

1                   **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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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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10                  **Waste Tire Amendments**

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13                  **1) Section 1.2 Definitions is being amended by adding the following new definitions to**  
14                  **read as follows:**

15                  **1.2 Definitions**

16                  \*\*\*\*\*

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19                  **“Alternative Daily Cover”** means at least three inches of earthen material or other suitable material  
20                  placed over the exposed solid waste at the end of each operating day, or at such frequencies as needed  
21                  to prevent or minimize nuisance conditions.

22                  \*\*\*\*\*

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25                  **“ASTM Standard D6270”** means the American Society for Testing and Materials Standard entitled  
26                  “Standard Practice for Use of Scrap Tires in Civil Engineering Applications”, effective on December 15,  
27                  2017. If this standard is amended, then the Department shall require compliance with the amended  
28                  standard.

29                  \*\*\*\*\*

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31

32                  **“Beneficial user”** as used in Section 10, means a person who uses solid waste for energy recovery in a  
33                  manufacturing process or as an effective substitute for natural or commercial products, in a manner that  
34                  does not pose a threat to human health or the environment. Avoidance of processing or disposal cost  
35                  alone does not constitute beneficial use.

36                  \*\*\*\*\*

37

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39                  **“Crumb rubber”** means rubber granules derived from a waste tire that are less than one-fourth inch in  
40                  size, and is wire and fiber free.

42 \*\*\*\*\*  
43  
44 **“Rubber mulch”** is a type of mulch-sized rubber material, which is one-fourth inch to three inches in size,  
45 which is made from waste tires, and is wire and fiber free.  
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47 \*\*\*\*\*  
48  
49 **“Rural County”** means a county with a population of fewer than sixty thousand residents.  
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51 \*\*\*\*\*  
52  
53 **“Ultimate customer”** means an individual who actually purchases the tire-derived product and makes  
54 final use of the tire-derived product.  
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58  
59 **2) Section 1.2 Definitions is being amended by revising the definition of “Waste Tire  
60 Bale” to read as follows:**

#### 61 **1.2 Definitions**

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64  
65 **“Waste Tire Bale”** means a temporary use of waste tires that are mechanically compressed and bound  
66 into block form and are secured using stainless steel or heavy gauge baling wire.  
67

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70  
71 **3) Section 1.2 Definitions is being amended by deleting the definition of “End User” as  
72 follows:**

#### 73 **1.2 Definitions**

74 \*\*\*\*\*

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76  
77 ~~**“End User”** means a person who uses a tire-derived product for a commercial or industrial purpose,~~

78 \*\*\*\*\*

79  
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81  
82 **4) Section 1.7.6 (Waste Tire Fee) is amended to read as follows:**

#### 83 **1.7.6 Waste Tire Fee**

84 Retailers must collect a fee of ~~\$0.55~~ \$1.25 on the sale of each new motor vehicle tire and new trailer  
85 tire. Retailers must submit to the Department all fees collected from the sale of each new motor

86 vehicle tire and new trailer tire. The fees collected each month are due to the Department no later  
87 than the 20th day of the following month.

88  
89 The Waste Tire Fee must be distributed as follows:

- 90  
91 a. \$.50 must be deposited into the Waste Tire Administration, Enforcement, Market Development,  
92 and Cleanup Fund (Section 30-20-1404, C.R.S.).  
93 b. \$.75 must be deposited into the End Users Fund (Section 30-20-1405, C.R.S.).  
94

95  
96 **5) The Table of Contents for Section 10 (Waste Tires) is being amended by revising the**  
97 **listing for section 10.12 (Reserved) and adding a listing for section 10.13 (Standards for**  
98 **End Users and Landowners of Waste Tire Bales) to read as follows:**  
99

100 **SECTION 10**

101  
102 **WASTE TIRES**

103  
104 \*\*\*\*\*

105  
106 **10.12 Reserved Waste Tire End Users Fund**

107 **10.13 Standards for End Users and Landowners of Waste Tire Bales**

108  
109  
110 **6) Section 10.3.5 (Annual Report) is being amended by revising paragraph (B) to read as**  
111 **follows:**

