

TIRE RECYCLING AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Neal B. Hendrickson

David Ure

AN ACT RELATING TO THE ENVIRONMENT; AMENDING THE WASTE TIRE RECYCLING ACT BY PROVIDING ADDITIONAL DEFINITIONS; AMENDING THE RECYCLING FEE AND THE REIMBURSEMENT AMOUNTS; REQUIRING PERMITTING FOR CERTAIN WASTE TIRE PURPOSES; PROVIDING CRIMINAL PENALTIES AND ADDITIONAL CIVIL PENALTY PROVISIONS; CLARIFYING BOARD FUNCTIONS AND EXECUTIVE SECRETARY FUNCTIONS; AND GIVING THE BOARD RULEMAKING AUTHORITY, INCLUDING DEFINING STORAGE OF WASTE TIRES AND WASTE TIRE USES SUBJECT TO REIMBURSEMENT; AND REQUIRING SPECIFIED RECORD KEEPING AND DOCUMENTATION IN ORDER TO TRACK WASTE TIRES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

26-32a-103, as last amended by Chapter 266, Laws of Utah 1996

26-32a-103.5, as last amended by Chapter 266, Laws of Utah 1996

26-32a-104, as last amended by Chapter 266, Laws of Utah 1996

26-32a-104.5, as last amended by Chapter 313, Laws of Utah 1994

26-32a-107, as last amended by Chapter 266, Laws of Utah 1996

26-32a-107.5, as last amended by Chapter 213, Laws of Utah 1995

26-32a-107.7, as last amended by Chapter 266, Laws of Utah 1996

26-32a-107.8, as enacted by Chapter 266, Laws of Utah 1996

26-32a-108, as last amended by Chapter 274, Laws of Utah 1993

26-32a-110, as enacted by Chapter 185, Laws of Utah 1990

26-32a-111.5, as last amended by Chapter 213, Laws of Utah 1995

28 **26-32a-112**, as last amended by Chapter 274, Laws of Utah 1993

29 ENACTS:

30 **26-32a-112.3**, Utah Code Annotated 1953

31 **26-32a-112.5**, Utah Code Annotated 1953

32 **26-32a-112.7**, Utah Code Annotated 1953

33 **26-32a-112.9**, Utah Code Annotated 1953

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **26-32a-103** is amended to read:

36 **26-32a-103. Definitions.**

37 As used in this chapter:

38 (1) "Abandoned waste tire pile" means a waste tire pile regarding which the local
39 department of health has not been able to:

40 (a) locate the persons responsible for the tire pile; or

41 (b) cause the persons responsible for the tire pile to remove it.

42 (2) (a) "Beneficial use" means the use of chipped waste tires or chipped material derived
43 from waste tires in a manner that is not recycling, storage, or disposal, but that serves as a
44 replacement for another product or material for specific purposes, including daily landfill cover,
45 civil engineering, low-density, light-weight aggregate fill, and septic or drain field construction.

46 (b) "Beneficial use" does not include use of waste tires or material derived from waste tires
47 in the construction of fences, or as fill.

48 [(2)] (3) "Board" means the Solid and Hazardous Waste Control Board created under
49 Section 19-1-106.

50 (4) "Chip" or "chipped tire" means a two inch square or smaller piece of tire.

51 [(3)] (5) "Commission" means the Utah State Tax Commission.

52 [(4)] (6) "Consumer":

53 (a) means a person who purchases a new tire to satisfy a direct need, rather than for resale;
54 and

55 (b) includes a person who purchases a new tire for a motor vehicle to be rented or leased.

56 [(5)] (7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise
57 reduced in size so the resulting material [~~can pass through an ASTM standard 10 mesh screen~~] is
58 95% wire free by weight.

59 [(6)] (8) "Dispose" or "disposal" means to deposit, dump, or permanently place any waste
60 tire in or on any land or in any water in the state.

61 [(7)] (9) "Division" means the Division of Solid and Hazardous Waste created in Section
62 19-1-105, within the Department of Environmental Quality.

63 [(8)] (10) "Executive secretary" means the executive secretary of the [~~Utah~~] Solid and
64 Hazardous Waste Control Board created in Section 19-1-106.

65 [(9)] (11) "Landfill waste tire pile" means a waste tire pile located within the permitted
66 boundary of a landfill operated by a governmental entity and consisting solely of waste tires
67 brought to a landfill for disposal and diverted from the landfill waste stream to the waste tire pile.

68 [(10)] (12) "Local health department" means the city-county health department or district
69 health department, as defined in Section 26A-1-102, with jurisdiction over the recycler.

