

IC 13-20-13

Chapter 13. Regulation of Waste Tire Storage Sites; Waste Tire Management Fund

IC 13-20-13-1

Applicability of certificate of registration provisions

Sec. 1. The provisions of this chapter concerning waste tire storage site and waste tire processing operation certificates of registration do not apply to the following:

- (1) A facility operated as a recycling facility under a valid permit issued by the commissioner.
- (2) A site at which waste tires are stored under a recycling program approved by the commissioner.
- (3) The site of a facility that is used to retread tires at which fewer than five thousand (5,000) waste tires are present indoors within a completely enclosed structure.
- (4) A vehicle or container in which waste tires are stored for less than thirty (30) days.
- (5) A vehicle that is properly licensed, capable of legally transporting waste tires, and in which waste tires are completely enclosed.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.4.

IC 13-20-13-1.5

Manner of storage of waste tires

Sec. 1.5. A person that stores waste tires shall do so in a manner that:

- (1) does not pose a threat to human health or the environment;
- (2) does not pose a fire hazard; and
- (3) controls vectors that pose a threat to human health.

As added by P.L.93-1998, SEC.5.

IC 13-20-13-2

Necessity of registration or certificate

Sec. 2. A person may not create or maintain a waste tire storage site or waste tire processing operation unless the person:

- (1) has registered the waste tire storage site or waste tire processing operation under this chapter or IC 13-7-23 (before its repeal); and
- (2) holds a valid certificate of registration issued under section 3 of this chapter or IC 13-7-23-7 (before its repeal).

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.6.

IC 13-20-13-3

Certificate of registration

Sec. 3. (a) The commissioner shall issue a waste tire storage site or waste tire processing operation certificate of registration to a person that owns or operates a waste tire storage site or waste tire processing operation if the person complies with the requirements of this chapter and rules adopted by the board under section 11 of this

chapter.

(b) A certificate of registration issued under this section expires five (5) years after the date the certificate is issued.

(c) The commissioner may include in a certificate of registration issued under this section conditions that ensure compliance with:

(1) this chapter; and

(2) rules adopted by the board under this chapter;

including a compliance schedule.

(d) The department may deny an application for a certificate of registration under this chapter if:

(1) the application is incomplete;

(2) the applicant has failed to comply with the requirements of:

(A) this chapter;

(B) IC 13-20-14; or

(C) a rule adopted by the board under section 11 of this chapter or under IC 13-20-14-6; or

(3) an enforcement action is pending against the applicant.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.7.

IC 13-20-13-4

Prerequisites to certificate of registration; deposit of fees

Sec. 4. (a) To apply for a certificate of registration under section 3 of this chapter, a person must submit the following to the department:

(1) A description of the location of the:

(A) waste tire storage site; or

(B) waste tire processing operation.

(2) A description of buildings, signs, notices, and alarms to be used:

(A) on the waste tire storage site; or

(B) in connection with the waste tire processing operation.

(3) A description of the management program for the waste tire storage site or waste tire processing operation, including emergency measures to be used on the site or at the operation.

(4) If the person who applies for the certificate of registration does not own the property where the waste tires will be stored or processed, the signature of the person who owns the property.

(5) If a person is to operate a waste tire storage site, a description of evidence of financial assurance to be maintained by the person under rules adopted by the board under section 11 of this chapter.

(6) A fee in an amount determined by the board.

(7) Other information reasonably requested by the department.

(b) The department shall deposit the fee submitted under subsection (a)(6) in the waste tire management fund established by this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.8.

IC 13-20-13-5

Duties of certificate of registration holders

Sec. 5. A person that obtains a certificate of registration under section 3 of this chapter must do the following:

- (1) Report annually to the department on the following:
 - (A) The number of waste tires received at the waste tire storage site or by the waste tire processing operation.
 - (B) The number and manner of disposal of the waste tires.
- (2) Maintain contingency plans to protect public health and the environment.
- (3) If the person operates a waste tire storage site, maintain financial assurance acceptable to the department necessary for waste tire removal, in an amount specified in rules adopted by the board under section 11(b)(3) of this chapter.
- (4) Maintain a copy of the certificate of registration at the site.
- (5) Comply with applicable rules and requirements established by the fire prevention and building safety commission for indoor waste tire storage sites.
- (6) Retain a copy of manifests received from a waste tire transporter under IC 13-20-14 for at least one (1) year and make a copy of the manifests available to the department upon request.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.9.