112  
113 **SECTION 10.3 - STANDARDS FOR WASTE TIRE HAULERS**

114  
115 \*\*\*\*\*

116 **10.3.5 ANNUAL REPORT**

117  
118 \*\*\*\*\*

119  
120 (B) The annual report must be delivered to the Department, via certified mail, regular mail, facsimile,  
121 hand delivery, or electronically by ~~April~~ March 1st of each year and must include the following:

122  
123 \*\*\*\*\*

124  
125  
126 **7) Section 10.5.1 (General Waste Tire Monofill Standards) is being amended by adding**  
127 **new paragraph (P) to read as follows:**

128  
129  
130 **10.5 - STANDARDS FOR WASTE TIRE MONOFILLS**

131  
132 **10.5.1 GENERAL WASTE TIRE MONOFILL STANDARDS**

133 \*\*\*\*\*

134

135 (P) After soliciting public comment, the Department may issue a waiver relating to any requirement of this  
136 section, except that the Department shall not issue a waiver of Section 30-20-1415 (1) (j) and (1) (k),  
137 C.R.S., and the parallel provision in Sections 10.5.1 (J) and (M) unless:

138

139 (1) The Waste Tire Monofill owner or operator has demonstrated that it has achieved a net reduction  
140 on an annual basis in the number of waste tires in the monofill; OR

141

142 (2) Unless an emergency event of limited duration such as a fire, flood, tornado, an instance of an  
143 uncontrollable natural force or human caused disaster has occurred which requires the Waste  
144 Tire Monofill to be an outlet for the receipt of waste tires.

145

146

147 **8) Section 10.5.6 (Annual Report) is being amended by revising paragraph (A) to read as**  
148 **follows:**

149

150

151 **10.5 - STANDARDS FOR WASTE TIRE MONOFILLS**

152

153 \*\*\*\*\*

154

155 **10.5.6 ANNUAL REPORT**

156

157 (A) Any person who owns or operates a Waste Tire Monofill must submit an annual report to the  
158 Department and local governing body having jurisdiction by ~~April~~ March 1st of each year on the  
159 Waste Tire Facility Annual Reporting Form (Form WT-5). The annual report must include the amount,  
160 by actual count or by actual weight in tons, of waste tires received at the facility, how many waste  
161 tires were processed or end used at the facility, how many waste tires were shipped off-site from the  
162 facility for the preceding calendar year, and the total amount of waste tires accepted from  
163 unregistered waste tire haulers.

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167

168 **9) Section 10.6.7 (Annual Report) is being amended by revising paragraph (A) to read as**  
169 **follows:**

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171 **10.6 - STANDARDS FOR WASTE TIRE PROCESSORS**

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175 **10.6.7 ANNUAL REPORT**

176

177 (A) All Waste Tire Processors must submit an annual report to the Department and local governing body  
178 having jurisdiction by ~~April~~ March 1st of each year on the Waste Tire Facility Annual Reporting Form  
179 (Form WT-5). The annual report must include the amount, by actual count or by actual weight in tons,  
180 of waste tires received at the facility, how many waste tires were processed at the facility, how many  
181 waste tires were shipped off-site from the facility for the preceding year, and the total amount of waste  
182 tires accepted from unregistered waste tire haulers.

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**10) Section 10.7.7 (Annual Report) is being amended by revising paragraph (A) to read as follows:**

**10.7 - STANDARDS FOR MOBILE WASTE TIRE PROCESSORS**

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**10.7.7 ANNUAL REPORT**

(A) All Mobile Waste Tire Processors must submit an annual report to the Department and local governing body having jurisdiction by ~~April-March~~ 1st of each year on the Mobile Waste Tire Processor Annual Reporting Form (Form WT-8). The annual report must include the amount, by actual count or by actual weight in tons, of waste tires processed at each mobile processing location during the previous year.

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**11) Section 10.8.7 (Annual Report) is being amended to read as follows:**

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

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**10.8.7 ANNUAL REPORT**

Any person who owns or operates a Waste Tire Collection Facility must submit an annual report to the Department and local governing body having jurisdiction by ~~April-March~~ 1st of each year on the Waste Tire Facility Annual Reporting Form (Form WT-5). The annual report must include, by actual count or by actual weight in tons, the amount of waste tires received at the facility, how many waste tires were shipped off-site from the facility for the preceding calendar year, and the total amount of waste tires accepted from unregistered waste tire haulers.