70 [(11)] (13) "Materials derived from waste tires" means tire sections, tire chips, tire
71 shreddings, rubber, steel, fabric, or other similar materials derived from waste tires.

72 [(12)] (14) "Mobile facility" means a mobile facility capable of cutting waste tires on site
73 so the waste tires may be effectively disposed by burial, such as in a landfill.

74 [(13)] (15) "New motor vehicle" means a motor vehicle which has never been titled or
75 registered.

76 (16) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25
77 pounds of whole tires or material derived from waste tires is equal to one waste tire.

78 [(14)] (17) "Proceeds of the fee" means the money collected by the commission from
79 payment of the recycling fee including interest and penalties on delinquent payments.

80 [(15)] (18) "Recycler" means a person who:

81 (a) uses or can reasonably be expected within the next year to use a minimum of 100,000
82 waste tires or 1,000 tons of waste tires per year to produce energy, crumb rubber, [or] chipped tires,
83 an ultimate product, or to apply to a beneficial use, but does not include [a person who stores,
84 disposes of, or retreads tires] tires that are stored, disposed of, retreaded, or sold as used tires; and

85 (b) is registered as a recycler in accordance with Section 26-32a-104.5.

86 [(16)] (19) "Recycling fee" means the fee provided for in Section 26-32a-104.

87 [(17) "~~Shredded,~~"] (20) (a) Before January 1, 2000, "shredded," when referring to waste
88 tires, means waste tires or material derived from waste tires that has been subjected to a "primary
89 shred" as defined by board rule. The rule shall define the maximum size of a piece of material

90 derived from waste tires that is considered to be the result of a primary shred.

91 (b) On and after January 1, 2000, "shredded," when referring to waste tires, means waste
92 tires or material derived from waste tires that has been reduced to a six inch square or smaller.

93 ~~[(18)]~~ (21) (a) "Store" or "storage" means the placing of waste tires in a manner that does
94 not constitute disposal of the waste tires.

95 (b) "Store" or "storage" does not include waste tires or material derived from waste tires
96 that is stored for five or fewer days and that is to be:

97 (i) used as ballast to maintain covers on agricultural materials or to maintain covers at a
98 construction site; or

99 (ii) recycled or applied to a beneficial use.

100 ~~[(19)]~~ (22) "Tire" means a pneumatic rubber covering designed to encircle the wheel of
101 a vehicle in which a person or property is or may be transported or drawn upon a highway.

102 ~~[(20)]~~ (23) "Tire retailer" means any person engaged in the business of selling new tires
103 either as replacement tires or as part of a new vehicle sale.

104 ~~[(21)]~~ (24) "Trust fund" means the Waste Tire Recycling Expendable Trust Fund provided
105 for in Section 26-32a-105.

106 (25) (a) "Ultimate product" means a product that has as a component materials derived
107 from waste tires and that the board finds has a demonstrated market.

108 (b) "Ultimate product":

109 (i) includes pyrolyzed materials derived from waste tires and chipped tires; and

110 (ii) does not include a product regarding which a waste tire remains after the product is
111 disposed or disassembled.

112 ~~[(22)]~~ (26) "Waste tire" means a tire that is no longer suitable for its original intended
113 purpose because of wear, damage, or defect.

114 ~~[(23)]~~ (27) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.

115 ~~[(24)]~~ (28) "Waste tire transporter":

116 (a) means a person or entity engaged in picking up or transporting at one time more than
117 ten whole waste tires per year, or the equivalent amount of material derived from waste tires,
118 generated in Utah for the purpose of storage, processing, or disposal;

119 (b) includes any person engaged in the business of collecting, hauling, or transporting
120 waste tires or who performs these functions for another person;

- 121 (c) does not include a person transporting tires generated solely by:
122 (i) that person's personal vehicles;
123 (ii) a commercial vehicle fleet owned or operated by that person or that person's employer;
124 (iii) vehicles sold, leased, or purchased by a motor vehicle dealership owned or operated
125 by that person or that person's employer; [or]
126 (iv) a retail tire business and hauled by the business owner or an employee of the business;
127 [and]
128 (v) a solid waste collector operating under a license issued by a unit of local government
129 as defined in Section 63-51-2, or a local health department; or
130 (vi) a recycler or processor of whole waste tires into chipped tires; and
131 (d) does not include a person transporting tires by rail as a common carrier subject to
132 federal regulation.

