



COLORADO

Solid & Hazardous
Waste Commission

Department of Public Health & Environment

NOTICE OF PROPOSED RULEMAKING HEARING BEFORE THE COLORADO SOLID AND HAZARDOUS WASTE COMMISSION

SUBJECT:

For consideration of the amendments to 6 CCR 1007-2, Part 1, Sections 1 and 10, along with the accompanying Statement of Basis and Purpose, the following will be considered:

Amendment of 6 CCR 1007-2, Part 1, Sections 1 and 10 - Regulations Pertaining to Solid Waste Sites and Facilities - Amendments to Definitions, Registration for Waste Tire Haulers, Facility Engineering Design and Operations Plan (Waste Tire Monofills, Waste Tire Processors and Waste Tire Collection Facilities), Waste Tire Processors Registration Requirements, and Waste Tire End Users Fund Rebate Amount

These modifications are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in Section 30-20-1401(2), C.R.S.

The purpose of these amendments are to further clarify and update the current requirements of 6 CCR 1007-2, Part 1, add language from SB19-198 that was inadvertently left out of the amendments adopted in October 2019, and to correct a typographical and section reference error. The Colorado General Assembly passed Senate Bill 19-198 in the 2019 legislative session.

Proposed amendments include:

- To modify the definition of “three year rolling average” to include waste tire processors.
- To clarify when the department will issue a Certificate of Registration and waste tire hauler decals for waste tire haulers.
- To correct an incorrect section reference and other typographical errors.
- To clarify that Fire Prevention, Training and Firefighting Plans must be approved by the local fire department, local fire jurisdiction or the Colorado Division of Fire Prevention and Control (if no fire code exists).
- To add language requiring that twenty-five percent of the expected annual rebate amount be held in reserve before paying the first quarterly rebate

Any information that is incorporated by reference in these proposed rules is available for review at the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division and any state publications depository library.

Pursuant to C.R.S. §24-4-103(3), a notice of proposed rulemaking was submitted to the Secretary of State on January 9, 2020. Copies of the proposed rulemaking will be mailed to



all persons on the Solid and Hazardous Waste Commission's mailing list on or before the date of publication of the notice of proposed rule-making in the Colorado Register on January 25, 2020.

The proposed rulemaking materials may also be accessed at <https://www.colorado.gov/pacific/cdphe/shwc-rulemaking-hearings> or the Solid and Hazardous Waste Commission Office, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, 5th Floor, Building A, Denver, CO 80246-1530.

WRITTEN TESTIMONY

Any alternative proposals for rules or written comments relating to the proposed amendment of the regulation will be considered. The Solid and Hazardous Waste Commission will accept written testimony and materials regarding the proposed alternatives. **The commission strongly encourages interested parties to submit written testimony or materials to the Solid and Hazardous Waste Commission Office, via email to cdphe.hwcrequests@state.co.us by Wednesday, February 5, 2020, at 11:59 p.m. Written materials submitted in advance will be distributed to the commission members prior to the day of the hearing. Submittal of written testimony and materials on the day of the hearing will be accepted, but is strongly discouraged.**

HEARING SCHEDULE:

DATE: Tuesday, February 18, 2020
TIME: 9:00 a.m.
PLACE: Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Building A, Sabin Conference Room
Denver, CO 80246

Oral testimony at the hearing regarding the proposed amendments may be limited.



Brandy Valdez Murphy, Administrator



1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

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3 Solid and Hazardous Waste Commission

4 Hazardous Materials and Waste Management Division

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 1.2 (Definitions), Section 10.3.2 (Registration for Waste Tire
13 Haulers), Sections 10.5.8, 10.6.9, 10.8.9 (Facility Engineering Design and Operations
14 Plan - Waste Tire Monofills, Waste Tire Processors, and Waste Tire Collection
15 Facilities), Section 10.6.3 (Waste Tire Processors Registration Requirements), and
16 Section 10.12.5 (Waste Tire End Users Fund Rebate Amount).

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19 Basis and Purpose

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21 I. Statutory Authority

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

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27 II. Purpose of revised regulations:

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29 The purpose of revising 6 CCR 1007-2 Part 1 (the Regulations) is to correct a
30 typographical and section reference error, to further clarify the current requirements
31 of 6 CCR 1007-2 Part 1, and to add language from Senate Bill 19-198 that was
32 inadvertently omitted from 6 CCR 1007-2 Part 1.

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34 Discussion of Regulatory Proposal

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36 The definition of three year rolling average is being revised to include waste tire
37 processors. A waste tire processor is type of recycler because a waste tire processor
38 processes a waste tire into a tire-derived product. Adding waste tire processors to the

39 definition clarifies that a waste tire processor is subject to the three year rolling
40 average requirement and links the definition to Section 10 of the Regulations.

