

TIRE RECYCLING AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: David Ure

AN ACT RELATING TO THE ENVIRONMENT; AMENDING THE WASTE TIRE RECYCLING CHAPTER TO CLARIFY RESTRICTIONS ON LANDFILLING TIRES; AMENDING FINANCIAL RESPONSIBILITY REQUIREMENTS; PROVIDING SPECIFIED POWERS AND DUTIES FOR THE EXECUTIVE SECRETARY AND THE BOARD; PROVIDING CIVIL AND CRIMINAL PENALTIES; AND FACILITATING PARTIAL REIMBURSEMENT TO RECYCLERS.

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-104.5, 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

ENACTS:

26-32a-112.3, Utah Code Annotated 1953

26-32a-112.5, Utah Code Annotated 1953

26-32a-112.7, Utah Code Annotated 1953

26-32a-112.9, Utah Code Annotated 1953

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

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

3 **26-32a-103. Definitions.**

4 As used in this chapter:

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

- 7 (a) locate the persons responsible for the tire pile; or
- 8 (b) cause the persons responsible for the tire pile to remove it.

9 (2) "Board" means the Solid and Hazardous Waste Control Board created under Section
10 19-1-106.

11 (3) "Commission" means the Utah State Tax Commission.

12 (4) "Consumer":

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

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

16 (5) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise
17 reduced in size so the resulting material can pass through an ASTM standard 10 mesh screen.

18 (6) "Dispose" or "disposal" means to deposit, dump, or permanently place any waste tire
19 on any land or in any water in the state.

20 (7) "Division" means the Division of Solid and Hazardous Waste created in Section
21 19-1-105, within the Department of Environmental Quality.

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

24 (9) "Landfill waste tire pile" means a waste tire pile located within the permitted boundary
25 of a landfill operated by a governmental entity and consisting solely of waste tires brought to a
26 landfill for disposal and diverted from the landfill waste stream to the waste tire pile.

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

29 (11) "Materials derived from waste tires" means tire sections, tire chips, tire shavings,
30 rubber, steel, fabric, or other similar materials derived from waste tires.

31 (12) "Mobile facility" means a mobile facility capable of cutting waste tires on site so the

1 waste tires may be effectively disposed by burial, such as in a landfill.

2 (13) "New motor vehicle" means a motor vehicle which has never been titled or registered.

3 (14) "Proceeds of the fee" means the money collected by the commission from payment
4 of the recycling fee including interest and penalties on delinquent payments.

5 (15) "Recycler" means:

6 (a) a person who uses or can reasonably be expected within the next year to use a
7 minimum of 100,000 waste tires per year to produce energy, crumb rubber, or an ultimate product,
8 but does not include a person who stores, disposes of, or retreads tires; and

9 (b) is registered in accordance with Subsection 26-32a-104.5(2).

10 (16) "Recycling fee" means the fee provided for in Section 26-32a-104.

11 (17) "Shredded," when referring to waste tires, means waste tires or material derived from
12 waste tires that has been subjected to a "primary shred" as defined by board rule. The rule shall
13 define the maximum size of a piece of material derived from waste tires that is considered to be
14 the result of a primary shred.

15 (18) "Store" or "storage" means the placing of waste tires in a manner that does not
16 constitute disposal of the waste tires.

17 (19) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a vehicle
18 in which a person or property is or may be transported or drawn upon a highway.

19 (20) "Tire retailer" means any person engaged in the business of selling new tires either
20 as replacement tires or as part of a new vehicle sale.

21 (21) "Trust fund" means the Waste Tire Recycling Expendable Trust Fund provided for
22 in Section 26-32a-105.

23 (22) "Waste tire" means a tire that is no longer suitable for its original intended purpose
24 because of wear, damage, or defect.

25 (23) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.

26 (24) "Waste tire transporter":

27 (a) means a person engaged in picking up or transporting more than ten waste tires per
28 year, or the equivalent amount of material derived from waste tires, generated in Utah for the
29 purpose of storage, processing, or disposal;

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

1 (c) does not include a person transporting tires generated solely by:

2 (i) that person's personal vehicles;

3 (ii) a commercial vehicle fleet owned or operated by that person or that person's employer;

4 (iii) vehicles sold, leased, or purchased by a motor vehicle dealership owned or operated
5 by that person or that person's employer; or

6 (iv) a retail tire business and hauled by the business owner or an employee of the business;
7 and

8 (d) does not include a person transporting tires by rail as a common carrier subject to
9 federal regulation.