133 Section 2. Section **26-32a-103.5** is amended to read:

134 **26-32a-103.5. Restrictions on disposal of tires -- Penalties.**

135 (1) (a) After January 1, 1994, an individual, including a waste tire transporter, may not
136 dispose of more than four whole tires at one time in a landfill or any other location in the state
137 authorized by the executive secretary to receive waste tires, except for purposes authorized by
138 board rule. [~~Rules implementing this provision shall be made on or before January 1, 1994.~~]

139 (b) Tires are exempt from this Subsection (1) if the original tire [~~(i) is from any device~~
140 ~~moved exclusively by human power; or (ii)] has a rim diameter greater than 24.5 inches.~~

141 (c) No person, including a waste tire transporter, may dispose of waste tires or store waste
142 tires in any manner not allowed under this chapter or rules made under this chapter.

143 (2) [~~When possible, the~~] The operator of the landfill or other authorized location shall
144 direct that the waste tires be disposed in a designated area to facilitate retrieval if a market becomes
145 available for the disposed waste tires or material derived from waste tires.

146 (3) An individual, including a waste tire transporter, may dispose of shredded waste tires
147 in a landfill in accordance with Section 26-32a-107.8, and may also, without reimbursement,
148 dispose in a landfill materials derived from waste tires that do not qualify for reimbursement under
149 Section 26-32a-107.8, but the landfill shall dispose of the material in accordance with Section
150 25-32a-107.8.

151 (4) (a) An individual, including a waste tire transporter, violating this section is subject

152 to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or per [amount
153 of materials equivalent to one tire] passenger tire equivalent disposed of in violation of this
154 section. A warning notice may be issued prior to taking further enforcement action under this
155 Subsection (4).

156 (b) A civil proceeding to enforce this section and collect penalties under this section may
157 be brought in the district court where the violation occurred by the board, the local health
158 department, or the county attorney having jurisdiction over the location where the tires were
159 disposed in violation of this section.

160 (c) Penalties collected under this section shall be deposited in the trust fund.

161 Section 3. Section **26-32a-104** is amended to read:

162 **26-32a-104. Recycling fee.**

163 (1) (a) Beginning July 1, 1990, a recycling fee is imposed upon each purchase from a tire
164 retailer of a new tire by a consumer. The fee shall be paid by the consumer to the tire retailer at the
165 time the new tire is purchased.

166 (b) The recycling fee does not apply to recapped or resold used tires.

167 (2) The fee for each tire with a rim diameter up to and including 24.5 inches, single or dual
168 bead capacity is:

169 (a) \$1, before July 1, 1996; [and]

170 (b) 50 cents on and after July 1, 1996; and

171 (c) 85 cents on and after July 1, 1999.

172 Section 4. Section **26-32a-104.5** is amended to read:

173 **26-32a-104.5. Registration of waste tire transporters and recyclers.**

174 (1) (a) The executive secretary shall register each applicant for registration to act as a
175 waste tire transporter if the applicant meets the requirements of this section.

176 (b) An applicant for registration as a waste tire transporter shall:

177 (i) submit an application in a form prescribed by the executive secretary;

178 (ii) pay a fee as determined by the board under Section 63-38-3.2;

179 (iii) provide the name and business address of the operator; [and]

180 (iv) provide proof of liability insurance or other form of financial responsibility in an
181 amount determined by board rule, but not more than \$300,000, for any liability the waste tire
182 transporter may incur in transporting waste tires; and

183 (v) meet requirements established by board rule.

184 (c) The holder of a registration under this section shall advise the executive secretary in
185 writing of any changes in application information provided to the executive secretary within 20
186 days of the change.

187 (d) If the [board] executive secretary has reason to believe a waste tire transporter has
188 disposed of tires other than as allowed under this chapter, the [board] executive secretary shall
189 conduct an investigation and, after complying with the procedural requirements of Title 63,
190 Chapter 46b, Administrative Procedures Act, may revoke the registration.

191 (2) (a) The executive secretary shall register each applicant for registration to act as a
192 waste tire recycler if the applicant meets the requirements of this section.

193 (b) An applicant for registration as a waste tire recycler shall:

194 (i) submit an application in a form prescribed by the executive secretary;

195 (ii) pay a fee as determined by the board under Section 63-38-3.2;

196 (iii) provide the name and business address of the operator of the recycling business; [and]

197 (iv) provide proof of liability insurance or other form of financial responsibility in an
198 amount determined by board rule, but not more than \$300,000, for any liability the waste tire
199 recycler may incur in storing and recycling waste tires;

200 (v) engage in activities as described under the definition of recycler in Section 26-32a-103;

201 and

202 (vi) meet requirements established by board rule.

203 (c) The holder of a registration under this section shall advise the executive secretary in
204 writing of any changes in application information provided to the executive secretary within 20
205 days of the change.

