

## CHAPTER 402

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**HEALTH AND ENVIRONMENT**


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## SENATE BILL 19-198

BY SENATOR(S) Todd and Coram, Court, Priola, Tate, Garcia;  
 also REPRESENTATIVE(S) Buentello and Gray, Bird, Esgar, Galindo, Hansen, Hooton, Roberts, Snyder, Sullivan, Valdez A.,  
 Valdez D.

## AN ACT

**CONCERNING THE CONTINUED MANAGEMENT OF WASTE TIRES, AND, IN CONNECTION THEREWITH,  
 MAKING AND REDUCING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 30-20-1402, **amend** (1); and **add** (1.2), (1.5), (7.5), and (9.5) as follows:

**30-20-1402. Definitions.** As used in this part 14, unless the context otherwise requires:

(1) ~~"Beneficial user" means a person who uses solid waste as an ingredient in a manufacturing process or as an effective substitute for natural or commercial products, in a manner that does not pose a threat to human health or the environment. Avoidance of processing or disposal cost alone does not constitute beneficial use~~ "ALTERNATIVE DAILY COVER" MEANS AT LEAST THREE INCHES OF EARTHEN MATERIAL OR OTHER SUITABLE MATERIAL PLACED OVER THE EXPOSED SOLID WASTE AT THE END OF EACH OPERATING DAY, OR AT SUCH FREQUENCIES AS NEEDED TO PREVENT OR MINIMIZE NUISANCE CONDITIONS.

(1.2) "ASTM STANDARD D6270" MEANS THE AMERICAN SOCIETY FOR TESTING AND MATERIALS STANDARD ENTITLED "STANDARD PRACTICE FOR USE OF SCRAP TIRES IN CIVIL ENGINEERING APPLICATIONS", EFFECTIVE ON DECEMBER 15, 2017.

(1.5) "BENEFICIAL USER" MEANS A PERSON WHO USES SOLID WASTE FOR ENERGY RECOVERY IN A MANUFACTURING PROCESS OR AS AN EFFECTIVE SUBSTITUTE FOR NATURAL OR COMMERCIAL PRODUCTS, IN A MANNER THAT DOES NOT POSE A THREAT TO HUMAN HEALTH OR THE ENVIRONMENT. AVOIDANCE OF PROCESSING OR DISPOSAL

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

COST ALONE DOES NOT CONSTITUTE BENEFICIAL USE.

(7.5) "RURAL COUNTY" MEANS A COUNTY WITH A POPULATION OF FEWER THAN SIXTY THOUSAND RESIDENTS.

(9.5) "TON" MEANS A UNIT OF WEIGHT EQUAL TO TWO THOUSAND POUNDS.

**SECTION 2.** In Colorado Revised Statutes, 30-20-1403, **amend** (1)(a) and (2) as follows:

**30-20-1403. Waste tire fee - distribution - rules - repeal.** (1) (a) (I) (A) UNTIL DECEMBER 31, 2019, RETAILERS OF NEW MOTOR VEHICLE TIRES AND NEW TRAILER TIRES SHALL COLLECT A WASTE TIRE FEE IN AN AMOUNT OF FIFTY-FIVE CENTS PER TIRE. THE STATE TREASURER SHALL CREDIT THE REVENUE FROM THE FEE ASSESSED IN THIS SUBSECTION (1)(a)(I)(A) TO THE WASTE TIRE ADMINISTRATION, ENFORCEMENT, MARKET DEVELOPMENT, AND CLEANUP FUND CREATED IN SECTION 30-20-1404.

(B) THIS SUBSECTION (1)(a)(I) IS REPEALED, EFFECTIVE JULY 1, 2020.

(II) EFFECTIVE JANUARY 1, 2020, AND CONTINUING THROUGH DECEMBER 31, 2025, retailers of new motor vehicle tires and new trailer tires shall collect a waste tire fee in an amount to be set by the commission, by rule, not to exceed ~~one dollar and fifty cents~~ TWO DOLLARS on the sale of each new tire; except that, effective on and after January 1, 2018 2024, the waste tire fee is fifty-five cents on the sale of each new tire.