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

11 **26-32a-103.5. Restrictions on landfilling of tires -- Penalties.**

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

16 (b) No person, including a waste tire transporter, may dispose of waste tires or store waste
17 tires at a landfill location in any manner not allowed under this chapter or rules made under this
18 chapter.

19 [(b)] (c) Tires are exempt from this Subsection (1) if the original tire:

20 (i) is from any device moved exclusively by human power; or

21 (ii) has a rim diameter greater than 24.5 inches.

22 (2) When possible, the operator of the landfill or other authorized location shall direct that
23 the waste tires be disposed in a designated area to facilitate retrieval if a market becomes available
24 for the disposed waste tires or material derived from waste tires.

25 (3) An individual, including a waste tire transporter, may dispose of shredded waste tires
26 in a landfill in accordance with Section 26-32a-107.8, and may also, without reimbursement,
27 dispose in a landfill materials derived from waste tires that do not qualify for reimbursement under
28 Section 26-32a-107.8, but the landfill shall dispose of the material in accordance with [Section
29 25-32a-107.8] Subsection 26-32a-107.8(1)(b).

30 (4) (a) An individual, including a waste tire transporter, violating this section is subject
31 to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or per amount

1 of materials equivalent to one tire disposed of in violation of this section. A warning notice may
2 be issued prior to taking further enforcement action under this subsection.

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

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

8 Section 3. Section **26-32a-104.5** is amended to read:

9 **26-32a-104.5. Registration of waste tire transporters and recyclers.**

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

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

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

14 (ii) pay a fee as determined by the board under Section 63-38-3.2; ~~h~~ **[and]** ~~h~~

15 (iii) provide the name and business address of the operator ~~h~~ **[f]** ; **and** ~~[j]~~ ~~[z]~~ ~~h~~

16 ~~[(iv) provide proof of liability insurance or other form of financial responsibility in an~~
17 ~~amount determined by board rule, but not more than \$300,000, for any liability the waste tire~~
18 ~~transporter may incur in transporting waste tires.]~~

18a ~~h~~ **(iv) MEET REQUIREMENTS ESTABLISHED BY BOARD RULE.** ~~h~~

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

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

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

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

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

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

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

1 ~~[(iv) provide proof of liability insurance or other form of financial responsibility in an~~
2 ~~amount determined by board rule, but not more than \$300,000, for any liability the waste tire~~
3 ~~recycler may incur in storing and recycling waste tires.]~~

4 (iv) meet the requirements of Subsection 26-32a-103(15)(a); and

5 (v) meet requirements established by board rule.

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

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

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

16 ~~[(b) On and after May 1, 1994, or the expiration of a local registration or licensure,~~
17 ~~whichever occurs first, a person acting under Subsection (3)(a) shall be registered in accordance~~
18 ~~with this section in order to act as a waste tire transporter or recycler under this chapter.]~~

19 Section 4. Section **26-32a-107** is amended to read:

20 **26-32a-107. Partial reimbursement.**

21 (1) (a) Any recycler who on or after the effective date of this act uses waste tires or
22 materials derived from waste tires that meet requirements of Subsection (4) and used exclusively
23 for energy recovery or creation of ultimate products may submit an application under Section
24 26-32a-108 to the local health department having jurisdiction over the applicant's business address
25 for partial reimbursement of the cost of transporting and processing.

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

29 (c) A recycler who qualifies under this section for partial reimbursement may waive the
30 reimbursement and request in writing that the reimbursement be paid to a person who processes
31 the waste tires prior to the recycler's receipt of the waste tires or his receipt of materials derived

1 from the waste tires for recycling.

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

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

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

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

14 (a) (i) were removed and transported by a registered tire transporter, a [~~registered~~] recycler,
15 or a person under Subsection 26-32a-103[~~(20)~~] (24)(c); or

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

18 (b) were generated in the state; and

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

21 Section 5. Section **26-32a-107.5** is amended to read:

22 **26-32a-107.5. Recycling tires from abandoned tire piles and other tire piles.**

23 (1) A [~~registered~~] recycler may be reimbursed for recycling tires from an abandoned tire
24 pile if:

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

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

1 and

2 (c) the recycler provides to the local health department, [in a form it requires], or the
3 executive secretary under Subsection 26-32a-107(1)(b), proof of compliance with this subsection
4 in the required form, in addition to the information required under Section 26-32a-107.

