

WASTE TIRE RECYCLING AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Neal B. Hendrickson

AN ACT RELATING TO THE WASTE TIRE RECYCLING ACT; TRANSFERRING THE WASTE TIRE RECYCLING ACT TO THE ENVIRONMENTAL QUALITY CODE; REAUTHORIZING THE WASTE TIRE RECYCLING ACT FOR A PERIOD OF FIVE YEARS; AND MAKING TECHNICAL AMENDMENTS.

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

AMENDS:

9-2-1208, as enacted by Chapter 213, Laws of Utah 1995

63-55-219, as last amended by Chapter 219, Laws of Utah 1999

63-55-226, as last amended by Chapter 156, Laws of Utah 1999

RENUMBERS AND AMENDS:

19-6-801, (Renumbered from 26-32a-101, as enacted by Chapter 185, Laws of Utah 1990)

19-6-802, (Renumbered from 26-32a-102, as enacted by Chapter 185, Laws of Utah 1990)

19-6-803, (Renumbered from 26-32a-103, as last amended by Chapter 111, Laws of Utah 1999)

19-6-804, (Renumbered from 26-32a-103.5, as last amended by Chapters 21 and 111, Laws of Utah 1999)

19-6-805, (Renumbered from 26-32a-104, as last amended by Chapter 111, Laws of Utah 1999)

19-6-806, (Renumbered from 26-32a-104.5, as last amended by Chapter 111, Laws of Utah 1999)

19-6-807, (Renumbered from 26-32a-105, as last amended by Chapter 10, Laws of Utah 1997)

19-6-808, (Renumbered from 26-32a-106, as enacted by Chapter 185, Laws of Utah 1990)

19-6-809, (Renumbered from 26-32a-107, as last amended by Chapters 21 and 111, Laws of Utah 1999)

19-6-810, (Renumbered from 26-32a-107.5, as last amended by Chapter 111, Laws of Utah 1999)

19-6-811, (Renumbered from 26-32a-107.7, as last amended by Chapter 111, Laws of Utah 1999)

19-6-812, (Renumbered from 26-32a-107.8, as last amended by Chapter 111, Laws of Utah 1999)

19-6-813, (Renumbered from 26-32a-108, as last amended by Chapter 111, Laws of Utah 1999)

19-6-814, (Renumbered from 26-32a-109, as enacted by Chapter 185, Laws of Utah 1990)

19-6-815, (Renumbered from 26-32a-110, as last amended by Chapter 111, Laws of Utah 1999)

19-6-816, (Renumbered from 26-32a-111, as last amended by Chapter 213, Laws of Utah 1995)

19-6-817, (Renumbered from 26-32a-111.5, as last amended by Chapter 111, Laws of Utah 1999)

19-6-818, (Renumbered from 26-32a-112, as last amended by Chapter 111, Laws of Utah 1999)

19-6-819, (Renumbered from 26-32a-112.3, as enacted by Chapter 111, Laws of Utah 1999)

19-6-820, (Renumbered from 26-32a-112.5, as enacted by Chapter 111, Laws of Utah 1999)

19-6-821, (Renumbered from 26-32a-112.7, as enacted by Chapter 111, Laws of Utah 1999)

19-6-822, (Renumbered from 26-32a-112.9, as enacted by Chapter 111, Laws of Utah 1999)

19-6-823, (Renumbered from 26-32a-113, as enacted by Chapter 185, Laws of Utah 1990)

19-6-824, (Renumbered from 26-32a-114, as enacted by Chapter 213, Laws of Utah 1995)

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

Section 1. Section **9-2-1208** is amended to read:

9-2-1208. Waste tire recycling industry loans.

Loans made through the Waste Tire Recycling Industrial Assistance Loan Program are made under this part, subject to provisions in Section [~~26-32a-114~~] 19-6-824.

Section 2. Section **19-6-801**, which is renumbered from Section 26-32a-101 is renumbered and amended to read:

Part 8. Waste Tire Recycling Act

[~~26-32a-101~~]. 19-6-801. Title.

This [~~chapter~~] part is known as the "Waste Tire Recycling Act."

Section 3. Section **19-6-802**, which is renumbered from Section 26-32a-102 is renumbered and amended to read:

[~~26-32a-102~~]. 19-6-802. Legislative findings.

(1) The Legislature finds that the disposal of waste tires is a matter of statewide concern and that recycling of waste tires should be promoted in light of the health and environmental benefits.