**12) Section 10.9.5 (Annual Report) is being amended by revising paragraph (A) to read as follows:**

**10.9 - STANDARDS FOR END USERS**

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**10.9.5 ANNUAL REPORT**

232 (A) End Users described in Section 10.9.1 must submit an annual report to the Department and local  
233 governing body having jurisdiction by ~~April-March~~ 1st of each year on the Waste Tire Facility Annual  
234 Reporting Form (Form WT-5). The annual report must include the amount, by actual count or by  
235 actual weight in tons, of waste tires and tire derived product received at the End User's facility during  
236 the previous year, and how many waste tires were used to generate energy or fuel during the  
237 previous year.  
238

239 \*\*\*\*\*

240  
241  
242 **13) Section 10.11 (Waste Tire Fee Administration) is being amended by revising**  
243 **subsection 10.11.7 and adding new subsection 10.11.8 to read as follows:**  
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245  
246 **10.11 WASTE TIRE FEE ADMINISTRATION**  
247

248 \*\*\*\*\*

249  
250 10.11.7 Any person who sells new motor vehicle or new trailer tires must retain and make available to  
251 the Department for review any documentation or records (such as receipts or invoices) provided to  
252 customers or transaction records) related to new tire sales to ensure compliance with Section 30-20-  
253 1043 (1)(a), C.R.S., and the Regulations on the sales of these tires ~~for the Department to review~~.  
254 Documentation and/or records must be retained for three (3) years from the date of sale.  
255

256 10.11.8 Every receipt or invoice from the purchase of a new vehicle tire or new trailer tire must have the  
257 following statement:  
258

259 (1) In the largest bold-face type capable base on point-of-sale software, on existing invoice printers  
260 possible, or from a permanent stamp, not to exceed fifteen points: "SECTION 30-20-1403,  
261 COLORADO REVISED STATUTES, REQUIRES RETAILERS TO COLLECT A WASTE TIRE  
262 FEE SET BY THE SOLID AND HAZARDOUS WASTE COMMISSION ON THE SALE OF EACH  
263 NEW MOTOR VEHICLE TIRE AND EACH NEW TRAILER TIRE."  
264

265 (2) The \$1.25 Waste Tire fee for each new tire purchased.  
266  
267

268 **14) Section 10.12 (Waste Tire End Users Fund), consisting of § 10.12.1 (General Rules)**  
269 **through § 10.12.6 (Enforcement) is being added to Section 10 to read as follows:**  
270

271 **10.12 WASTE TIRE END USERS FUND**  
272

273 **10.12.1 GENERAL RULES**  
274

275 **A. General Rules of Eligibility:**  
276

277 1. The following are eligible to apply for the rebate from the End Users Fund (the "Fund"):  
278

279 (a) Colorado registered End Users of Colorado-generated tire-derived products or Colorado  
280 generated waste tires who end use in Colorado;  
281

- 282 (b) Colorado Retailers who sell certain Colorado-generated tire-derived products made in  
283 Colorado from Colorado-generated waste tires; and  
284
- 285 (c) Colorado registered Waste Tire Haulers who are also a Colorado registered End User or  
286 contracted with a Colorado registered End User that is also a Colorado registered Waste Tire  
287 Hauler.  
288
- 289 2. A business or person who is required to be registered with the Secretary of State's office to  
290 conduct business in the State of Colorado must be in "Good Standing" to be eligible for the  
291 rebate.  
292
- 293 3. Once the Department has paid a rebate or denied a rebate on a particular quantity of tire-derived  
294 product or whole waste tires used for energy or fuel, every part of that particular quantity of tire-  
295 derived product or whole waste tires is no longer eligible for payment of the rebate. This includes  
296 payments made before the adoption of these Rules.  
297
- 298 4. Once the Department has paid a rebate or denied a rebate on a particular quantity of waste tires  
299 hauled from a rural county to a Colorado registered End User, those same hauled waste tires  
300 may be eligible for a rebate as described in 10.12.1 (A) (3), as long as the Waste Tire Hauler and  
301 End User are knowingly operating in good faith.  
302
- 303 5. When waste tires are processed at the location of an illegal disposal with funds from the Waste  
304 Tire Administration, Enforcement, Market Development, and Cleanup Fund, neither the retail sale  
305 of the tire-derived product generated or end use of the tire-derived product created is eligible for a  
306 rebate from the Fund.  
307
- 308 6. When waste tires are removed from the location of an illegal disposal with funds from the Waste  
309 Tire Administration, Enforcement, Market Development, and Cleanup Fund and processed at a  
310 separate location not using funds from the Waste Tire Administration, Enforcement, Market  
311 Development and Cleanup Fund, the retail sale of the generated tire-derived product and the end  
312 use of the tire-derived product created is eligible to receive a rebate from the Fund so long as all  
313 the other eligibility requirements are met.  
314
- 315 7. When waste tires are removed from the location of an illegal disposal with funds from the Waste  
316 Tire Administration, Enforcement, Market Development, and Cleanup Fund from a rural county to  
317 a registered Waste Tire Processor, Waste Tire Collection Facility, Waste Tire Monofill, or Waste  
318 Tire End User, those waste tires are not eligible for a Waste Tire Hauler rebate from the Fund.  
319
- 320 8. Any end use of waste tires or tire-derived products must meet the performance criteria of Section  
321 8.6.2 (E) to be eligible to receive a rebate from the Fund.  
322