5 (2) A [registered] recycler may receive the partial reimbursement for recycling waste tires
6 from waste tire piles that are not abandoned if:

7 (a) prior to recycling any of the waste tires, he receives an affidavit from the local health
8 department of the jurisdiction where the waste tire pile is located, stating the tire pile is not
9 abandoned;

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

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

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

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

17 (d) the recycler provides to the local health department, [in a form it requires], or the
18 executive secretary under Subsection 26-32a-107(1)(b), proof of compliance with this subsection
19 in the required form, in addition to the information required under Section 26-32a-107.

20 Section 6. Section **26-32a-107.7** is amended to read:

21 **26-32a-107.7. Funding for management of certain landfill or abandoned tire piles.**

22 (1) A county or municipality may apply to the executive secretary for payment from the
23 trust fund for the costs of a waste tire transporter's transporting waste tires from an abandoned
24 waste tire pile or a landfill waste tire pile operated by a state or local governmental entity to a
25 [registered] recycler under the following procedure:

26 (a) (i) The maximum number of miles for which the executive secretary may reimburse
27 for transportation costs incurred by a waste tire transporter under this section, is the number of
28 miles, one way, between the location of the waste tire pile and the State Capitol Building, in Salt
29 Lake City, Utah.

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

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

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

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

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

11 (B) a statement from the local health department that the waste tire pile is abandoned; and

12 (ii) the bid selected by the county or municipality or the fact that no bids were received.

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

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

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

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

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

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

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

27 (d) The [registered] recycler or waste tire transporter that removed the landfill or
28 abandoned waste tires pursuant to the bid shall submit to the executive secretary a copy of the
29 manifest, which shall state the number or tons of waste tires transported, the location they were
30 removed from, the recycler to which the waste tires were delivered, and the amount charged by
31 the transporter.

1 (e) The executive secretary shall within 30 days after receipt of a complete manifest
2 authorize the Division of Finance to reimburse the transporter upon receipt of the information
3 required under Subsection (2)(d).

4 Section 7. Section **26-32a-107.8** is amended to read:

5 **26-32a-107.8. Landfilling shredded tires -- Reimbursement.**

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

9 (a) the waste tires are shredded; and

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

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

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

19 (i) for waste tires placed in a landfill under this section in accordance with a contract with
20 the landfill owner or operator that was finalized and in effect prior to the effective date of this
21 section:

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

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

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

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

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

31 [~~3) As necessary, the board may make rules requiring additional information as the board~~]

1 determines necessary to effectively administer this subsection, but these rules may not place an
2 undue burden on landfills.]

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

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

7 [(6)] (5) Reimbursement under this section may only be made for waste tires that have
8 been shredded and placed in a landfill in compliance with this section.

9 Section 8. Section **26-32a-108** is amended to read:

10 **26-32a-108. Application for partial reimbursement -- Penalty.**

11 (1) An application for partial reimbursement shall be on the form prescribed by the local
12 health department, or the executive secretary under Subsection 26-32a-107(1)(b), and shall
13 include:

- 14 (a) the recycler's name and a brief description of the recycler's business;
- 15 (b) the quantity, in tons, of waste tires recycled;
- 16 (c) originals or copies of log books, receipts, bills of lading, or other similar documents
17 to establish the tonnage of waste tires recycled;
- 18 (d) a description of how the waste tires were recycled;
- 19 (e) proof[;] that is satisfactory to the local health department, or the executive secretary
20 if the local health department is not participating, that the waste tires were recycled; and
- 21 (f) the affidavit of the recycler warranting that the recycled waste tires for which
22 reimbursement is sought meet requirements of Subsection 26-32a-107(4).

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

- 26 (a) is ineligible to receive any reimbursement under this chapter; and
- 27 (b) shall return to the Division of Finance any reimbursement previously received for
28 deposit in the trust fund.

29 Section 9. Section **26-32a-110** is amended to read:

30 **26-32a-110. Payment by Division of Finance.**

31 (1) The Division of Finance is authorized to pay the recycler partial reimbursements

1 described in Section 26-32a-107 from the trust fund.

2 (2) The Division of Finance shall pay the dollar amount of partial reimbursement approved
3 by the local health department or the executive secretary to the recycler within the next payment
4 period established by Division of Finance rule [~~of the division~~], after receipt of the local health
5 department's or the executive secretary's report and recommendation.

