

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Solid and Hazardous Waste Commission/Division of Environmental Health and Sustainability

6 CCR 1007-2

PART 4 - REGULATIONS PERTAINING TO THE WASTE TIRE PROCESSOR AND END USER REIMBURSEMENT PROGRAM

REGULATORY ANALYSIS

for

Amendment of 6 CCR 1007-2, Part 4, Section 1 – Rules for Reimbursements from the
Processors and End Users Fund

February 19, 2013

**I. Description of the classes of persons who will be affected by the proposed rule,
including classes that will bear the costs of the proposed rule and classes that will
benefit from the proposed rule:**

These amendments affect processors and end users who submit applications for monthly partial reimbursement from the Processors and End Users Fund (“Fund”). Participation in this program is voluntary. Waste Tire Haulers and Waste Tire Facilities (tire retailers, monofills, processors and end users, and collection facilities) in the state of Colorado will continue to be regulated pursuant to the requirements of 6 CCR 1007-2, Section 10 (Waste Tire Facilities and Waste Tire Haulers). Local governments may be contacted by the Department and by waste tire processors or end users if use of a tire-derived product is allowed in the local jurisdiction.

As of December 27, 2012, the Hazardous Materials and Waste Management Division’s waste tire registration breakdown was as follows:

Waste Tire Haulers- 79
Waste Tire Processors – 17
Waste Tire End Users – 15
Waste Tire Monofills – 3
Waste Tire Collection Facilities – 18
Retailer/Wholesaler/Fleet Service Facility – 1628

This program is funded by a \$1.50 fee charged for each new tire sold in Colorado. Of the \$1.50, 30.33% is contributed to the fund on a monthly basis. Those who purchase new tires in the state bear the costs of the program.

The largest beneficiaries are the processors and end users of waste tires who apply for reimbursement from the fund. These moneys assist the processors and end users to

become more economically feasible while helping reduce the amount of waste tires in the state.

Others who benefit are the citizens of Colorado because providing a financial incentive to process and end use waste tires reduces the stockpiling of waste tires. Some of the risks of having waste tire piles that are not properly managed are tire fires and insect-borne diseases such as West Nile Virus. Counties and municipalities can benefit if funds go back to local waste tire businesses and for those who receive reimbursement directly (e.g. end user reimbursement for local government owned landfill for alternative daily cover).

II. **To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons:**

Waste tire processors will no longer be able to receive reimbursement from the Fund unless they have appropriately end used the tire-derived product themselves or have sold it and moved it off-site. This requirement, adopted pursuant to a 2011 amendment to the statute, will remove previous incentives to stockpile tire-derived products and encourage sales to the end user market for appropriate commercial use of the materials.

End users that can seek reimbursement from the fund will be limited to those that use the tire-derived product for a commercial or industrial purpose.

The rules are now clearer in regards to appealing a Department decision on reimbursements, eligibility for applicants who participate in the Waste Tire Cleanup Program, pyrolysis, eligibility for tire bales, and certified scales.

Funds from this program will continue to assist processors and end users to make it more economically feasible to use waste tires so the state can reduce the storage of waste tires.

III. **The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues:**

No additional costs to the agency are anticipated. No additional FTE have been added to administer the revised regulations. No other agencies will be impacted by these regulations. There will not be any change to revenues collected under this fund by these regulations.

IV. **A comparison of probable costs and benefits of the proposed rule to the probable costs and benefits of inaction:**

As stated, these amendments incur no additional costs. However, failure to enact the amendments could create significant costs because the proposed changes to the regulations reflect the statutory amendments mandated pursuant to HB12-1034. Failure to promulgate regulatory changes would not change the fact that the statutory changes are already in effect. Therefore, failure to promulgate the regulatory changes would create a

situation wherein the regulations conflict with the statute, increasing the Department's litigation risk and increasing required Attorney General's Office time.

V. **A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule:**

As discussed, these amendments incur no additional costs and were developed to make the regulations consistent with the statutory requirements mandated by HB12-1034. Therefore, no less costly methods or less intrusive methods were identified during the stakeholder process conducted for this rulemaking.

VI. **A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule:**

No alternative methods for achieving the purpose of the proposed rule were identified or seriously considered by the Department during the stakeholder process for this rulemaking because these changes are mandated by changes to the statute.

VII. **To the extent practicable, quantification of the data to the extent practicable and shall take account of both short-term and long-term consequences:**

The Department expects some short-term administrative adjustments as industry adapts to the new requirements due to the passing of HB 12-1034. We expect some long term benefits to include reduced speculative accumulation of processed waste tires and the ability to continue to provide financial assistance for those who create and end use tire-derived products that benefit the citizens of Colorado.