206 (d) If the [board] executive secretary has reason to believe a waste tire recycler has
207 falsified any information provided in an application for partial reimbursement under this section,
208 the [board] executive secretary shall, after complying with the procedural requirements of Title 63,
209 Chapter 46b, Administrative Procedures Act, revoke the registration.

210 ~~[(3) (a) A person registered or licensed as a waste tire transporter or recycler by a local
211 governmental entity on the effective date of this act may continue to function under that
212 authorization through April 30, 1994, or when that authorization expires, whichever is earlier.]~~

213 ~~[(b) On and after May 1, 1994, or the expiration of a local registration or licensure,~~

214 ~~whichever occurs first, a person acting under Subsection (3)(a) shall be registered in accordance~~
215 ~~with this section in order to act as a waste tire transporter or recycler under this chapter.]~~

216 (3) The board shall establish a uniform fee for registration which shall be imposed by any
217 unit of local government or local health department that requires a registration fee as part of the
218 registration of waste tire transporters or waste tire recyclers.

219 Section 5. Section **26-32a-107** is amended to read:

220 **26-32a-107. Partial reimbursement.**

221 (1) (a) Any recycler ~~[who on or after the effective date of this act uses waste tires or~~
222 ~~materials derived from waste tires that meet requirements of Subsection (4) and used exclusively~~
223 ~~for energy recovery or creation of ultimate products]~~ may submit an application under Section
224 26-32a-108 to the local health department having jurisdiction over the applicant's business address
225 for partial reimbursement of the cost of transporting and processing, if the recycler on or after the
226 effective date of this act uses waste tires or materials derived from waste tires that meet
227 requirements of Subsection (4) exclusively for:

228 (i) energy recovery;

229 (ii) creation of ultimate products;

230 (iii) crumb rubber;

231 (iv) any use defined by board rule as recycling; or

232 (v) any beneficial use.

233 (b) A recycler who recycles, at an out-of-state location, tires that are generated within the
234 state shall apply to the executive secretary for partial reimbursement, rather than to a local health
235 department.

236 (c) A recycler who qualifies under this section for partial reimbursement may waive the
237 reimbursement and request in writing that the reimbursement be paid to a person who delivers
238 waste tires or material derived from waste tires to a recycler or processes the waste tires prior to
239 the recycler's receipt of the waste tires or his receipt of materials derived from the waste tires for
240 recycling, but only if the recycler is conducting the recycling operation within the state.

241 (2) (a) Subject to the limitations in Section 26-32a-111, a recycler is entitled to ~~[\$70]~~ \$75
242 as partial reimbursement for each ton of tires recycled on and after the effective date of this act.

243 (b) Subject to the limitations in Section 26-32a-111, a recycler is entitled to \$65 as partial
244 reimbursement for each ton of waste tires or material derived from waste tires used for a beneficial

245 use on and after the effective date of this act.

246 (3) (a) In order for a recycler within the state to be eligible for partial reimbursement, the
247 recycler shall establish in cooperation with tire retailers or transporters, or with both, a reasonable
248 schedule to remove waste tires in sufficient quantities to allow for economic transportation of
249 waste tires located in any municipality within the state as defined in Section 10-1-104.

250 (b) A recycler complying with Subsection (3)(a) or a recycler operating at an out-of-state
251 location may also receive partial reimbursement for recycling tires received from locations other
252 than those associated with retail tire businesses, including waste tires from waste tire piles and
253 abandoned waste tire piles, under Section 26-32a-107.5.

254 (4) A recycler under Subsection (1) shall also demonstrate the waste tires or materials
255 derived from waste tires that qualify for the reimbursement:

256 (a) (i) were removed and transported by a registered tire transporter, a [registered] recycler,
257 or a [person under Subsection 26-32a-103(20)(c)] tire retailer; or

258 (ii) were generated by a private person who is not a waste tire transporter as defined in
259 Section 26-32a-103, and that person brings the waste tires to the recycler; and

260 (b) were generated in the state; and

261 (c) if the tires are from a waste tire pile or abandoned waste tire pile, the recycler complies
262 with the applicable provisions of Section 26-32a-107.5.

263 Section 6. Section **26-32a-107.5** is amended to read:

264 **26-32a-107.5. Recycling tires from abandoned tire piles and other tire piles.**

265 (1) A [registered] recycler may be reimbursed for recycling or beneficial use of tires from
266 an abandoned tire pile if:

267 (a) prior to recycling or the beneficial use of any of the tires, he receives an affidavit from
268 the local health department of the jurisdiction where the tire pile is located, stating the tire pile is
269 abandoned and the local health department has not been able to locate the persons responsible for
270 the tire pile or has not been able to cause the persons responsible for the tire pile to remove it;

271 (b) the waste tire transporter who transports the tires to the recycler is registered, has
272 received from the local health department an affidavit stating it has authorized the transporter to
273 remove the tires and deliver them to a recycler, and provides a copy of the affidavit to the recycler;
274 and

275 (c) the recycler provides to the local health department[, in a form it requires] or the

276 executive secretary, as is appropriate under Section 26-32a-107, proof of compliance with this
277 Subsection (1) in [addition to] the required form and the information required under Section
278 26-32a-107.