## 323 **B. General Rules for End Users**

- 324
- 325 1. To be eligible to receive a rebate for end using tire-derived products or whole waste tires to  
326 generate energy or fuel, a person must be currently registered with the Department as an End  
327 User. Any applicant who end uses tire-derived products or whole waste tires to generate energy  
328 or fuel prior to registration with the Department is not eligible for a rebate.  
329
- 330 2. The Department will pay the rebate to an End User only if the end use complies with all local  
331 requirements in the jurisdiction where end use occurs. Any rebate issued to an End User where it  
332 is later determined that the end use of the tire-derived products or waste tires by the End User

333 was not approved by the jurisdiction where the end use occurred, the Department may request  
334 that the applicant return the rebate to the Fund.

- 335
- 336 3. Eligible and Ineligible End Uses. Table 10-12.01 states which end uses are eligible for which  
337 category of rebate and some potential uses that are ineligible.
- 338
- 339 4. To receive the End User rebate for the end use of waste tire bales:
- 340
- 341 a. The applicant must submit the End Users Tire Bale Approval Form, available on the  
342 Department's website.
- 343
- 344 b. Waste tires in the waste tire bale must be at least cut in half in order to be eligible for a rebate  
345 from the Fund.
- 346

347 **C. General Rules for End Users applying for a Waste Tire Hauler rebate**

- 348
- 349 1. To be eligible to apply for a rebate, a person must be registered with the Department as a Waste  
350 Tire Hauler and an End User. Any hauling of waste tires prior to registration with the Department  
351 is not eligible for a rebate.
- 352
- 353 2. Only waste tires originated and hauled from rural counties (population of less than 60,000  
354 residents) are eligible for a rebate for the Waste Tire Hauler and End User. Counties that meet  
355 this standard will be listed at the Colorado Department of Local Affairs "Population Totals for  
356 Colorado Counties" website: [https://demography.dola.colorado.gov/population/population-totals-](https://demography.dola.colorado.gov/population/population-totals-counties/)  
357 [counties/](https://demography.dola.colorado.gov/population/population-totals-counties/). The most current population statistics will be used to determine if a county is  
358 considered rural for the purpose of waste tires being eligible for a rebate.
- 359
- 360 3. The End User applying for a Waste Tire Hauler rebate must provide independent Waste Tire  
361 Manifests (Form WT-2) and weight tickets for those waste tires hauled from a rural county to a  
362 registered End User to be eligible for a rebate.
- 363
- 364 4. To receive the Waste Tire Hauler rebate for the hauling of waste tires, the applicant must submit  
365 the Waste Tire Hauler application, available on the Department's website.
- 366

367 **D. General Rules for Retailers**

- 368
- 369 1. To be eligible to apply for a rebate, a Retailer must have a current Colorado retail sales tax  
370 license pursuant to Section 39-26-103, C.R.S. Any tire-derived product sold prior to the Retailer  
371 having a Colorado retail sales tax license is ineligible for a rebate from the Fund.
- 372
- 373 2. To be eligible for a Retailer rebate, the retail sale must be to the ultimate consumer and the  
374 Retailer must collect sales tax unless the ultimate customer is otherwise exempt from paying  
375 sales tax.
- 376
- 377 3. Only tire-derived product that is sold to ultimate customers is eligible for a rebate for the Retailer  
378 from the Fund.
- 379
- 380 4. Eligible and Ineligible Retailers. Table 10-12.01 states which sales are eligible to receive the  
381 retailer rebate and some potential sales that are ineligible.
- 382
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**Table 10-12.01 Eligible End Uses and Retailing for the End Users Fund**