6 Section 10. Section **26-32a-111.5** is amended to read:

7 **26-32a-111.5. Administrative fees to local health departments -- Reporting by local**
8 **health departments.**

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

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

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

16 (2) (a) Each local health department shall track all waste tires removed from abandoned
17 waste tire piles within its jurisdiction, to determine the amount of waste tires removed and the
18 recycler to which they are transported.

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

21 Section 11. Section **26-32a-112.3** is enacted to read:

22 **26-32a-112.3. Powers and duties of the board.**

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

26 (a) conditions and procedures for registering or revoking a registration as a waste tire
27 recycler or transporter, under Section 26-32a-104.5;

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

1 (c) the form and amount of financial assurance required of a site or facility used to store
2 waste tires sufficient to ensure the cleanup or removal of waste tires from that site or facility;

3 (d) standards for tracking and recordkeeping of waste tires subject to regulation under this
4 chapter, including:

5 (i) manifests for handling and transferring waste tires;

6 (ii) records documenting date, quantities, and size or type of waste tires transported,
7 processed, transferred, or sold; and

8 (iii) records documenting persons between whom transactions under this Subsection (1)(d)
9 occurred;

10 (e) authorize inspections and audits of waste tire recycling, transportation, or storage
11 facilities and operations subject to this chapter;

12 (f) standards for payments authorized under Sections 26-32a-107, 26-32a-107.5, and
13 26-32a-107.7;

14 (g) the types of energy recovery or other appropriate environmentally compatible uses
15 eligible for reimbursement, including pyrolization, but excluding retreading;

16 (h) the content of the reimbursement application form and the procedure to apply for
17 reimbursement; and

18 (i) requirements for the storage of waste tires, including permits for storage.

19 (2) The board may:

20 (a) require retention and submission of records required under this chapter;

21 (b) require audits of records and recordkeeping procedures required under this chapter and
22 rules made under this chapter, except that audits of records regarding the fee imposed and collected
23 by the commission under Sections 26-32a-104 and 26-32a-105 are the responsibility of the
24 commission; and

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

28 Section 12. Section **26-32a-112.5** is enacted to read:

29 **26-32a-112.5. Powers and duties of the executive secretary.**

30 (1) The executive secretary shall:

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

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

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

4 (i) issue recycler and transporter registrations;

5 (ii) issue recycler partial reimbursements;

6 (iii) inspect an operation regulated under this chapter; and

7 (iv) issue permits for and inspect waste tire storage operations.

8 (2) The executive secretary may:

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

12 (i) at the site or facility; or

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

14 (b) as authorized by the board, enforce board rules by issuing orders which the board may
15 subsequently amend or revoke; and

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

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

19 (ii) minimize duplication of regulation; and

20 (iii) encourage responsible recycling of waste tires.

21 Section 13. Section **26-32a-112.7** is enacted to read:

22 **26-32a-112.7. Violations -- Civil proceedings and penalties -- Orders.**

23 (1) A person who violates any provision of this chapter or any order, permit, plan
24 approval, or rule issued or adopted under this chapter is subject to a civil penalty of not more than
25 \$10,000 per day for each day of violation as determined in a civil hearing under Title 63, Chapter
26 46b, Administrative Procedures Act, except:

27 (a) any violation of Subsections 26-32a-103.5(1) or (3) is subject to the penalties in
28 Subsection 26-32a-103.5(4) rather than the penalty under this Subsection (1); and

29 (b) any violation of Subsections 26-32a-106(1), (2), or (3) is subject to the penalties in
30 Subsection 26-32a-106(4)(a) rather than the penalty under this Subsection (1).

31 (2) The board may bring an action in the name of the state to restrain a person from

1 continuing a violation of this chapter and to require the person to perform necessary remediation.

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

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

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

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

15 (7) All penalties collected under this section shall be deposited in the trust fund created
16 in Section 26-32a-105.

17 Section 14. Section **26-32a-112.9** is enacted to read:

18 **26-32a-112.9. Criminal penalties.**

19 (1) A knowing violation of any applicable provision of this chapter is a class A
20 misdemeanor, except that any violation:

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

22 (b) of Subsection 26-32a-103.5(1) or (3) is subject to the penalties in Subsection
23 26-32a-103.5(4); and

24 (c) of Subsection 26-32a-106(1), (2), or (3) is subject to the penalties in Subsection
25 26-32a-106(4)(a).

26 (2) All penalties collected under this section shall be deposited in the trust fund created
27 in Section 26-32a-105.

Legislative Review Note
as of 1-29-98 3:34 PM

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

Office of Legislative Research and General Counsel