41
42 The amended Section 10.3.2 (C) (Registration for Waste Tire Haulers) clarifies when
43 the Department will issue a Certificate of Registration and corresponding Waste Tire
44 Hauler decals. This subsection is broken out into two parts to address: 1) A new
45 applicant applying to register as a Waste Tire Hauler; 2) An existing Waste Tire Hauler
46 registrant. A new Waste Tire Hauler applicant would not be required to submit the
47 Commercial Waste Tire Hauler Annual Report Form (Form WT-4) at the time of
48 application submittal as the applicant would not have any waste tire hauler activities
49 to report on. To avoid the March 15 expiration date of the Waste Tire Hauler's
50 Certificate of Registration, an existing Waste Tire Hauler registrant is required to
51 renew their Waste Tire Hauler registration by February 1 by submitting a Waste Tire
52 Hauler renewal registration. The existing Waste Tire Hauler must also submit Form
53 WT-4 by March 1. The Department will only issue a Certificate of Registration to a
54 Waste Tire Hauler if a complete and timely Waste Tire Hauler renewal registration and
55 complete and timely Form WT-4 has been submitted.

56
57 The annual report reference in Section 10.3.2 (C) was corrected, as this Section
58 incorrectly referenced 10.3.6 (Waste Tire Hauler Self-Certification) instead of 10.3.5
59 (Annual Report).

60
61 Sections 10.5.8 (Waste Tire Monofill), 10.6.9 (Waste Tire Processor), and 10.8.9
62 (Waste Tire Collection Facilities) were modified to no longer require that the
63 Engineering, Design and Operations Plan - Fire Prevention, Training and Firefighting
64 Plan be written by a "qualified professional." This change was made because the Fire
65 Prevention, Training and Firefighting Plans the Department has received for review
66 have been written by the facility or the facility's consultant. These people are
67 typically not familiar with the local fire code requirements that relate to tire storage
68 and tire processing. To assure that the Fire Prevention, Training and Firefighting Plan
69 will meet the local fire department/local fire jurisdiction fire code requirements, the
70 Fire Prevention, Training and Firefighting Plan must now be approved by the local fire
71 department/local fire jurisdiction or in areas where no fire code exists, by the
72 Colorado Division of Fire Prevention and Control in the Department of Public Safety.

73
74 A typographical error in Section 10.6.3 (B) (Waste Tire Processors Registration
75 Requirements) was corrected by adding the missing form number to the referenced
76 form (Form WT-1).

77
78 Section 10.12.5 (Rebate Amount) adds the language requiring that twenty-five percent
79 of the expected annual rebate amount be held in reserve before paying the first
80 quarterly rebate. This is required by 30-20-1405(5)(b), C.R.S.

83 Description of Local Government Involvement in the Stakeholder Process

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

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95 Stakeholders were notified by e-mail of the revision of these regulations. Stakeholders
96 were given an opportunity to provide any comments. Only one comment was received.
97 This comment identified an error that related to the inadvertent striking out of the
98 section numbering and title for section 10.8.9 (A)(3)(d). The Department corrected this
99 error.
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101 Regulatory Alternatives

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103 No other regulatory alternatives were evaluated.
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105 Cost/Benefit Analysis

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

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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

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6 **6 CCR 1007-2**

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

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10 **Amendments to Section 4 Financial Assurance Requirements**

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13 **1) Section 1.2 Definitions is being amended by revising the definition of “Three year**
14 **rolling average” to read as follows:**

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16 **SECTION 1.0 ADMINISTRATIVE INFORMATION**

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20 **1.2 DEFINITIONS**

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24 **“Three year rolling average”** means for an existing recycling facility or waste tire processor an
25 arithmetical average of the quantity (by weight or volume) of recyclable materials recycled at the
26 facility during the previous three calendar years. This average shall be at least 75% by weight or
27 volume (determined using a consistent measure) of the total amount of recyclable materials
28 accumulated and currently in storage over a 3-year rolling average.

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33 **2) Section 10.3.2 (Registration for Waste Tire Haulers) is being amended by revising**
34 **paragraph (C) to read as follows:**

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36 **SECTION 10.3 - STANDARDS FOR WASTE TIRE HAULERS**

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40 **10.3.2 REGISTRATION FOR WASTE TIRE HAULERS**

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(C)(1) The Department will issue a Certificate of Registration and corresponding decal(s) to a new applicant if the applicant has submitted an application to the Department containing all information required in section 10.3.2(B).

