

1                   **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2                   **Solid and Hazardous Waste Commission/Hazardous Materials and**  
3                   **Waste Management Division**

4                   **6 CCR 1007-2**

5                   **PART 1 - REGULATIONS PERTAINING TO SOLID WASTE SITES AND FACILITIES**

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8                   **Proposed Amendment of Section 10.12.5 (Rebate Amount)**

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11                   **1) Section 10.12.5 is being amended by revising paragraph B. to read as follows:**

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14                   **10.12.5 REBATE AMOUNT**

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16                   A. The Department will pay the rebate amount on a per-ton basis.
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18                   B. Beginning January 1, ~~2015~~2016, the amount of the rebate is ~~forty-eighty~~ dollars (~~\$4080~~) per ton.
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20                   C. If the tons approved for the rebate in any one month multiplied by the amount of the rebate in section  
21                   10.12.5(B) exceeds the balance of the Fund, then the Department shall reduce the per ton amount of  
22                   the rebate that month to a rate that will not cause a deficit in the Fund.
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8                   **STATEMENT OF BASIS AND PURPOSE**  
9                   **AND SPECIFIC STATUTORY AUTHORITY FOR**

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12                   **Amendment of Section 10.12.5 (Rebate Amount)**

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15                   **Basis and Purpose**

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17                   I.           Statutory Authority – House Bill 14-1352

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19                   Section 30-20-1405, C.R.S. requires the Commission to annually set the amount of the per-ton  
20                   monthly rebate paid to end users of waste tires.

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22                   II.           Purpose of new regulation:

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24                   This new regulation sets the per-ton rebate amount at \$80.

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26                   **Discussion of Regulatory Proposal**

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28                   The proposed section 10.12.5 requires the Department of Public Health and Environment (the  
29                   Department) to payout a per-ton rate of \$80 for approved applications submitted by End Users,  
30                   Retailers, and certain Processors of tire-derived products and waste tires. If the amount of  
31                   rebates exceeds the amount available in the Fund, the Department will pay the rebate at a  
32                   reduced per-ton basis that will not cause a deficit in the Fund.

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34                   **Description of Local Government Involvement in the Stakeholder Process**

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36                   Executive Order D 2011-005 (EO-5), “Establishing a Policy to Enhance the Relationship between  
37                   State and Local Government” requires state rulemaking agencies to consult with and engage  
38                   local governments prior to the promulgation of any rules containing mandates. The Department  
39                   completed an EO-5 Internal Communication Form – Conception Phase that was transmitted to  
40                   local governments. The new regulation will only impact local governments who apply for a rebate  
41                   from the Fund for the end use of tire-derived products or waste tires.

42 **Issues Encountered During Stakeholder Process:**

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44 The per-ton rate of \$80 was vetted during a two month stakeholder process. The Department  
45 provided a forecasting spreadsheet that contained the following information:  
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- 48 1. Forecasting on a per ton basis tire-derived products and/or waste tires to be end used,  
49 sold, or processed in calendar year 2016. This information was collected from End Users,  
50 Retailers, and Processors who participated in the Fund in calendar year 2014.
  - 51 2. Projected funds available in calendar year 2016 based on remaining funds from calendar  
52 year 2015 and historical waste tire fees collected during fiscal year 2015.
  - 53 3. Projected rebate payouts based on forecasted tons and a per-ton rate of \$80.
  - 54 4. Projected monthly fund balances based on projected revenues and rebate payouts.
  - 55 5. Projected Fund spending authority throughout calendar year 2016.
  - 56 6. Historical data breakdown of end used tons approved by the Fund over the last three  
57 calendar years.

58 During the stakeholder process it was discovered the spending authority set by the Joint Budget  
59 Committee (JBC) was lower than the 65% that is allocated to the Fund per HB 14-1352. The JBC  
60 will be adjusting the spending authority in calendar year 2016 to reflect the increased per-ton rate.  
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62 The Department and stakeholders want the rebate amount set at the highest per-ton amount that  
63 will not exceed the forecasted Fund balance or the spending authority. The tons end used, sold,  
64 and/or processed in calendar year 2015 came in lower than projected, causing the Fund to have  
65 a larger than expected balance. Based on the projected fund balance and adjusted spending  
66 authority, the Fund can support a per-ton rate of \$80. The stakeholders understand that if the  
67 forecast of tons end used, sold, or processed exceeds projections or if the Fund balance or waste  
68 tire fees collected are lower than expected, the per-ton rate of \$80 may be reduced or may be  
69 unavailable.  
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71 **Regulatory Alternatives**

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73 The Department and the stakeholders discussed setting the per ton rate lower than \$80 based on  
74 the previous spending authority set by the JBC. Because the spending authority is being adjusted  
75 and there is sufficient funding forecasted for calendar year 2016, the per-ton rate will be set at  
76 \$80. Other alternatives were not considered because section 30-20-1405(5) mandates that  
77 rebates be generated from the Fund until the scheduled sunset date of January 1, 2018.  
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79 **Cost/Benefit Analysis**

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81 A cost-benefit analysis will be performed if requested by the Colorado Department of Regulatory  
82 Services. The Department and stakeholders evaluated fiscal impacts during the legislative  
83 stakeholder process and determined, based on the forecasting spreadsheet, the Fund could  
84 support a per-ton rate of \$80.