

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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

5
6 **6 CCR 1007-2**

7 **PART 1 REGULATIONS PERTAINING TO SOLID WASTE SITES AND FACILITIES**

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9
10 **Section 10 Waste Tire Amendments**

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13 **1) Section 10.12.5 (Rebate Amount) is being amended by revising paragraph (B) to read**
14 **as follows:**

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16 **10.12 WASTE TIRE END USERS FUND**

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18 **10.12.5 REBATE AMOUNT**

19
20 A. The Department will pay the rebate amount on a per-ton basis.

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22 B. Beginning ~~April 1, 2020 through December 31, 2021~~ January 1, 2022, the amount of the
23 rebate is as follows:

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25 (1) Tier 1: ~~\$50~~ \$80 per ton;

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27 (2) Tier 2: ~~\$25~~ \$40 per ton;

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29 (3) Tier 3: ~~\$12.50~~ \$20 per ton; and

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31 (4) Waste Tire Hauler: ~~\$12.50~~ \$20 per ton.

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33 C. If the tons approved for the rebate in any one quarter multiplied by the amount of the rebate
34 rates in Section 10.12.5(B) exceeds the balance of the Fund, then the Department must
35 reduce the per ton amount of the rebate that quarter to a rate that will not cause a deficit in
36 the Fund. The Department must reduce the per ton rates proportionally until all rebate
37 funds are exhausted.

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39 Any applicant who does not receive a full rebate due to not enough moneys in the Fund
40 cannot later claim the missing funds in a later application submittal or request.

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- D. Twenty-five percent of the expected annual rebate amount will be held in reserve before paying the first quarterly rebate.

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5 **6 CCR 1007-2**

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

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11 Amendment to the Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR
12 1007-2, Part 1) – Section 10.12 (Waste Tire End Users Fund).

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15 **Basis and Purpose**

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17 I. **Statutory Authority**

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19 Section 30-20-1401(2), C.R.S. gives the Solid and Hazardous Waste Commission (the
20 commission) the authority to promulgate waste tire regulations in order to implement and
21 enforce Section 30, Article 20, Part 14, C.R.S.

22
23 Section 30-20-1405, C.R.S. requires the commission to annually set the amount of the
24 per-ton monthly rebate paid to end users and haulers of waste tires.

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27 II. **Purpose of revised regulations:**

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29 The purpose of the revised regulations is to update the waste tire end user quarterly
30 rebate amount for calendar year 2022 based on the criteria set forth in 30-20-1405 (4)
31 C.R.S.

32
33 The commission shall annually set the amount of the rebate, by rule, on a per-ton basis,
34 and the department shall pay the set rebate amount for each ton of qualified tire-derived
35 product. The commission shall calculate the rebate to equal, but not exceed, the amount
36 of the anticipated income transferred into the fund during each succeeding twelve-month
37 period. The department is required to allocate the rebates based on three tiers of end
38 uses.
39

40 Tier 1: Full rebates going to crumbed rubber end uses and end uses that completely
41 destroy the waste tire for the purpose of energy recovery or other clean technologies as
42 defined and approved by the commission by rule;

43 Tier 2: Fifty percent of the full rebate going to end uses such as molded products and
44 rubber mulch; and

45 Tier 3: Twenty-five percent of the full rebate going to tire bale end uses and end uses for
46 alternative daily cover and tire-derived aggregate that meet the ASTM standard D6270.
47

48 The proposed regulations sets the 2022 per ton waste tire end user rebate rates as
49 follows:

50
51 A. Tier 1: \$80 per ton;

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53 B. Tier 2: \$40 per ton;

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55 C. Tier 3: \$20 per ton; and

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57 D. Waste Tire Hauler: \$20 per ton.
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60 **Discussion of Regulatory Proposal**

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62 The commission determined the per ton rate for the three tiers and the Waste Tire
63 Hauler rebate based on the current balance in the End Users Fund and participation in
64 the program from calendar year 2020 and 2021. The commission believes the current
65 balance is higher than anticipated due to the following factors:
66

- 67 1. Forecasting was done prior to Covid outbreak, which impacted normal business
68 operations of the applicants and resulting in less requests for end user funds
69 than anticipated.
- 70 2. Sweeping of fund balance by the state legislature in July 2020 which delayed the
71 scheduled start of the program.
- 72 3. Compliance status of some of the applicants, lowering participation in the
73 program.
- 74 4. A requirement that twenty-five percent of the expected annual rebate amount be
75 held in reserve before paying the first quarterly rebate.
76

77 The commission used this information to determine per-ton rates that would provide
78 rebates to applicants for their tire-derived products to be competitive with non-waste tire
79 products and to create more participation in the program to help with the state's waste
80 tire recycling rates.
81

82 The commission is proposing to increase the end user fund rebate rates based on the
83 existing balance in the fund, a projected increase in demand for end user rebate rates
84 compared to 2021, and the projected funds available for 2022.
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86 Description of Local Government Involvement in the Stakeholder Process

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88 Executive Order D 2011-005 (EO-5), “Establishing a Policy to Enhance the Relationship
89 between State and Local Government” requires state rulemaking agencies to consult
90 with and engage local governments prior to the promulgation of any rules containing
91 mandates. The Department completed an EO-5 Internal Communication Form –
92 Conception Phase that was transmitted to local governments. These regulations would
93 impact any county or municipality that are a Waste Tire Hauler, Waste Tire Monofill,
94 Waste Tire Collection Facility, and/or a Waste Tire End User.

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97 **Issues Encountered During Stakeholder Process:**

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99 A stakeholder asked about who is eligible for the waste tire hauler rebate. The statute
100 and parallel provision of the solid waste regulations limits rebate eligibility of Waste Tire
101 Haulers to only those who are registered as an End User in addition to being a
102 registered Waste Tire Hauler and only for waste tires originating from rural counties. The
103 waste tires must be hauled from a rural county (less than 60,000 residents) to the End
104 User facility. The applicant must provide proof that the waste tires that were hauled from
105 the rural county were beneficially end used.

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108 **Regulatory Alternatives**

109 No other regulatory alternatives were evaluated.

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113 **Cost/Benefit Analysis**

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115 A cost-benefit analysis will be performed if requested by the Colorado Department of
116 Regulatory Agencies.