This table describes potential scenarios for waste tire and tire-derived product end use and retailing. This Table does not create new rights or eligibilities or discuss every potential scenario; it attempts to explain the rights and eligibilities established in statute. Any activity not covered by this Table may still be eligible for a rebate at the Department's discretion pursuant to these regulations and section 30-20-1401, C.R.S., *et seq.*

Column Breakdown Explanation:

Tier I: Crumb rubber and tire-derived fuel for energy recovery

Tier II: Molded products and rubber mulch

Tier III: Waste tire bales, alternative daily cover, tire-derived aggregate

Not eligible for a rebate: Scenarios does not qualify for a rebate under the current statute or regulations

**Table 10-12.01 Eligible End Uses and Retailing for the End Users Fund**

Scenario, if you are .....	Then you are eligible for			
	Tier I	Tier II	Tier III	Not Eligible for a rebate
An End User who end uses tire-derived fuel or whole waste tires for energy recovery or a fuel substitute at a permitted facility (cement kilns, biofuel plants, electric arc furnaces, or power plants).	X			
An End User who end uses crumbed rubber to manufacture a final product (e.g. molded products, cement, deck boards, furniture, etc.) with a demonstrated sale to an ultimate customer.	X			
An End User who installs a tire-derived product that includes crumbed rubber (e.g. asphalt, concrete, etc.) into a construction, highway, or paving application for a commercial or industrial purpose.	X			
An End User who installs crumbed rubber on a playground, athletic field, or for a landscaping project on a residential, commercial or public property.	X			
A retailer who sells crumbed rubber to the ultimate customer who will use the crumb rubber for its final intended use (e.g. infill on an athletic field, etc.). Applicant charges sales tax for this transaction, or does not charge sales tax for this transaction because the consumer is an exempt organization (charity, government agency, or another tax exempt entity).	X			
An End User who installs rubber mulch on a playground or landscaping project on a residential, commercial or public property.		X		
A retailer who sells rubber mulch to the ultimate customer who will use the rubber mulch for its final intended use (e.g. landscaping, playground, etc.). Applicant charges sales tax for this transaction, or does not charge sales tax for this transaction because the consumer is an exempt organization (charity, government agency, or another tax exempt entity).		X		
A retailer who sells molded products to the ultimate customer who will use the molded products for its final intended use (e.g. furniture, deck boards, erosion control products, etc.). Applicant charges sales tax for this transaction, or does not charge sales tax for this transaction because the consumer is an exempt organization (charity, government agency, or another tax exempt entity).		X		
An End User who is end using waste tire bales, with waste tires that are cut (at least halved), bound with stainless or galvanized steel baling wire, that are installed to facilitate waste tire bale stability and longevity, are in accordance with general engineering and agricultural practices, as allowed by state laws and regulations and local ordinances and meet requirements of Section 10.13. Only waste tire bales end uses listed on Table 3 - Pre-Approved Beneficial Uses table on the department's website are eligible for a rebate.			X	
An End User who received and uses a tire-derived product as alternative daily cover at a landfill			X	

permitted by the state and is approved for use of tire shreds for alternative cover for municipal solid waste. The tire shreds must meet specification standards as Type-B tire-derived aggregate as established by the ASTM Standard D6270.				
An End User who installs tire-derived aggregate for civil engineering projects (highway embankments, permanent cover for a landfill cell, leachate cells at landfills, base material for roads, etc.). The tire-derived aggregate must meet specification standards as Type-A tire-derived aggregate as established by the ASTM Standard D6270.			X	
A waste tire processor who is processing whole waste tires into any tire-derived product.				X
Selling whole waste tires.				X
Selling waste tire bales.				X
Selling or end using sidewalls used for silage covers or any other approved end use.				X
Sale or end use of any steel generated and separated from a processing of a waste tire.				X
Reusing any used or whole waste tire as a vehicle tire, trailer tire, or any usage of husbandry.				X
Burning a whole waste tire or tire-derived product at a non-permitted facility and without recovering the energy.				X
Creating buffings from the recapping or retreading of a tire.				X
Recapping or retreading a tire for any vehicle or non-vehicle use.				X
Using buffings generated from the recapping or retreading process.				X
Disposing of waste tires or tire-derived products.				X
Using whole waste tires, upon CDPHE beneficial use approval, for erosion control, stormwater management, sound damping, grade fill, corrals, fencing, home construction, and other approved uses.				X
Using whole waste tires or tire-derived products for a non-beneficial use.				X
Using whole waste tires or tire-derived products out-of-state.				X

