not be credited or transferred to the general fund or any other fund of the state.

SECTION 24. 37-95-107.8 (4) (b), (4) (d), and (7), Colorado Revised Statutes, are amended to read:

37-95-107.8. Creation and administration of drinking water revolving fund.

(4) (b) Additions or modifications to the drinking water project eligibility list shall be developed by the ~~state board of health~~ WATER QUALITY CONTROL COMMISSION and shall be submitted to the general assembly on or before January 15 of each year. The additions or modifications shall conform to applicable provisions of the safe drinking water act and state law. On or before April 1 of each year, the additions or modifications shall be adopted by the passage of a joint resolution that is approved by a majority vote of both houses of the general assembly and that is presented to the governor in accordance with section 39 of article V of the state constitution.

(d) The ~~board of health~~ WATER QUALITY CONTROL COMMISSION may amend the

drinking water project eligibility list at any time, pursuant to its regular procedures, to include drinking water projects that it determines and declares to be emergency projects needed to prevent or address threats to the public health or environment. No later than January 15 of each year, the authority shall provide to the general assembly a listing of all emergency projects for which moneys from the drinking water revolving fund have been expended in the preceding calendar year.

(7) On behalf of the state and with the written approval of the ~~state board of health~~ WATER QUALITY CONTROL COMMISSION, the authority may enter into any agreements with the federal government as necessary to comply with any provisions of the safe drinking water act and if otherwise required to provide for any capitalization of the drinking water revolving fund from federal grant moneys.

SECTION 25. 24-1-119 (8), Colorado Revised Statutes, is amended to read:

24-1-119. Department of public health and environment - creation. (8) The SOLID AND hazardous waste commission, created in part 3 of article 15 of title 25, C.R.S., shall exercise its powers and perform its duties and functions as if the same were transferred by a **type 1** transfer to the department of public health and environment.

SECTION 26. 25-1-102 (1), Colorado Revised Statutes, is amended to read:

25-1-102. Department created - executive director - divisions. (1) There is hereby created a department of public health and environment, referred to in this part 1 and article 1.5 of this title as the "department". The head of the department shall be the executive director of the department of public health and environment, which office is hereby created. The governor shall appoint said executive director, with the consent of the senate, and the executive director shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109, C.R.S. The executive director shall administer the department, subject to the authority of the state board of health, the air quality control commission, the state water quality control commission, and the SOLID AND hazardous waste commission.

SECTION 27. Appropriation - adjustments in 2006 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriations act for the fiscal year beginning July 1, 2006, shall be adjusted as follows:

(a) The appropriation to the department of public health and environment is increased by forty-eight thousand six hundred sixty dollars (\$48,660). Said sum shall be cash funds from the solid waste management fund created in section 30-20-118 (1), Colorado Revised Statutes.

(b) The appropriation to the department of public health and environment is decreased by forty-eight thousand six hundred sixty dollars (\$48,660). Said sum shall be cash funds from the solid and hazardous waste commission fund created in section 25-15-315, Colorado Revised Statutes.

SECTION 28. Effective date. This act shall take effect July 1, 2006.

SECTION 29. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 2006