279 (2) A [~~registered~~] recycler may receive the partial reimbursement for recycling or the
280 beneficial use of waste tires from waste tire piles that are not abandoned if:

281 (a) prior to recycling or the beneficial use of any of the waste tires, he receives an affidavit
282 from the local health department of the jurisdiction where the waste tire pile is located, stating the
283 tire pile is not abandoned;

284 (b) he obtains an affidavit from the owner of the waste tire pile or his authorized designee
285 stating:

286 (i) the tires are from a pile to which no tires have been added after June 30, 1991; or

287 (ii) if the tires are from a tire pile to which tires have been added after June 30, 1991, all
288 the tires provided to the recycler were generated within the state;

289 (c) the tires are transported to the recycler by a registered waste tire transporter, who
290 provides a manifest to the recycler; and

291 (d) the recycler provides to the local health department[~~, in a form it requires~~] or the
292 executive secretary, as is appropriate under Section 26-32a-107, proof of compliance with this
293 Subsection (2) in [addition to] the required form and the information required under Section
294 26-32a-107.

295 Section 7. Section **26-32a-107.7** is amended to read:

296 **26-32a-107.7. Funding for management of certain landfill or abandoned tire piles**
297 **-- Limitations.**

298 (1) [A] Except as limited under Subsection (3), a county or municipality may apply to the
299 executive secretary for payment from the trust fund for the costs of a waste tire transporter's
300 [transporting] removing waste tires from an abandoned waste tire pile or a landfill waste tire pile
301 operated by a state or local governmental entity to a [~~registered~~] recycler under the following
302 procedure:

303 (a) (i) The maximum number of miles for which the executive secretary may reimburse
304 for transportation costs incurred by a waste tire transporter under this section, is the number of
305 miles, one way, between the location of the waste tire pile and the State Capitol Building, in Salt
306 Lake City, Utah, or to the recycler, whichever is less.

307 (ii) This maximum number of miles available for reimbursement applies regardless of the
308 location of the recycler to which the waste tires are transported under this section.

309 (iii) The executive secretary shall, upon request, advise any person preparing a bid under
310 this section of the maximum number of miles available for reimbursement under this Subsection
311 (1)(a).

312 (iv) The cost under this Subsection (1) shall be calculated based on the cost to transport
313 one ton of waste tires one mile.

314 (b) The county or municipality shall through a competitive bidding process make a good
315 faith attempt to obtain a bid for the removal of the landfill or abandoned waste tire pile and
316 transport to a [registered] recycler.

317 (c) The county or municipality shall submit to the executive secretary:

318 (i) (A) a statement from the local health department stating the landfill waste tire pile is
319 operated by a state or local governmental entity, consists solely of waste tires diverted from the
320 landfill waste stream and describing the size and location of the landfill waste tire pile; or

321 (B) a statement from the local health department that the waste tire pile is abandoned; and
322 (ii) the bid selected by the county or municipality or the fact that no bids were received.

323 (2) (a) If a bid is submitted, the executive secretary shall determine if the bid is reasonable,
324 taking into consideration:

325 (i) the location and size of the landfill or abandoned waste tire pile;

326 (ii) the number and size of any other landfill or abandoned waste tire piles in the area;

327 (iii) the cost, as allowed under Subsection (1)(a), of transporting the landfill or abandoned
328 waste tires to a [registered] recycler as compared to the cost of contracting with a mobile facility
329 to cut the waste tires so they may be disposed in the landfill; and

330 (iv) the current market for waste tires of the type in the landfill or abandoned waste tire
331 pile.

332 (b) The executive secretary shall advise the county or municipality within 30 days of
333 receipt of the bid whether or not the bid is determined to be reasonable.

334 (c) If the bid is found to be reasonable, the county or municipality may proceed to have
335 the landfill or abandoned waste tire pile removed pursuant to the bid. The county or municipality
336 shall advise the executive secretary that the landfill or abandoned waste tire pile has been removed.

337 (d) The [registered] recycler or waste tire transporter that removed the landfill or

338 abandoned waste tires pursuant to the bid shall submit to the executive secretary a copy of the
339 manifest, which shall state the number or tons of waste tires transported, the location they were
340 removed from, the recycler to which the waste tires were delivered, and the amount charged by the
341 transporter.