(2) The Legislature further finds that the recycling of waste tires will decrease the number of tires which are disposed of in landfills and will reduce the health and safety hazards posed by existing stockpiles of waste tires.

(3) It is the intent of the Legislature in adopting this [~~chapter~~] part to encourage the development of the recycling industry and the development of markets for recycled products.

Section 4. Section **19-6-803**, which is renumbered from Section 26-32a-103 is renumbered and amended to read:

[~~26-32a-103~~]. 19-6-803. Definitions.

As used in this [~~chapter~~] part:

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

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

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

(b) "Beneficial use" does not include use of waste tires or material derived from waste tires

in the construction of fences, or as fill.

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

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

(5) "Commission" means the Utah State Tax Commission.

(6) "Consumer":

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

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

(7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise reduced in size so the resulting material is 95% wire free by weight.

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

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

(10) "Executive secretary" means the executive secretary of the Solid and Hazardous Waste Control Board created in Section 19-1-106.

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

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

(13) "Materials derived from waste tires" means tire sections, tire chips, tire shreds, rubber, steel, fabric, or other similar materials derived from waste tires.

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

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

(16) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25

pounds of whole tires or material derived from waste tires is equal to one waste tire.

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

(18) "Recycler" means a person who:

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

(b) is registered as a recycler in accordance with Section ~~[26-32a-104.5]~~ 19-6-806.

(19) "Recycling fee" means the fee provided for in Section ~~[26-32a-104]~~ 19-6-805.

(20) (a) Before January 1, 2000, "shredded," when referring to waste tires, means waste tires or material derived from waste tires that has been subjected to a "primary shred" as defined by board rule. The rule shall define the maximum size of a piece of material derived from waste tires that is considered to be the result of a primary shred.

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

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

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

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

(ii) recycled or applied to a beneficial use.

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

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

(24) "Trust fund" means the Waste Tire Recycling Expendable Trust Fund provided for in

Section [~~26-32a-105~~] 19-6-807.

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

(b) "Ultimate product":

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

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

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

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

(28) "Waste tire transporter":

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

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

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

(i) that person's personal vehicles;

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

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

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

(v) a solid waste collector operating under a license issued by a unit of local government as defined in Section 63-51-2, or a local health department; or

(vi) a recycler or processor of whole waste tires into chipped tires; and

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

Section 5. Section **19-6-804**, which is renumbered from Section 26-32a-103.5 is renumbered

and amended to read:

~~[26-32a-103.5]~~. **19-6-804. Restrictions on disposal of tires -- Penalties.**

(1) (a) After January 1, 1994, an individual, including a waste tire transporter, may not dispose of more than four whole tires at one time in a landfill or any other location in the state authorized by the executive secretary to receive waste tires, except for purposes authorized by board rule.

(b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter greater than 24.5 inches.

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

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

(3) An individual, including a waste tire transporter, may dispose of shredded waste tires in a landfill in accordance with Section ~~[26-32a-107.8]~~ 19-6-812, and may also, without reimbursement, dispose in a landfill materials derived from waste tires that do not qualify for reimbursement under Section ~~[26-32a-107.8]~~ 19-6-812, but the landfill shall dispose of the material in accordance with Section ~~[26-32a-107.8]~~ 19-6-812.

(4) (a) An individual, including a waste tire transporter, violating this section is subject to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or per passenger tire equivalent disposed of in violation of this section. A warning notice may be issued prior to taking further enforcement action under this Subsection (4).

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

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

Section 6. Section **19-6-805**, which is renumbered from Section 26-32a-104 is renumbered

and amended to read:

~~[26-32a-104].~~ 19-6-805. Recycling fee.

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

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

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

(a) \$1, before July 1, 1996;

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

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

Section 7. Section **19-6-806**, which is renumbered from Section 26-32a-104.5 is renumbered and amended to read:

~~[26-32a-104.5].~~ 19-6-806. Registration of waste tire transporters and recyclers.

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

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

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

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

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

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

(v) meet requirements established by board rule.

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

(d) If the executive secretary has reason to believe a waste tire transporter has disposed of

tires other than as allowed under this ~~chapter~~ part, the executive secretary shall conduct an investigation and, after complying with the procedural requirements of Title 63, Chapter 46b, Administrative Procedures Act, may revoke the registration.

