

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

Section 1 – Rules for Reimbursements from the Processors and End Users Fund

(Adopted by the Solid and Hazardous Waste Commission on May 17, 2011)

1.1 PURPOSE

The purpose of these rules is to implement the provisions of section 25-17-202.5, C.R.S. The purpose of such partial reimbursements shall be to assist new and existing waste tire recycling technologies to become economically feasible and to thereby encourage the use of waste tires and reduce the storage of waste tires in Colorado.

1.2 DEFINITIONS

1. "Applicant" means any person or business seeking partial reimbursement under 25-17-202.5, C.R.S.
2. "Authorized signature" means the signature of an individual who has authority to sign on behalf of, and bind, an applicant.
3. "Cost of use" means the cost per ton to the person or business processing or end-using the waste tires in an acceptable application. Cost of use includes the purchase price of the material, and all fixed and variable costs related to the processing or end use of the waste tires.
4. "Daily cover" means using processed waste tires as an alternate cover placed upon exposed solid waste in a permitted solid waste facility to control disease vectors, fires, odors, blowing litter and scavenging, without presenting a threat to human health or the environment.
5. "Department" means the Colorado Department of Public Health & Environment.

6. "Economic value" is an attribute of a product, which is producing or capable of producing a profit, or is valued through a recognized medium of exchange.
7. "End use" or "End used" means:
 - a. For energy recovery: utilizing the heat content or other forms of energy from the burning or pyrolysis of processed waste tires;
 - b. For other eligible uses: the last use of waste tires in making a product with economic value. If the waste tire undergoes more than one process in becoming a product, the end use is the last use of the waste tires.
8. "End User" means a person who uses waste tires for a commercial or industrial purpose.
9. "Partial reimbursement" means reimbursement from the Waste Tire Fund to assist in covering costs involved in the processing or end use of waste tires up to \$65 per ton.
10. "Processed" or "Processing" means changing the form of waste tires including, but not limited to, stamping, stripping, shredding, crumbing or baling for beneficial use.
11. "Processor" means a person who processes waste tires in Colorado for recycling or beneficial use.
12. "Pyrolysis" means thermal treatment of processed waste tires to separate the waste tires into other components with economic value.
13. "Waste Tire" means a tire that is no longer mounted on a motor vehicle and is no longer suitable for use as a tire due to wear, damage, or deviation from the manufacturer's original specifications. Waste tires include the following types of tires that are not organized for resale by size in a rack or a stack in a manner that allows the inspection of each individual tire: a repairable tire, scrap tire, altered waste tire, and a used tire. This definition excludes "buffings" that are a by-product from the retreading process.

1.3 ELIGIBILITY FOR PARTIAL REIMBURSEMENT

A. Eligible End Uses and Processes:

1. Only Colorado-generated waste tires qualify for partial reimbursement.
2. The end-uses of waste tires that are eligible for partial reimbursement include, but are not limited to:

a. Civil engineering applications, meeting applicable American Society for Testing and Materials (ASTM) or similar standards, which utilize waste tire materials as a substitute for soil, sand, or aggregate in a construction project's land or surface applications, road bed base, embankments, fill materials for construction projects, daily cover at a permitted solid waste facility, tire bale projects, and/or other civil engineering applications as approved by state or local health departments;

b. Burning of processed waste tires for energy recovery or supplemental fuel;

c. Products made from processed waste tires such as molded rubber products, rubberized asphalt, or other products.

d. The use of tire bales for any end use project must include appropriate certificates and/or permits from the applicable local government with the application (i.e., zoning, construction, building, and certificate of occupancy). If the applicable local government does not require certificates or permits for the use of tire bales in the project, a letter stating as such is required with the application. Letters must be dated within 12 months of the date of the submitted application.

3. Uses that are not eligible for partial reimbursement include:

a. Reuse as a vehicle tire;

b. Retreading;

c. Burning without energy recovery;

d. Land filling for disposal; and

e. Buffings.

4. Processes that are eligible include:

a. Stamping;

b. Stripping;

c. Shredding;

d. Pyrolysis;

e. Crumbing;

f. Baling for beneficial use; and

g. Other technologies for the conversion of waste tires into components with economic value. These technologies must be reviewed and approved through a beneficial use evaluation by the Hazardous Materials and Waste Materials Division of the Department pursuant to 6 CCR 1007-2, Part 1, Section 8 of the Solid Waste Regulations.

5. Partial reimbursement will be allowed only if the end use does not conflict with applicable state or local laws, ordinances or rules.

B. Eligible applicants:

1. End users are eligible for partial reimbursement, and must certify an end use in the state of Colorado. End use of processed waste tires outside of Colorado is not eligible for a reimbursement.

2. Processors are eligible for partial reimbursement only if the application includes information on how the processed waste tires will be used. A waste tire can only be claimed after the first time it is processed, as described in Section 1.3 (4), and an applicant must certify to the Department that any waste tire for which they are requesting reimbursement has not previously received reimbursement from the fund.

3. Per section 25-17-202(4), C.R.S., both processors and end users must be located in and have operations in the state of Colorado to be eligible for a partial reimbursement.

4. Processors and end users should be registered with the Colorado Secretary of State's office and be in "Good Standing".

1.4 APPLICATION PROCEDURES

A. A processor or end user may apply to the Department for partial reimbursement for the processing or end use of waste tires if the request for partial reimbursement is complete and complies with all of the provisions of these rules.

B. An applicant's initial application in any state fiscal year (July 1 through June 30) must be for a minimum of 50 tons of either processed and/or end used waste tires. The applicant cannot receive reimbursement for waste tires processed or end used in a previous fiscal year. After submitting an initial application for a minimum of 50 tons, the applicant is eligible to apply for any ton amount in subsequent months in that fiscal year.

C. Applicants must certify that the processed waste tires are not being provided to a local government securing or having secured a grant from the Recycling Incentives Program (per section 25-17-202.6 (b)(I), C.R.S.).

D. To be considered as Colorado-generated waste tires eligible for partial reimbursement, the waste tires must be documented as such in a manner acceptable to the Department. Acceptable documentation must include a certifying statement signed by the applicant stating that the waste tires are Colorado-generated in accordance with the requirements of Section 1.3 of these rules. Acceptable forms of documentation include weight tickets from a scale, number and type of tires invoices, reports of material delivered, copies of purchase agreements, or other documentation upon the Department's approval.

E. An applicant for partial reimbursement must file the appropriate Department form (Processor and End User Application), providing at a minimum:

1. Applicant's name and address.
2. Name and location where end use or processing occurred.
3. A description of the end use or processing.
4. For processors: a listing of end users that received, or will receive, eligible processed waste tires.
5. For end users: a listing of processors from which they received their processed waste tires.
6. The amount of waste tires processed or used, by weight and/or type and number of tires.
7. The time period the waste tires were processed or end used within the current state fiscal year.
8. An original invoice or another acceptable document showing:
 - a. The invoice or purchase price, or the commodity price, of the processed waste tires used or, a receipt showing the weight and price paid by the applicant to purchase the processed or end used waste tires; and/or
 - b. Itemized document showing the cost of use for the processed or end used waste tires on a per ton basis.
9. An authorized signature.

F. Applications for monthly partial reimbursement will be accepted no later than the stated due date on the application and/or website. Applications received after the due date will be considered late and partial reimbursement will not be considered for that calendar month. The Department will not accept adjustments for processed applications from prior calendar months if underreporting occurred by the applicant. The Department

will not accept combining previous calendar months with the current months' application except as defined in Section 1.4 (B), above.

1.5 PARTIAL REIMBURSEMENT RATE

A. The amount of the partial reimbursement for waste tires processed or end used may be up to \$65.00 per ton.

B. Every month the Department will reimburse processors and end users of waste tires from the fund according to the following method:

1. The Department will pay end users twice as much per ton for each ton of waste tires used as it will pay processors for each ton of waste tires processed;
2. Any one waste tire is eligible for reimbursement one time for the processing of that waste tire and one time for the end use of that waste tire;
3. If using this method the end use reimbursement rate exceeds \$65 per ton, then the excess funds will be distributed to the processors;
4. If using this method both the end use reimbursement rate and the processor reimbursement rate exceed \$65 per ton, then the excess funds will remain in the fund to be distributed the following month.

C. Funds will be disbursed pro-rata, based on the amount of revenue received in the preceding month made available to the Department for partial reimbursements, divided by the requests received by the date in Section 1.4 (F), above, as expressed in tons. Distribution of funds cannot exceed available balance at any time.

1.6 PROCESSING OF APPLICATIONS

A. The Department shall review the partial reimbursement application for completeness and eligibility by the first of the month following the application deadline as defined in Section 1.4 (F), above.

B. If an application is not complete, then the Department will notify the applicant and grant the applicant a 5 day grace period to submit the missing information within 5 business days of being notified. The Department will defer partial reimbursement to all applicants until adequate information is received. If adequate information is not received in the prescribed time period, then the Department shall deny reimbursement for that month.

C. If an applicant believes the Department has made an error in the response to an application, the applicant shall notify the Department in writing within 15 days of receiving the Department's response. The notice shall contain a copy of the application

and the Department's response, a brief statement describing the believed error, and copies of any documents supporting the statement. The Department shall review the notice and attached documents and may further investigate the matter.

1. If the Department concludes that an error has been made and the Department has not yet paid the monthly reimbursements, then the Department shall reinstate the application and recalculate the pro-rata payment before paying the monthly reimbursements.
2. If the Department concludes that an error has been made and the Department has already made the monthly reimbursements, then the Department shall reimburse the applicant from the next month's reimbursement money according to the following method. The Department will determine what the applicant should have been paid had the Department not erred. The Department will pay the applicant that amount from the next month's reimbursement money. The next month's reimbursement money will be reduced accordingly and will be divided pro-rata according to the method in Section 1.5.

1.7 ENFORCEMENT

A. A processor or end user who applies for a partial reimbursement is subject to a review by the Department at any time. Applicants shall 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 years from the date of partial reimbursement.

B. If information is provided by an applicant that constitutes a trade secret, confidential personnel information, or proprietary commercial or financial information, in accord with § 24-72-204(3), 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, § 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 provides false information to the Department or refuses to provide requested information when applying for a partial reimbursement shall be ineligible to receive any future partial reimbursement under these rules.

D. The Department may deny reimbursements to an applicant who is out of compliance with operational requirements of any state law or regulation.