386 **10.12.2 APPLICATION PROCEDURES**

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- A. A person applying for a rebate must comply with all the provisions of this Section 10.12.2.
- B. An applicant for a rebate must file a complete application on Department Form WT-11, providing at a minimum:
  - 1. Applicant's name and address.
  - 2. Name and location where end use, retail sale, or waste tire hauling occurred.
  - 4. Certification the waste tires were Colorado-generated.
  - 5. For End Users:
    - (a) The source of waste tires or tire-derived product;
    - (b) A description of the end use; and
    - (c) The End User's Waste Tire Certificate of Registration number.
  - 6. For End Users applying for a Waste Tire Hauler rebate:
    - (a) A list of rural locations that waste tires were hauled from;
    - (b) A list of End Users that received the hauled waste tires;
    - (c) A description of the end use of the hauled waste tires;
    - (d) The Waste Tire Hauler's Waste Tire Certificate of Registration number; and
    - (e) The End User's Waste Tire Certificate of Registration number.
  - 7. For Retailers:
    - (a) A list of consumers the Retailer sold the tire-derived product to;
    - (b) A description of the tire-derived products sold; and
    - (c) Proof the Retailer collected sales tax on the retail sale or that the retail sale was exempt from sales tax.
  - 8. The amount of waste tires or tire-derived product sold by a retailer, end used, or hauled by weight in tons.
  - 9. The time period in which the waste tires or tire-derived product were sold by a retailer, end used, or hauled.
  - 10. Other supporting documentation required by the Department.
  - 11. Authorized signatures and initials where required.

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**C. Timing of Rebate Applications:**

1. Applications for rebates will be accepted no later than the stated due date on the application and/or Department's website.
2. Applications will only be accepted for activities that occurred in the previous calendar quarter period.
3. The Department will only accept applications send by mail, courier, or delivered to the Department's mailroom (must be stamped and signed and/or initialed by mailroom personnel as received).
4. Applications received or postmarked after the due date will be automatically denied.
5. The Department will not accept emailed or faxed applications.
6. The Department will not accept adjustments for processed applications from prior calendar quarter periods.
7. An applicant can only receive a rebate for activities occurring in the current fiscal year.

D. Any applicant's application must include a minimum of 10 tons end used, retail sale, and/or waste tires hauled to be eligible for a rebate.

E. The Department may deny a rebate to an applicant who has received funding from the Waste Tire Administration, Enforcement, Market Development, and Cleanup Fund if paying from both funds will result in double paying for the same activity.

F. Applicants must provide weight tickets from a scale that meets the requirements of the Colorado Measurement Standards Act, Sections 35-14-101 through 35-14-134, C.R.S. to document weights of waste tires or tire-derived product end used, tire-derived product sold in a retail sale, or waste tires hauled from a rural county. Other verifiable forms of documentation may be acceptable on a case by case basis based on approval of the Department's internal audit unit and/or the Colorado Attorney General's Office.

**10.12.3 PROCESSING OF APPLICATIONS**

The Department will review applications according to a four-step process: (1) review for completeness, (2) review for compliance with applicable laws and regulations, (3) review for eligible end uses, retail sales and waste tire hauling, and (4) determination of a rebate amount.

A. **Completeness:** If an application is not complete or if supporting documentation is insufficient, then the Department will notify the applicant and grant the applicant a five (5) business day grace period to submit the missing information. The Department may defer paying rebates to all applicants until adequate information is received. If the applicant does not submit adequate information in the prescribed time period, then the Department may deny a rebate for that quarter.