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

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

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

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

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

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

(v) engage in activities as described under the definition of recycler in Section ~~[26-32a-103]~~ 19-6-803; and

(vi) meet requirements established by board rule.

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

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

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

Section 8. Section **19-6-807**, which is renumbered from Section 26-32a-105 is renumbered and amended to read:

~~[26-32a-105]~~. **19-6-807. Trust fund -- Creation -- Deposits.**

(1) There is created the Waste Tire Recycling Expendable Trust Fund.

(2) Proceeds of the fee shall be deposited in the trust fund for payment of partial reimbursement and payments under Section [~~26-32a-107.7~~] 19-6-811.

Section 9. Section **19-6-808**, which is renumbered from Section 26-32a-106 is renumbered and amended to read:

~~[26-32a-106]~~. **19-6-808. Payment of recycling fee.**

(1) The recycling fee shall be paid by the tire retailer to the commission:

(a) on or before the last day of the month following the calendar quarter in which the sale occurs for quarterly filers; and

(b) the last day of January following the end of the calendar year for annual filers.

(2) The payment shall be accompanied by the form prescribed by the commission.

(3) (a) The proceeds of the fee shall be transferred by the commission to the trust fund for payment of partial reimbursement.

(b) The commission may retain an amount not to exceed 2-1/2% of the recycling fee collected under this [~~chapter~~] part for the cost to it of rendering its services.

(4) (a) The commission shall administer, collect, and enforce the fee authorized under this [~~chapter~~] part pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales and use tax under Title 59, Chapter 12, and the provisions of Title 59, Chapter 1. The tire retailer may retain 2-1/2% of the recycling fee collected under this [~~chapter~~] part for the cost of collecting the fee.

(b) The exemptions from the general state sales and use tax provided for in Section 59-12-104 do not apply to this [~~chapter~~] part.

(5) The fee imposed by this [~~chapter~~] part is in addition to all other state, county, or municipal fees and taxes imposed on the sale of new tires.

Section 10. Section **19-6-809**, which is renumbered from Section 26-32a-107 is renumbered and amended to read:

~~[26-32a-107]~~. **19-6-809. Partial reimbursement.**

(1) (a) Any recycler may submit an application under Section [~~26-32a-108~~] 19-6-813 to the

local health department having jurisdiction over the applicant's business address for partial reimbursement of the cost of transporting and processing, if the recycler on or after the effective date of this act uses waste tires or materials derived from waste tires that meet requirements of Subsection (4) exclusively for:

- (i) energy recovery;
- (ii) creation of ultimate products;
- (iii) crumb rubber;
- (iv) any use defined by board rule as recycling; or
- (v) any beneficial use.

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

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

(2) (a) Subject to the limitations in Section ~~[26-32a-111]~~ 19-6-816, a recycler is entitled to \$75 as partial reimbursement for each ton of tires recycled on and after the effective date of this act.

(b) Subject to the limitations in Section ~~[26-32a-111]~~ 19-6-816, a recycler is entitled to \$60 as partial reimbursement for each ton of waste tires or material derived from waste tires used for a beneficial use on and after the effective date of this act.

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

(b) A recycler complying with Subsection (3)(a) or a recycler operating at an out-of-state location may also receive partial reimbursement for recycling tires received from locations other than

those associated with retail tire businesses, including waste tires from waste tire piles and abandoned waste tire piles, under Section ~~[26-32a-107.5]~~ 19-6-810.

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

(a) (i) were removed and transported by a registered tire transporter, a recycler, or a tire retailer; or

(ii) were generated by a private person who is not a waste tire transporter as defined in Section ~~[26-32a-103]~~ 19-6-803, and that person brings the waste tires to the recycler;

(b) were generated in the state; and

(c) if the tires are from a waste tire pile or abandoned waste tire pile, the recycler complies with the applicable provisions of Section ~~[26-32a-107.5]~~ 19-6-810.

Section 11. Section **19-6-810**, which is renumbered from Section 26-32a-107.5 is renumbered and amended to read:

~~[26-32a-107.5]~~. **19-6-810**. **Recycling tires from abandoned tire piles and other tire piles.**

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

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

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

(c) the recycler provides to the local health department or the executive secretary, as is appropriate under Section ~~[26-32a-107]~~ 19-6-809, proof of compliance with this Subsection (1) in the required form and the information required under Section ~~[26-32a-107]~~ 19-6-809.