342 ~~[(e) The executive secretary shall within 30 days after receipt of a complete manifest~~
343 ~~authorize the Division of Finance to reimburse the transporter upon receipt of the information~~
344 ~~required under Subsection (d).]~~

345 (e) Upon receipt of the information required under Subsection (2)(d), and determination
346 that the information is complete, the executive secretary shall, within 30 days after receipt
347 authorize the Division of Finance to reimburse the waste tire transporter the amount established
348 under this Subsection (2).

349 (3) (a) A county or municipality may not apply for payment under this section for removal
350 of a waste tire pile if it accumulates in the county or municipality on or after July 1, 1999.

351 (b) The costs of removing a waste tire pile under Subsection (3)(a) is the responsibility of
352 the county or municipality where the waste tire pile is located.

353 Section 8. Section **26-32a-107.8** is amended to read:

354 **26-32a-107.8. Landfilling shredded tires -- Reimbursement.**

355 (1) Waste tires received from any source may be disposed in a landfill in Utah operated
356 by a state or local governmental entity or in a commercial landfill in Utah operated in compliance
357 with all relevant requirements of Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, if:

358 (a) the waste tires are shredded; and

359 (b) the waste tires are stored in a segregated cell or other landfill facility that ensures the
360 disposed shredded waste tires are in a clean and accessible condition so they may be reasonably
361 retrieved and recycled at a future time.

362 (2) (a) The owner or operator of the landfill may apply for and receive reimbursement per
363 ton of tires placed in a landfill in compliance with Subsection (1), but only if the waste tires are
364 generated from tires used in the state, and not from used tires or waste tires brought in from out
365 of state.

366 (b) On and after the effective date, reimbursement under this section is at the following
367 rates per ton:

368 (i) for waste tires placed in a landfill under this section in accordance with a contract with

369 the landfill owner or operator that was finalized and in effect prior to the effective date of this
370 section:

371 (A) \$65 for waste tires disposed in the landfill on or before October 31, 1996;

372 (B) \$50 for waste tires disposed in the landfill on and after November 1, 1996 and before
373 May 1, 1997; and

374 (C) \$30 for waste tires disposed in the landfill on and after May 1, 1997; and

375 (ii) \$30 regarding waste tires placed in a landfill under this section and that are not the
376 subject of a contract for being placed in a landfill under Subsection (2)(b)(i).

377 (c) An application for payment under this subsection shall include complete records,
378 including the site from which the tires are removed, the landfill where the tires are disposed, and
379 the amount of shredded tires disposed.

380 ~~[(3) As necessary, the board may make rules requiring additional information as the board~~
381 ~~determines necessary to effectively administer this subsection, but these rules may not place an~~
382 ~~undue burden on landfills.]~~

383 ~~[(4)] (3)~~ The application process for receiving payment under this section is the same as
384 the process for recyclers applying for partial reimbursement under this chapter.

385 ~~[(5)] (4)~~ Waste tires, in any form, for which reimbursement is paid under this section, are
386 not subject to any further or additional reimbursement under this chapter at any time.

387 ~~[(6)] (5)~~ Reimbursement under this section may only be made for waste tires that have
388 been shredded and placed in a landfill in compliance with this section.

389 Section 9. Section **26-32a-108** is amended to read:

390 **26-32a-108. Application for partial reimbursement -- Penalty.**

391 (1) An application for partial reimbursement shall be on the form prescribed by the local
392 health department ~~[and] or the executive secretary, as is appropriate under Section 26-32a-107, and~~
393 shall include:

394 (a) the recycler's name and a brief description of the recycler's business;

395 (b) the quantity, in tons, of waste tires recycled or used in a beneficial use;

396 (c) originals or copies of log books, receipts, bills of lading, or other similar documents
397 to establish the tonnage of waste tires recycled or used in a beneficial use;

398 (d) a description of how the waste tires were recycled;

399 (e) proof~~[,]~~ that is satisfactory to the local health department or the executive secretary,

400 as is appropriate under Section 26-32a-107, that the waste tires were recycled or used in a
401 beneficial use; and

402 (f) the affidavit of the recycler warranting that the recycled waste tires or waste tires used
403 for a beneficial use for which reimbursement is sought meet requirements of Subsection
404 26-32a-107(4).

405 (2) In addition to any other penalty imposed under Section 26-32a-112.7 or 26-32a-112.9
406 or by any other law, any person who knowingly or intentionally provides false information to the
407 local health department or to the executive secretary under Subsection (1) [~~shall be~~]:

408 (a) is ineligible to receive any further reimbursement under this chapter; and

409 (b) shall return to the Division of Finance any reimbursement previously received for
410 deposit in the trust fund.