B. **Compliance:** After the Department has determined all applications submitted in a given quarter have been received, it will conduct a compliance verification to ensure each applicant is in compliance with

488 all applicable environmental laws and regulations and was in compliance with all applicable  
489 environmental laws and regulations during the time period for which they are seeking a rebate.  
490 Applicants must notify the Department of any pending or active compliance issues to assist in the  
491 compliance verification. Any applicant who does not notify the Department of any known compliance  
492 issues may lead to automatic denial of any submitted or pending applications.  
493

494 C. **Eligibility:** After compliance verification, the Department determines which applicants are eligible for  
495 rebates.  
496

497 D. **Rebate amount:** The Department will calculate the amount of rebate per Section 10.12.5 of these  
498 Regulations and notify each applicant of its determination.  
499

#### 500 **10.12.4 APPEALS PROCESS**

501 A. **For approved applications,** if an applicant believes the Department has made a calculation error in  
502 the response to an approved application, the applicant must notify the Department in writing within  
503 five (5) business days of receiving the Department's response. The notice must contain:  
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- 506 1. A copy of the original submitted application and supporting documents;
- 507 2. A copy of the Department's response;
- 508 3. A detailed description describing the believed error;
- 509 4. Copies of any documents supporting the detailed description.

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515 The Department will review the notice and attached documents and may further investigate the  
516 matter and ask for additional information from the applicant. Any additional information requested  
517 information would be due within five (5) business days of the Department's request. Any incomplete  
518 appeal submittals or inability to submit additional requested information must lead to an automatic  
519 denial of the appeal by the Department.  
520

521 The Department will only accept appeals sent by mail, courier, or delivered to the Department's  
522 mailroom (must be stamped and signed or initialed by mailroom personnel as received). Appeals  
523 received or postmarked after the due date will be automatically denied without review. The  
524 Department will not accept emailed or faxed appeals.  
525

- 526 1. If the Department concludes an error has been made and the Department has not yet paid the  
527 rebate that quarter, then the Department will reinstate the application and recalculate the  
528 payment before paying any rebates that quarter.  
529
- 530 2. If the Department concludes an error has been made and the Department has already paid the  
531 rebates that quarter, then the Department will notify the applicant and reimburse the applicant  
532 from the next quarter's rebate money, as available, according to the following method:  
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  - 534 (a) The Department will determine what the applicant should have been paid had the Department  
535 not erred;
  - 536 (b) The Department will pay the applicant that amount from the next quarter's money; and  
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539 (c) The next quarter's money will be reduced accordingly.  
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541 3. If the Department concludes no calculation error was made, then it will notify the applicant that its  
542 previous determination was not in error and is final. This determination is subject to appeal  
543 pursuant to Section 24-4-106, C.R.S.  
544

545 **B. For denied applications:** If an applicant believes his or her application was wrongly denied, then the  
546 applicant must, within five (5) business days of denial, submit the following to the Department:  
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- 548 1. A copy of the denied application and supporting documents;
- 549 2. The denial letter;
- 550 3. A statement explaining why the applicant believes the Department erred; and
- 551 4. All other information the applicant believes relevant.  
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554 The Department will review the notice and attached documents and may further investigate the  
555 matter and ask for additional information from the applicant. Any additional information requested  
556 information would be due within five (5) business days of the Department's request. Any incomplete  
557 appeal submittals or inability to submit additional requested information must lead to an automatic  
558 denial of the appeal by the Department.  
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561 The Department will only accept original appeals send by mail, courier, or delivered to the  
562 Department's mailroom (must be stamped and signed or initialed by mailroom personnel as  
563 received). Appeals received or postmarked after the due date will be automatically denied without  
564 review. The Department will not accept emailed or faxed original appeals.  
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- 567 1. If the Department concludes it erred in denying the application, and the Department has not yet  
568 paid the rebate that quarter, then the Department will reinstate the application and recalculate the  
569 payment before paying the rebate that quarter.  
570
- 571 2. If the Department concludes it erred in denying the application and the Department has already  
572 paid the rebate that quarter, then the Department will notify the applicant and reimburse the  
573 applicant from the next quarter's money, as available, according to the following method:  
574
  - 575 (a) The Department will determine what the applicant should have been paid had the Department  
576 not erred;
  - 577 (b) The Department will pay the applicant that amount from the next quarter's money; and
  - 578 (c) The next quarter's money will be reduced accordingly.  
579
- 580 3. If the Department concludes no error was made, then it will notify the applicant that its previous  
581 determination was not in error and is final. This determination is subject to appeal pursuant to  
582 Section 24-4-106, C.R.S.  
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#### 587 **10.12.5 REBATE AMOUNT**

588 A. The Department will pay the rebate amount on a per-ton basis.  
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B. Beginning April 1, 2020, the amount of the rebate is as follows:

- (1) Tier 1: \$50 per ton;
- (2) Tier 2: \$25 per ton;
- (3) Tier 3: \$12.50 per ton; and
- (4) Waste Tire Hauler: \$12.50 per ton.