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

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

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

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

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

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

(d) the recycler provides to the local health department or the executive secretary, as is appropriate under Section ~~[26-32a-107]~~ 19-6-809, proof of compliance with this Subsection (2) in the required form and the information required under Section ~~[26-32a-107]~~ 19-6-809.

Section 12. Section **19-6-811**, which is renumbered from Section 26-32a-107.7 is renumbered and amended to read:

~~[26-32a-107.7].~~ **19-6-811. Funding for management of certain landfill or abandoned tire piles -- Limitations.**

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

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

(ii) This maximum number of miles available for reimbursement applies regardless of the

location of the recycler to which the waste tires are transported under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The recycler or waste tire transporter that removed the landfill or abandoned waste tires

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

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

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

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

Section 13. Section **19-6-812**, which is renumbered from Section 26-32a-107.8 is renumbered and amended to read:

~~[26-32a-107.8].~~ **19-6-812. Landfilling shredded tires -- Reimbursement.**

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

(a) the waste tires are shredded; and

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

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

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

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

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

- (A) \$65 for waste tires disposed in the landfill on or before October 31, 1996;
- (B) \$50 for waste tires disposed in the landfill on and after November 1, 1996 and before May 1, 1997; and
- (C) \$30 for waste tires disposed in the landfill on and after May 1, 1997; and
 - (ii) \$30 regarding waste tires placed in a landfill under this section and that are not the subject of a contract for being placed in a landfill under Subsection (2)(b)(i).
- (c) An application for payment under this subsection shall include complete records, including the site from which the tires are removed, the landfill where the tires are disposed, and the amount of shredded tires disposed.
- (3) The application process for receiving payment under this section is the same as the process for recyclers applying for partial reimbursement under this ~~[chapter]~~ part.
- (4) Waste tires, in any form, for which reimbursement is paid under this section, are not subject to any further or additional reimbursement under this ~~[chapter]~~ part at any time.
- (5) Reimbursement under this section may only be made for waste tires that have been shredded and placed in a landfill in compliance with this section.

Section 14. Section **19-6-813**, which is renumbered from Section 26-32a-108 is renumbered and amended to read:

~~[26-32a-108]~~. **19-6-813. Application for partial reimbursement -- Penalty.**

- (1) An application for partial reimbursement shall be on the form prescribed by the local health department or the executive secretary, as is appropriate under Section ~~[26-32a-107]~~ 19-6-809, and shall include:
- (a) the recycler's name and a brief description of the recycler's business;
 - (b) the quantity, in tons, of waste tires recycled or used in a beneficial use;
 - (c) originals or copies of log books, receipts, bills of lading, or other similar documents to establish the tonnage of waste tires recycled or used in a beneficial use;
 - (d) a description of how the waste tires were recycled;

(e) proof that is satisfactory to the local health department or the executive secretary, as is appropriate under Section ~~[26-32a-107]~~ 19-6-809, that the waste tires were recycled or used in a beneficial use; and

(f) the affidavit of the recycler warranting that the recycled waste tires or waste tires used for a beneficial use for which reimbursement is sought meet requirements of Subsection ~~[26-32a-107]~~ 19-6-809(4).

(2) In addition to any other penalty imposed under Section ~~[26-32a-112.7]~~ 19-6-821 or ~~[26-32a-112.9]~~ 19-6-822 or by any other law, any person who knowingly or intentionally provides false information to the local health department or to the executive secretary under Subsection (1):

(a) is ineligible to receive any further reimbursement under this ~~[chapter]~~ part; and

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

Section 15. Section **19-6-814**, which is renumbered from Section 26-32a-109 is renumbered and amended to read:

~~[26-32a-109]~~. **19-6-814. Local health department responsibility.**

(1) A local health department that has received an application for partial reimbursement from a recycler shall within 15 calendar days after receiving the application:

(a) review the application for completeness;

(b) conduct an on-site investigation of the recycler's waste tire use if the application is the initial application of the recycler; and

(c) submit the recycler's application for partial reimbursement together with a brief written report of the results of the investigation and the dollar amount approved for payment to the Division of Finance.

(2) If the local health department approves a dollar amount for partial reimbursement which is less than the amount requested by the recycler, the local health department must submit its written report of the investigation and recommendation to the recycler at least five days prior to submitting the report and recommendation to the Division of Finance.