411 Section 10. Section **26-32a-110** is amended to read:

412 **26-32a-110. Payment by Division of Finance.**

413 (1) The Division of Finance is authorized to pay the recycler partial reimbursements
414 described in Section 26-32a-107 from the trust fund.

415 (2) The Division of Finance shall pay the dollar amount of partial reimbursement approved
416 by the local health department or the executive secretary to the recycler within the next payment
417 period established by rule of the Division of Finance, after receipt of the local health department's
418 or the executive secretary's report and recommendation.

419 Section 11. Section **26-32a-111.5** is amended to read:

420 **26-32a-111.5. Administrative fees to local health departments -- Reporting by local**
421 **health departments.**

422 (1) (a) The Division of Finance shall pay quarterly to the local health departments from
423 the trust fund \$5 per ton of tires for which a partial reimbursement is made under this chapter.

424 (b) The payment under Subsection (1) shall be allocated among the local health
425 departments in accordance with recommendations of the Utah Association of Local Health
426 Officers.

427 (c) The recommendation shall be based on the efforts expended and the costs incurred by
428 the local health departments in enforcing this chapter and rules made under this chapter.

429 (2) (a) Each local health department shall track all waste tires removed from abandoned
430 waste tire piles within its jurisdiction, to determine the amount of waste tires removed and the

431 recycler to which they are transported.

432 (b) The local health department shall report this information quarterly to the [division]
433 executive secretary.

434 Section 12. Section **26-32a-112** is amended to read:

435 **26-32a-112. Local health department rules.**

436 (1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

437 (a) the local health department shall make rules to:

438 [~~(i) govern the types of energy recovery or other appropriate environmentally compatible~~
439 ~~uses eligible for reimbursement, including pyrolyzation but excluding retreading;]~~

440 [(ii)] (i) develop an application form; and

441 [(iii)] (ii) establish the procedure to apply for reimbursement; and

442 (b) the commission shall make rules to implement this chapter.

443 (2) The local health departments shall take into consideration the removal schedule of tire
444 transporters or recyclers in a geographical area when making rules governing the storage of waste
445 tires at any business that generates waste tires, pending removal of those waste tires for recycling.

446 Section 13. Section **26-32a-112.3** is enacted to read:

447 **26-32a-112.3. Powers and duties of the board.**

448 (1) The board shall make rules under Title 63, Chapter 46a, Utah Administrative
449 Rulemaking Act, as necessary to administer this chapter. For these purposes the board shall
450 establish by rule:

451 (a) conditions and procedures for acting to issue or revoke a registration as a waste tire
452 recycler or transporter under Section 26-32a-104.5;

453 (b) the amount of liability insurance or other financial responsibility the applicant is
454 required to have to qualify for registration under Section 26-32a-104.5, but the amount may not
455 be more than \$300,000 for any liability the waste tire transporter or recycler may incur in recycling
456 or transporting waste tires;

457 (c) the form and amount of financial assurance required for a site or facility used to store
458 waste tires, which shall be sufficient to ensure the cleanup or removal of waste tires from that site
459 or facility;

460 (d) standards and required documentation for tracking and record keeping of waste tires
461 subject to regulation under this chapter, including:

- 462 (i) manifests for handling and transferring waste tires;
463 (ii) records documenting date, quantities, and size or type of waste tires transported,
464 processed, transferred, or sold;
465 (iii) records documenting persons between whom transactions under this Subsection (1)(d)
466 occurred and the amounts of waste tires involved in those transactions; and
467 (iv) requiring that documentation under this Subsection (1)(d) be submitted on a quarterly
468 basis, and that this documentation be made available for public inspection;
469 (e) authorize inspections and audits of waste tire recycling, transportation, or storage
470 facilities and operations subject to this chapter;
471 (f) standards for payments authorized under Sections 26-32a-107, 26-32a-107.5, and
472 26-32a-107.7;
473 (g) regarding applications to the executive secretary for reimbursements, the content of the
474 reimbursement application form and the procedure to apply for reimbursement;
475 (h) requirements for the storage of waste tires, including permits for storage;
476 (i) the types of energy recovery or other appropriate environmentally compatible uses
477 eligible for reimbursement, which:
478 (i) shall include pyrolization, but not retreading; and
479 (ii) shall be \$75 for recycling and \$65 for using waste tires for a beneficial use; and
480 (iii) shall apply to all waste tire recycling and beneficial use reimbursements both within
481 and outside of the state;
482 (j) the applications of waste tires that are not eligible for reimbursement;
483 (k) the applications of waste tires that are considered to be the storage or disposal of waste
484 tires; and
485 (l) provisions governing the storage or disposal of waste tires, including the process for
486 issuing permits for waste tire storage sites.
487 (2) The board may:
488 (a) require retention and submission of the records required under this chapter;
489 (b) require audits of the records and record keeping procedures required under this chapter
490 and rules made under this chapter, except that audits of records regarding the fee imposed and
491 collected by the commission under Sections 26-32a-104 and 26-32a-105 are the responsibility of
492 the commission; and

493 (c) as necessary, make rules requiring additional information as the board determines
494 necessary to effectively administer Section 26-32a-107.8, but these rules may not place an undue
495 burden on the operation of landfills.