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

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

#### 10.12.6 ENFORCEMENT

- A. A person who applies for a rebate is subject to a review by the Department at any time. Applicants must allow access to all records related to waste tire management activities during normal business hours for the purpose of determining compliance with these rules for five (5) years from the date of receiving a rebate. Any applicant who refuses a review by the Department must have any submitted or pending application denied and will be ineligible for any future rebates from the Fund.
- B. If an applicant provides information that constitutes a trade secret, confidential personnel information, or proprietary commercial or financial information, in accord with Section 24-72-204, C.R.S., then the applicant may request the Department withhold such documents from disclosure in the event the Department receives a request for records in accord with the Colorado Open Records Act, section 24-72-101 et seq. All such documents must be clearly marked with the term "Proprietary Information" on each appropriate page. Records marked as containing trade secret, confidential, personnel, or proprietary information that do not actually contain such information may be released pursuant to an Open Records Act request.
- C. In addition to any other penalty imposed by law, any applicant who knowingly or intentionally provides false information to the Department when applying for a rebate must be ineligible to receive any future rebates from the Fund and moneys from the Waste Tire Administration, Enforcement, Market Development and Cleanup Fund. The Department may refer any evidence obtained during the investigation to the Colorado Attorney General Office or other law enforcement agencies for further review and potential prosecution.
- D. The Department may deny the rebate to any person who is out of compliance with any State or Federal environmental laws, rules or regulations.
- E. The Department may hold any application due to compliance issues for the duration of the fiscal year in which that it is submitted, pending the resolution of the compliance issue. If at the end of the fiscal year the compliance issue has not been resolved, then the Department may deny any applications

640 being held. Any applicant who knowingly withholds information on current compliance advisories,  
641 orders, or other formal notifications may have any submitted or pending applications denied.

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644 **15) Section 10.13 (Standards for End Users and Landowners of Waste Tire Bales) is**  
645 **being added to Section 10 to read as follows:**

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648 **10.13 STANDARDS FOR END USERS AND LANDOWNERS OF WASTE TIRE BALES**

- 649  
650 A. End Users or landowners of waste tire bales must maintain the integrity of individual waste tire bales  
651 at all times. Loose whole or cut waste tires from broken waste tire bales are viewed as waste tires  
652 and are subject to the applicable requirements of Section 10 of these rules.  
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654 B. Broken waste tire bales must be repaired within 90 days of discovery, or alternatively removed from  
655 the property for proper disposal within 90 days of discovery.  
656  
657 C. Beneficial use of waste tire bales must be approved by the Department prior to placement, unless the  
658 end use is listed as pre-approved beneficial use per the Pre-Approved Beneficial Uses Table 3 listed  
659 on the Department's website.  
660  
661 D. The Department may notify the local fire jurisdiction when waste tire bales are placed on any property  
662 for end use.  
663  
664 E. End Users or landowners end using waste tire bales are subject to Department inspection.  
665  
666 F. Once waste tire bales are no longer serving their beneficial use, the End User or landowner must  
667 remove the waste tire bales within 120 calendar days. The waste tire bales must be delivered to a  
668 registered waste tire facility and manifested in accordance with Section 10 requirements. An End  
669 User must cancel their End User registration within 90 days of the removal of all waste tire bales.  
670  
671 G. End Users or landowners of waste tire bales whom have received rebate monies from the Fund (past  
672 or present) may be ineligible for waste tire cleanup funds for the cleanup of waste tires or tire-derived  
673 products for which rebates were received. The Department may consider exceptions in the instance  
674 of an emergency or change of ownership.  
675  
676 H. Waste tire bales used in any manner not on the Department's *Pre-Approved Beneficial Use List Table*  
677 *3*, or approved by the Department on a case-by-case basis is considered waste tire disposal and is  
678 subject to applicable parts of this Section 10.