Section 16. Section **19-6-815**, which is renumbered from Section 26-32a-110 is renumbered

and amended to read:

~~[26-32a-110].~~ 19-6-815. Payment by Division of Finance.

(1) The Division of Finance is authorized to pay the recycler partial reimbursements described in Section ~~[26-32a-107]~~ 19-6-809 from the trust fund.

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

Section 17. Section **19-6-816**, which is renumbered from Section 26-32a-111 is renumbered and amended to read:

~~[26-32a-111].~~ 19-6-816. Limitations on reimbursement.

(1) The costs reimbursed under this ~~[chapter]~~ part may not exceed the monies in the trust fund.

(2) If applications for partial reimbursement during any month exceed the monies in the trust fund, the Division of Finance shall prorate the amount of all claims for partial reimbursement for the month and defer payment of the remainder.

(3) The amount remaining unpaid on a claim for partial reimbursement or a claim under Section ~~[26-32a-107.7]~~ 19-6-811 shall be treated as a new application for partial reimbursement in the next succeeding month until the unpaid amount is \$500 or less, at which time the balance of the claim shall be paid in full.

Section 18. Section **19-6-817**, which is renumbered from Section 26-32a-111.5 is renumbered and amended to read:

~~[26-32a-111.5].~~ 19-6-817. Administrative fees to local health departments -- Reporting by local health departments.

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

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

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

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

(b) The local health department shall report this information quarterly to the executive secretary.

Section 19. Section **19-6-818**, which is renumbered from Section 26-32a-112 is renumbered and amended to read:

~~[26-32a-112].~~ **19-6-818. Local health department rules.**

(1) In accordance with ~~[Title 63, Chapter 46a, Utah Administrative Rulemaking Act. (a)]~~ Section 26A-1-121, the local health department shall make ~~[rules]~~ regulations to:

~~[(i)]~~ (a) develop an application form; and

~~[(ii)]~~ (b) establish the procedure to apply for reimbursement~~[-and]~~.

~~[(b)]~~ (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules to implement this ~~[chapter]~~ part.

~~[(2)]~~ (3) The local health departments shall take into consideration the removal schedule of tire transporters or recyclers in a geographical area when making ~~[rules]~~ regulations governing the storage of waste tires at any business that generates waste tires, pending removal of those waste tires for recycling.

Section 20. Section **19-6-819**, which is renumbered from Section 26-32a-112.3 is renumbered and amended to read:

~~[26-32a-112.3].~~ **19-6-819. Powers and duties of the board.**

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

(a) conditions and procedures for acting to issue or revoke a registration as a waste tire recycler or transporter under Section ~~[26-32a-104.5]~~ 19-6-806;

(b) the amount of liability insurance or other financial responsibility the applicant is required to have to qualify for registration under Section [~~26-32a-104.5~~] 19-6-806, but the amount may not be more than \$300,000 for any liability the waste tire transporter or recycler may incur in recycling or transporting waste tires;

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

(d) standards and required documentation for tracking and record keeping of waste tires subject to regulation under this [~~chapter~~] part, including:

(i) manifests for handling and transferring waste tires;

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

(iii) records documenting persons between whom transactions under this Subsection (1)(d) occurred and the amounts of waste tires involved in those transactions; and

(iv) requiring that documentation under this Subsection (1)(d) be submitted on a quarterly basis, and that this documentation be made available for public inspection;

(e) authorize inspections and audits of waste tire recycling, transportation, or storage facilities and operations subject to this [~~chapter~~] part;

(f) standards for payments authorized under Sections [~~26-32a-107~~] 19-6-809, [~~26-32a-107.5~~] 19-6-810, and [~~26-32a-107.7~~] 19-6-811;

(g) regarding applications to the executive secretary for reimbursements, the content of the reimbursement application form and the procedure to apply for reimbursement;

(h) requirements for the storage of waste tires, including permits for storage;

(i) the types of energy recovery or other appropriate environmentally compatible uses eligible for reimbursement, which:

(i) shall include pyrolyzation, but not retreading; and

(ii) shall be \$75 for recycling and \$60 for using waste tires for a beneficial use; and

(iii) shall apply to all waste tire recycling and beneficial use reimbursements both within and

outside of the state;

(j) the applications of waste tires that are not eligible for reimbursement;

(k) the applications of waste tires that are considered to be the storage or disposal of waste tires; and

(l) provisions governing the storage or disposal of waste tires, including the process for issuing permits for waste tire storage sites.