(2) The Department will issue a Certificate of Registration and corresponding decal(s) to a Waste Tire Hauler who is registered with the Department at the time of applying, an applicant if the applicant has submitted an a timely application to the Department containing all information required in section 10.3.2(B) and has submitted the an annual report containing all of the information required by section 10.3.56.

3) Section 10.5.8 (Waste Tire Monofill Facility Engineering Design and Operations Plan) is being amended by revising paragraphs (A)(3)(d), (e) and (f) to read as follows:

10.5 - STANDARDS FOR WASTE TIRE MONOFILLS

10.5.8 WASTE TIRE MONOFILL FACILITY ENGINEERING DESIGN AND OPERATIONS PLAN

(A) Any person who owns or operates a Waste Tire Monofill must have an EDOP, approved by the Department, which must, at a minimum, include all of the following:

(3) Fire Prevention, Training and Firefighting Plan which:

~~(d) Is written by a qualified professional in accordance with local fire codes or, where no code exists or the local code does not provide equivalent or greater level of fire protection, the fire code currently adopted by the Colorado Division of Fire Prevention and Control in the Department of Public Safety. Is approved by the local fire department/local fire jurisdiction or in areas where no local fire code exists, by the Colorado Division of Fire Prevention and Control in the Department of Public Safety;~~

(e) Ensures the owner or operator complies with the applicable local fire codes or, where no code exists or the local code does not provide equivalent or greater level of fire protection, the fire code currently adopted by the Colorado Division of Fire Prevention and Control in the Department of Public Safety; and

(f) Includes specification for adequate water supply available for use by the local fire authority for firefighting. Owners and operators may demonstrate compliance with this requirement through alternative methods approved by the local fire authority; ;

91 **4) Section 10.6.3 (Waste Tire Processors Registration Requirements) is being amended**
92 **by revising paragraph (B) to read as follows:**

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94 **10.6 - STANDARDS FOR WASTE TIRE PROCESSORS**

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98 **10.6.3 WASTE TIRE PROCESSORS REGISTRATION REQUIREMENTS**

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102 (B) Applications for Certificates of Registration must be submitted on Form WT-1 to the Solid Waste and
103 Materials Management Program within the Hazardous Materials and Waste Management Division of
104 the Department.

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109 **5) Section 10.6.9 (Waste Tire Processor Engineering Design and Operations Plan) is**
110 **being amended by revising paragraph (A)(3)(d) to read as follows:**

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112 **10.6 - STANDARDS FOR WASTE TIRE PROCESSORS**

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116 **10.6.9 WASTE TIRE PROCESSOR ENGINEERING DESIGN AND OPERATIONS PLAN**

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118 (A) Each Waste Tire Processor must have an Engineering Design and Operations Plan, approved by the
119 Department, which must, at a minimum, include all of the following:

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123 (3) Fire Prevention, Training and Firefighting Plan which:

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127 (d) ~~Is written by a qualified professional in accordance with local fire codes or, where no code exists~~
128 ~~or the local code does not provide equivalent or greater level of fire protection, the fire code~~
129 ~~currently adopted by the Colorado Division of Fire Prevention and Control in the Department of~~
130 ~~Public Safety; and Is approved by the local fire department/local fire jurisdiction or in areas where~~
131 ~~no local fire code exists, by the Colorado Division of Fire Prevention and Control in the~~
132 ~~Department of Public Safety; and~~

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137 **6) Section 10.8.9 (Waste Tire Collection Facility Engineering Design and Operations Plan)**
138 **is amended by revising paragraph (A)(3)(d) to read as follows:**

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140 **10.8 - STANDARDS FOR WASTE TIRE COLLECTION FACILITIES**

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10.8.9 WASTE TIRE COLLECTION FACILITY ENGINEERING DESIGN AND OPERATIONS PLAN

(A) Any person who owns or operates a Waste Tire Collection Facility must have and comply with an Engineering Design and Operations Plan approved by the Department, which must, at a minimum, include all of the following:

(3) Fire Prevention, Training and Firefighting Plan which:

(d) ~~Is written by a qualified professional in accordance with local fire codes or, where no code exists or the local code does not provide equivalent or greater level of fire protection, the fire code currently adopted by the Colorado Division of Fire Prevention and Control in the Department of Public Safety.~~ Is approved by the local fire department/local fire jurisdiction or in areas where no local fire code exists, by the Colorado Division of Fire Prevention and Control in the Department of Public Safety; and

7) Section 10.12.5 (Rebate Amount) is being amended by adding paragraph (D) to read as follows:

10.12 WASTE TIRE END USERS FUND

10.12.5 REBATE AMOUNT

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