496 Section 14. Section **26-32a-112.5** is enacted to read:

497 **26-32a-112.5. Powers and duties of the executive secretary.**

498 (1) The executive secretary shall:

499 (a) administer and enforce the rules and orders of the board;

500 (b) issue and revoke registration for waste tire recyclers and transporters; and

501 (c) require forms, analyses, documents, maps, and other records as the executive secretary
502 finds necessary to:

503 (i) issue recycler and transporter registrations;

504 (ii) issue recycler partial reimbursements;

505 (iii) inspect a site, facility, or activity regulated under this chapter; and

506 (iv) issue permits for and inspect waste tire storage sites.

507 (2) The executive secretary may:

508 (a) authorize any division employee to enter any site or facility regulated under this chapter
509 at reasonable times and upon presentation of credentials, for the purpose of inspection, audit, or
510 sampling:

511 (i) at the site or facility; or

512 (ii) of the records, operations, or products;

513 (b) as authorized by the board, enforce board rules by issuing orders which are
514 subsequently subject to the board's amendment or revocation; and

515 (c) coordinate with federal, state, and local governments, and other agencies, including
516 entering into memoranda of understanding, to:

517 (i) ensure effective regulation of waste tires under this chapter;

518 (ii) minimize duplication of regulation; and

519 (iii) encourage responsible recycling of waste tires.

520 Section 15. Section **26-32a-112.7** is enacted to read:

521 **26-32a-112.7. Violations -- Civil proceedings and penalties -- Orders.**

522 (1) A person who violates any provision of this chapter or any order, permit, plan approval,
523 or rule issued or adopted under this chapter is subject to a civil penalty of not more than \$10,000

524 per day for each day of violation as determined in a civil hearing under Title 63, Chapter 46b,
525 Administrative Procedures Act, except:

526 (a) any violation of Subsection 26-32a-103.5(1) or (3), regarding landfills, is subject to the
527 penalty under Subsection 26-32a-103.5(4) rather than the penalties under this section; and

528 (b) any violation of Subsection 26-32a-106(1), (2), or (3) regarding payment of the
529 recycling fee by the tire retailer is subject to penalties as provided in Subsection 26-32a-106(4)
530 rather than the penalties under this section.

531 (2) The board may bring an action in the name of the state to restrain a person from
532 continuing a violation of this chapter and to require the person to perform necessary remediation
533 regarding a violation of this chapter.

534 (3) When the executive secretary finds a situation exists in violation of this chapter that
535 presents an immediate threat to the public health or welfare, the executive secretary may issue an
536 emergency order under Title 63, Chapter 46b, Administrative Procedures Act.

537 (4) The executive secretary may revoke the registration of a waste tire recycler or
538 transporter who violates any provision of this chapter or any order, plan approval, permit, or rule
539 issued or adopted under this chapter.

540 (5) The executive secretary may revoke the tire storage permit for a storage facility that
541 is in violation of any provision of this chapter or any order, plan approval, permit, or rule issued
542 or adopted under this chapter.

543 (6) If a person has been convicted of violating a provision of this chapter prior to a finding
544 by the executive secretary of a violation of the same provision in an administrative hearing, the
545 executive secretary may not assess a civil monetary penalty under this section for the same offense
546 for which the conviction was obtained.

547 (7) All penalties collected under this section shall be deposited in the trust fund.

548 Section 16. Section **26-32a-112.9** is enacted to read:

549 **26-32a-112.9. Criminal penalties.**

550 A knowing violation of any applicable provision of this chapter is a third degree felony,
551 except that any violation:

552 (1) involving hazardous waste is governed by Title 19, Chapter 6, Hazardous Substances;

553 (2) of Subsection 26-32a-103.5(1) or (3) is subject only to the civil penalties in Subsection
554 26-32a-103.5(4); and

555 (3) of Subsection 26-32a-106(1), (2), or (3) is subject to the penalties under Subsection
556 26-32a-106(4).

Legislative Review Note
as of 2-16-99 6:34 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel