

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Solid and Hazardous Waste Commission/Hazardous Materials and Waste Management Division

6 CCR 1007-2

STATEMENT OF BASIS AND PURPOSE AND SPECIFIC STATUTORY AUTHORITY FOR

Addition to Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2 Part 1) – Addition of Section 16.6.5, Waste Tire Management Standards for Collection Facilities

Basis and Purpose

As with the management standards already promulgated for used lead acid batteries, the HMWMD recommends promulgation of management standards for waste tires stored at collection facilities. These would be promulgated under authority provided in Title 30, Article 20, Part 1 (Solid Wastes Disposal Sites and Facilities Act), and Title 30, Article 20, Part 10 (Solid Wastes Disposal Limitations). The purpose of these standards is to reduce the potential that waste tires managed at collection facilities will pose a risk to human health and the environment.

Background

Title 30, Article 20, Part 10, C.R.S. (“the Act”), passed by the legislature in 2005, limits the disposal options for residentially-generated used lead-acid batteries, used oil and waste tires. In May 2007, the Solid and Hazardous Waste Commission promulgated Section 16 of the Regulations Pertaining to Solid Waste Sites and Facilities (“the Regulations”), in order to implement the Act. However, one part of Section 16 was reserved for further discussion to address concerns raised at the May 15, 2007 Commission meeting. Specifically, the section reserved was Section 16.6.5 dealing with waste tire management standards applicable to collection facilities. The Commission directed the Department to prepare revisions to Section 16.6.5 that would address these concerns. Since that time, the Department has developed the proposed alternative, which gives collection facilities the option of exceeding a two-year storage time, so long as financial assurance coverage is provided for proper disposition of the tires.

Summary of Regulatory Proposal

During the stakeholder process and the May 2007 Commission meeting, the HMWMD has maintained that management standards are necessary for waste tire collection facilities because waste tires cause environmental problems when inappropriately managed. Management standards applicable at collection facilities have already been established for used oil and used lead-acid batteries, the other waste streams covered by the Act. Section 16.6.5 establishing waste tire management standards was reserved to address the concern that the proposed two-year storage limit would place undue burden on collection facilities handling waste tires. It was suggested that some collection facilities, especially those located in rural areas, would require more than two years to accumulate a sufficient volume of tires to make transport of the tires to a recycler economical. Such facilities, as the concern was expressed to the Department, would

face a paperwork burden associated with petitioning the Department to obtain waivers every time their operations necessitated extension of the two-year storage period.

The HMWMD is proposing to allow collection facilities the flexibility to either adhere to a two-year storage time limit, or to establish financial assurance. Collection facilities that provide a financial assurance instrument to cover the cost of proper disposition of the tires accumulated would not be under a storage time constraint. Because the proposed tire management standards had already been discussed at length during the stakeholder process conducted on the overall Section 16 development, HMWMD did not hold additional stakeholder meetings. Instead, HMWMD solicited comment on the proposed language adding the option of financial assurance. HMWMD received some comments supportive of the proposed change. We also heard from other stakeholders who expressed the concern that the proposed change enables longer-term storage that will lead to large accumulations of tires at collection facilities, and associated environmental problems. As compared to the status quo, in which collection facilities may store tires indefinitely, the proposed change does not extend the permissible storage time for waste tires at a collection facility. Among other things, the proposed change in fact restricts storage time at collection facilities that do not choose to establish financial assurance, though not restricting storage time to the degree preferred by some stakeholders. There is still the potential that a waste tire collection facility may fail to transport tires to a recycler or other legitimate destination under the Act, and ultimately become an illegal disposal site. However, the proposed storage time limit, together with the proposed financial assurance option, will provide the HMWMD with another mechanism for dealing with this circumstance.

The proposed management standards would limit the size and configuration of tire piles to facilitate fire control, in accordance with standards already established in Section 10.2.9(B) of the Regulations. Collection facilities would also be limited to a two-year accumulation time for waste tires. In enforcing this requirement, the HMWMD will be looking for evidence of throughput. Collection facilities would need to maintain documentation showing that tire input is approximately matched by tire output when viewed over a two-year accumulation period. Collection facilities that use a commercial waste motor vehicle tire hauler should already receive shipping documentation from the hauler that would be suitable for this purpose. Other forms of documentation, including bills of lading, tracking logs, etc. may be used for such purposes. Thus, collection facilities would have the flexibility to use whatever documentation is best suited to their business.

In summary, the proposed waste tire management standards will provide the HMWMD with a mechanism to ensure proper management of these wastes at collection facilities.