(2) The board may:

(a) require retention and submission of the records required under this [chapter] part;

(b) require audits of the records and record keeping procedures required under this [chapter] part and rules made under this [chapter] part, except that audits of records regarding the fee imposed and collected by the commission under Sections ~~[26-32a-104]~~ 19-6-805 and ~~[26-32a-105]~~ 19-6-808 are the responsibility of the commission; and

(c) as necessary, make rules requiring additional information as the board determines necessary to effectively administer Section ~~[26-32a-107.8]~~ 19-6-812, but these rules may not place an undue burden on the operation of landfills.

Section 21. Section **19-6-820**, which is renumbered from Section 26-32a-112.5 is renumbered and amended to read:

~~[26-32a-112.5].~~ **19-6-820. Powers and duties of the executive secretary.**

(1) The executive secretary shall:

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

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

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

(i) issue recycler and transporter registrations;

(ii) issue recycler partial reimbursements;

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

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

(2) The executive secretary may:

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

(i) at the site or facility; or

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

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

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

(i) ensure effective regulation of waste tires under this ~~[chapter]~~ part;

(ii) minimize duplication of regulation; and

(iii) encourage responsible recycling of waste tires.

Section 22. Section **19-6-821**, which is renumbered from Section 26-32a-112.7 is renumbered and amended to read:

~~[26-32a-112.7]~~. **19-6-821. Violations -- Civil proceedings and penalties -- Orders.**

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

(a) any violation of Subsection ~~[26-32a-103.5]~~ 19-6-804(1) or (3), regarding landfills, is subject to the penalty under Subsection ~~[26-32a-103.5]~~ 19-6-804(4) rather than the penalties under this section; and

(b) any violation of Subsection ~~[26-32a-106]~~ 19-6-808(1), (2), or (3) regarding payment of the recycling fee by the tire retailer is subject to penalties as provided in Subsection ~~[26-32a-106]~~ 19-6-808(4) rather than the penalties under this section.

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

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

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

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

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

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

Section 23. Section **19-6-822**, which is renumbered from Section 26-32a-112.9 is renumbered and amended to read:

~~[26-32a-112.9].~~ **19-6-822. Criminal penalties.**

A knowing violation of any applicable provision of this ~~[chapter]~~ part is a third degree felony, except that any violation:

(1) involving hazardous waste is governed by Title 19, Chapter 6, ~~[Hazardous Substances] Part 1, Solid and Hazardous Waste Act;~~

(2) of Subsection ~~[26-32a-103.5]~~ 19-6-804(1) or (3) is subject only to the civil penalties in Subsection ~~[26-32a-103.5]~~ 19-6-804(4); and

(3) of Subsection ~~[26-32a-106]~~ 19-6-808(1), (2), or (3) is subject to the penalties under Subsection ~~[26-32a-106]~~ 19-6-808(4).

Section 24. Section **19-6-823**, which is renumbered from Section 26-32a-113 is renumbered and amended to read:

~~[26-32a-113].~~ **19-6-823. Exception.**

The provisions of this [~~chapter~~] part do not apply to waste tires from any device moved exclusively by human power.

Section 25. Section **19-6-824**, which is renumbered from Section 26-32a-114 is renumbered and amended to read:

~~[26-32a-114].~~ **19-6-824. Loans from trust fund to promote tire recycling industries.**

(1) As used in this section:

(a) "Administrator" means the Department of Community and Economic Development.

(b) "Board" means the Board of Business and Economic Development.

(c) "Enterprise fund" means the Waste Tire Recycling Industrial Assistance Loan Fund created under Subsection (3).

(2) There is created in this section the Waste Tire Recycling Industrial Assistance Loan Program. The purpose of the program is to promote waste tire recycling industries in Utah and reduce the waste tire piles in Utah.

(3) (a) There is created an enterprise fund known as the Waste Tire Recycling Industrial Assistance Loan Fund.

(b) Money in the enterprise fund shall be used under this section as the funding for the loan program created in this section.

(c) \$1,000,000 shall be transferred from the trust fund to the enterprise fund to carry out the purposes of this section.

(d) Interest accrued from monies in the enterprise fund and from loans made from the enterprise fund shall remain in the enterprise fund.

(4) (a) The administrator may in accordance with this section make loans from the enterprise fund to waste tire recyclers to promote waste tire recycling industries in Utah and reduce the waste tire piles in Utah.

(b) The administrator shall carry out his duties under this section under the direction of the board.

(c) The Division of Finance shall account for and track all outstanding loans under this

section.

(5) (a) As possible, the administrator shall use existing staff and resources available to the Industrial Assistance Fund to carry out the administration of this section.

(b) (i) Administrative costs not addressed by Subsection (5)(a) shall be covered by an annual amount transferred from the enterprise fund to the administrator, to be applied to the pro rata portion of the administrator's costs of administering Title 9, Chapter 2, Part 12, Industrial Assistance Fund, incurred by management of the enterprise fund.

(ii) The administrator shall annually submit the proposed amount to the board, and the board shall approve the amount prior to transfer from the fund to the administrator.

(6) Loans under this section shall meet the following requirements:

(a) the loans shall be made in accordance with the provisions of this section and in accordance with Title 9, Chapter 2, Part 12, Industrial Assistance Fund, except as those provisions are modified by this section;

(b) a loan made to any individual or entity may not be for more than \$250,000, unless the administrator submits to the board a specific and detailed written justification for the greater loan amount, and the board approves in writing the justification;

(c) the administrator may not loan the entire \$1,000,000 to one recycler; and

(d) loan terms shall be consistent with Division of Finance requirements so the loans may be maintained on an existing loan tracking system within the Division of Finance.

(7) The administrator shall establish standards and qualifications for loan recipients that:

(a) take into account the nature of the emerging technology, industries, and products in the field of waste tire recycling;

(b) where possible, take into account the loan recipient's capacity to reduce waste tire piles; and

(c) require each loan recipient as a condition of the loan to recycle a specified minimum amount of waste tires from abandoned waste tire piles, as the administrator determines is appropriate to the capacities of the recycler and the proximity of the recycler to abandoned waste tire piles.

(8) Loans made under this section shall be made in compliance with the provisions of Title

9, Chapter 2, Part 12, Industrial Assistance Fund, except:

- (a) the administrator shall ensure the loan recipient has adequate collateral or other form of security to protect the enterprise fund;
- (b) the applicant is not required to meet the requirement of Subsection 9-2-1205 (1)(a) which addresses the minimum ratio of expenditures;
- (c) the applicant is not required to meet the requirement of Subsection 9-2-1205(1)(b), which addresses the ability to expend at least \$10,000,000 annually over the base level;
- (d) all loan repayments shall be in cash, and credits in lieu of cash repayments may not be allowed; and
- (e) interest rates on loans made under this section may not be more than 3%, and may be zero percent, as the administrator determines most effectively promotes the purposes of this section.

(9) Loan repayments under this section shall be deposited in the enterprise fund, except as provided in Subsection (10).

(10) (a) If this section is repealed, the assets and liabilities in the enterprise fund on the repeal date shall be transferred to the trust fund.

(b) Subsequent loan repayments shall be deposited in the trust fund, except the amount withheld under Subsection (10)(c).

(c) The administrator shall administer the collection of loans outstanding on the repeal date, and may withhold a reasonable pro rata percentage of the loan payments made after the repeal date as necessary to cover the costs of administering the loan collections after the repeal date. The pro rata amount under this Subsection (10)(c) shall be based on general collection practices, and shall take into account the size of the loan, duration of the loan, and actions necessary to collect the loan.

Section 26. Section **63-55-219** is amended to read:

63-55-219. Repeal dates, Title 19.

- (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2009.
- (2) Title 19, Chapter 3, Radiation Control Act, is repealed July 1, 2002.
- (3) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2009.
- (4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2009.

(5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2009.
(6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2000.

(7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2008.

(8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2001.

(9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2009.

(10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2005.

Section 27. Section **63-55-226** is amended to read:

63-55-226. Repeal dates, Title 26.

(1) Title 26, Chapter 1, Department of Health Organization, is repealed July 1, 2001.

(2) Title 26, Chapter 4, Utah Medical Examiner Act, is repealed July 1, 2000.

(3) Title 26, Chapter 10, Family Health Services, is repealed July 1, 2000.

(4) Title 26, Chapter 18, Medical Assistance Act, is repealed July 1, 2004.

~~[(5) Title 26, Chapter 32a, Waste Tire Recycling Act, is repealed July 1, 2000.]~~

~~[(6)]~~ (5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2004.

~~[(7) Section 26-32a-114 is repealed July 1, 2000.]~~