IC 13-20-13-5.5

Revocation or modification of certificate of registration; appeal

Sec. 5.5. (a) A certificate of registration issued by the department under this chapter may be revoked or modified by the commissioner, or by a designated staff member of the department, after notification in writing is sent by certified mail to the holder of the certificate for:

- (1) failure to disclose all relevant facts;
- (2) making a misrepresentation in obtaining the registration; or
- (3) failure to correct, within the time established by the department:
 - (A) a violation of a condition of the registration; or
 - (B) a violation of this chapter or a rule adopted by the board under section 11 of this chapter.

(b) A person aggrieved by the revocation or modification of a certificate of registration may appeal the revocation or modification to the office of environmental adjudication under IC 4-21.5-7. Pending the decision resulting from a hearing under IC 4-21.5-3 concerning the revocation or modification, the registration remains in force. However, subsequent to revocation or modification, the commissioner may seek injunctive relief concerning the activity described in the registration.

As added by P.L.93-1998, SEC.10. Amended by P.L.1-1999, SEC.36.

IC 13-20-13-6

Inspection program

Sec. 6. (a) The department shall operate a waste tire storage site and waste tire processing operation inspection program.

(b) A person that obtains a certificate of registration under section 3 of this chapter must allow the department access to the waste tire storage site or waste tire processing operation at reasonable times to inspect for potential violations of:

- (1) this chapter; or
- (2) rules adopted under this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.11.

IC 13-20-13-7

New replacement tire and new vehicle sales fees

Sec. 7. (a) A fee of twenty-five cents (\$0.25) is imposed on the sale of the following:

- (1) Each new tire that is sold at retail.
- (2) Each new tire mounted on a new vehicle sold at retail.

(b) The person that sells the new tire or vehicle at retail to the ultimate consumer of the tire or vehicle shall collect the fee imposed by this section.

(c) A person that collects a fee under subsection (b):

- (1) shall pay the fees collected under subsection (b):
 - (A) to the department of state revenue; and
 - (B) at the same time and in the same manner that the person pays the state gross retail tax collected by the person to the department of state revenue;
- (2) shall indicate on the return:
 - (A) prescribed by the department of state revenue; and
 - (B) used for the payment of state gross retail taxes;that the person is also paying fees collected under subsection (b); and
- (3) is entitled to deduct and retain one percent (1%) of the fees required to be paid to the department of state revenue under this subsection.

(d) The department of state revenue shall deposit fees collected under this section in the waste tire management fund established by this chapter.

As added by P.L.1-1996, SEC.10.

IC 13-20-13-8

Waste tire management fund; establishment; purposes; sources of revenue

Sec. 8. (a) Except as provided in subsection (d)(2), (d)(3), (d)(6), and (d)(7), the waste tire management fund is established for the following purposes:

- (1) The department may use not more than thirty-five percent (35%) of the money deposited in the fund each year for:
 - (A) the removal and disposal of waste tires from sites where the waste tires have been disposed of improperly; and
 - (B) operating the waste tire education program under section 15 of this chapter.
- (2) The department may use the remaining money deposited in the fund each year to:

- (A) provide grants and loans under section 9(b) of this chapter to entities involved in waste tire management activities; and
- (B) pay the expenses of administering the programs described in:
 - (i) subdivision (1)(B); and
 - (ii) clause (A).
- (b) The expenses of administering the fund shall be paid from money in the fund.
- (c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.
- (d) Sources of money for the fund are the following:
 - (1) Fees paid under section 4(a)(6) of this chapter and IC 13-20-14-5(e).
 - (2) Fees collected under section 7 of this chapter. All money deposited in the fund under this subdivision may be used by the department for waste reduction, recycling, removal, or remediation projects.
 - (3) Costs and damages recovered from a person or other entity under section 14 of this chapter or IC 13-20-14-8. All money deposited in the fund under this subdivision may be used by the department for removal and remediation projects.
 - (4) Fees established by the general assembly for the purposes of this chapter.
 - (5) Appropriations made by the general assembly.
 - (6) Gifts and donations intended for deposit in the fund. A gift or donation deposited in the fund under this subdivision may be specified to be entirely for the use of the department.
 - (7) Civil penalties collected under IC 13-30-4 for violations of:
 - (A) this chapter;
 - (B) IC 13-20-14; and
 - (C) rules adopted under section 11 of this chapter and IC 13-20-14-6.All money deposited in the fund under this subdivision may be used by the department for eligible projects.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.12; P.L.1-1999, SEC.37; P.L.1-2006, SEC.202; P.L.204-2007, SEC.14.

IC 13-20-13-9

Waste tire management fund; use of funds

Sec. 9. (a) The department may use money in the fund to assist the department in:

- (1) removing waste tires from sites where waste tires have been disposed of improperly;
 - (2) properly managing waste tires;
 - (3) performing surveillance and enforcement activities used to implement proper waste tire management; and
 - (4) conducting the waste tire education program under section 15 of this chapter.
- (b) The department may use money in the fund to provide grants

and loans to entities to establish and operate programs involving the following:

- (1) Recycling or reuse of waste tires.
- (2) Using waste tires as a source of fuel.
- (3) Developing markets for waste tires and products containing recycled or reused waste tires.

(c) The department may adopt rules under IC 4-22-2 necessary to implement this section.

As added by P.L.1-1996, SEC.10. Amended by P.L.1-2006, SEC.203; P.L.204-2007, SEC.15.

IC 13-20-13-10

Annual report

Sec. 10. (a) The department shall report annually to the governor and the general assembly on the following:

- (1) Waste tire management as required by this chapter.
- (2) The status of the waste tire management fund.
- (3) The status of programs funded by the fund.

(b) A report issued by the department under this section may include recommendations for revisions to waste tire management programs.

(c) Before the department may issue a report under this section, the department must solicit public comment on the report.

(d) A report issued by the department under this section to the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.1-1996, SEC.10. Amended by P.L.28-2004, SEC.122.

IC 13-20-13-11

Adoption of rules

Sec. 11. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-8 necessary to implement this chapter.

(b) The rules adopted under this section must include the following:

- (1) Requirements for the registration of waste tire storage sites and waste tire processing operations.
- (2) Requirements concerning the following:
 - (A) The operation of waste tire storage sites and waste tire processing operations.
 - (B) Proper storage and processing of waste tires.
 - (C) Contingency plans concerning the minimization of hazards to human health and the environment at waste tire storage sites and waste tire processing operations.
 - (D) Record keeping guidelines concerning the quantity of waste tires stored and processed at waste tire storage sites and waste tire processing operations.
- (3) Financial assurance acceptable to the department necessary for waste tire removal that a person that operates a waste tire storage site must maintain.
- (4) The establishment of the fee required by section 4(a)(4) of

this chapter in an amount necessary to cover the costs incurred in the following:

(A) Registering waste tire storage sites and waste tire processing operations under this chapter.

(B) Administering this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.13.

IC 13-20-13-12

Certain storage facilities; waste tires not solid waste

Sec. 12. A waste tire that is stored at a facility that:

(1) does not process waste tires; or

(2) processes waste tires by cutting or shredding the waste tires;

is not solid waste if the facility is registered under this chapter and the waste tires are stored in accordance with this chapter and rules adopted under this chapter.

As added by P.L.1-1996, SEC.10.

IC 13-20-13-13

Removal and remedial actions

Sec. 13. (a) The commissioner may proceed in court, by appropriate action, to:

(1) compel a person responsible for the improper storage of waste tires to undertake a removal or remedial action with respect to the waste tires; or

(2) obtain an order to enter upon private or public property to carry out a removal or remedial action with respect to the waste tires if the commissioner cannot identify or locate another person responsible for carrying out the removal or remedial action who:

(A) is willing to carry out the removal or remedial action and is capable of doing so; or

(B) can be compelled to carry out the removal or remedial action under subdivision (1).

(b) The commissioner may issue an administrative order for the purpose set forth in subsection (a)(1).

As added by P.L.1-1996, SEC.10.

IC 13-20-13-14

Recovery of costs and damages

Sec. 14. The commissioner may proceed in the appropriate court to recover costs and damages from a person who:

(1) is responsible for the improper storage of waste tires; and

(2) fails, without sufficient cause, to properly undertake a removal or remedial action under section 13 of this chapter.

As added by P.L.1-1996, SEC.10. Amended by P.L.93-1998, SEC.14.

IC 13-20-13-15

Education program

Sec. 15. The department shall operate a waste tire education program to inform the public concerning the following issues:

- (1) Proper waste tire management procedures.
- (2) Methods to minimize the production of waste tires, including information concerning the advantages of using retreaded tires.

As added by P.L.1-1996, SEC.10.

IC 13-20-13-16

Repealed

(Repealed by P.L.93-1998, SEC.21.)

IC 13-20-13-17

Criminal penalty for application misstatement

Sec. 17. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with an application for a loan or grant from the fund commits a Class D felony.

As added by P.L.137-2007, SEC.18.