(III) EFFECTIVE JANUARY 1, 2020, THE COMMISSION MAY REVIEW THE FEE ON AN ANNUAL BASIS AND, BY RULE, ADJUST THE FEE AMOUNT IN A MANNER CONSISTENT WITH THE OBLIGATIONS SET FORTH IN SUBSECTION (2) OF THIS SECTION. THE COMMISSION SHALL SET THE FEE IN AN AMOUNT THAT IS SUFFICIENT TO:

(A) OFFSET THE DEPARTMENT'S DIRECT AND INDIRECT COSTS OF IMPLEMENTING THIS PART 14, WHICH COSTS MUST NOT EXCEED THE EQUIVALENT OF FIFTY CENTS FOR EACH NEW TIRE SOLD; AND

(B) COVER THE REBATE PROGRAM DESCRIBED IN SECTION 30-20-1405.

(IV) The receipt from the retailer to the customer for every new tire PURCHASED must contain the following statement in the largest bold-faced type capable based on point-of-sale software and on existing invoice printers, not to exceed fifteen points: "Section 30-20-1403, Colorado Revised Statutes, requires retailers to collect a waste tire fee set by the solid and hazardous waste commission on the sale of each new motor vehicle tire and each new trailer tire."

(2) (a) ~~Until December 31, 2017~~ FROM JANUARY 1, 2020, THROUGH DECEMBER 31, 2025, the state treasurer shall distribute the revenue from the fee assessed in subsection (1) of this section as follows:

(I) ~~Thirty percent~~ THE PORTION OF THE FEE COLLECTED TO OFFSET THE COSTS DESCRIBED IN SUBSECTION (1)(a)(III)(A) OF THIS SECTION to the waste tire

administration, enforcement, MARKET DEVELOPMENT, and cleanup fund created in section 30-20-1404; AND

~~(II) Sixty-five percent~~ THE PORTION OF THE FEE COLLECTED TO COVER THE COSTS DESCRIBED IN SUBSECTION (1)(a)(III)(B) OF THIS SECTION to the end users fund created in section 30-20-1405. ~~and~~

~~(III) Five percent to the waste tire market development fund created in section 30-20-1406.~~

~~(b) Effective January 1, 2018, the state treasurer shall distribute all of the revenue from the fee assessed in subsection (1) of this section to the waste tire administration, enforcement, and cleanup fund created in section 30-20-1404.~~

**SECTION 3.** In Colorado Revised Statutes, 30-20-1404, **amend** (1), (2) introductory portion, (2)(l), and (2)(m); and **add** (2)(o) as follows:

**30-20-1404. Waste tire administration, enforcement, market development, and cleanup fund - creation - rules.** (1) There is hereby created in the state treasury the waste tire administration, enforcement, MARKET DEVELOPMENT, and cleanup fund, referred to in this section as the "fund", consisting of the fee revenue credited pursuant to section 30-20-1403 ~~(2)(a)(i) or (2)(b)~~ and any other ~~moneys~~ MONEY appropriated to it. The general assembly shall annually appropriate the ~~moneys~~ MONEY in the fund to the department for its direct and indirect administrative and enforcement costs in administering and enforcing this part 14. The state treasurer shall credit all interest earned on the investment of ~~moneys~~ MONEY in the fund to the fund. Any unexpended and unencumbered ~~moneys~~ MONEY in the fund IN EXCESS OF SIXTEEN AND ONE-HALF PERCENT OF THE PREVIOUS FISCAL YEAR'S EXPENDITURES at the end of any fiscal year ~~remain in the fund and do not revert to the general fund or any other fund~~ SHALL BE CREDITED:

(a) THROUGH DECEMBER 31, 2025, TO THE END USERS FUND CREATED IN SECTION 30-20-1405; AND

(b) ON AND AFTER JANUARY 1, 2026, TO THE GENERAL FUND.

(2) The department shall use the ~~moneys~~ MONEY in the fund for:

(l) Maintaining an online complaint form and processes for law enforcement, fire departments, and citizens to report potential waste tire violations; ~~and~~

(m) In conjunction with the division of fire prevention and control in the department of public safety, developing a model fire prevention, training, and firefighting plan, hiring a consultant to assist in developing the plan, and reimbursing the division of fire prevention AND CONTROL for its time spent assisting the department in implementing this ~~paragraph (m)~~ SUBSECTION (2)(m); AND

(o) ENCOURAGING WASTE TIRE MARKET DEVELOPMENT.

**SECTION 4.** In Colorado Revised Statutes, **recreate and reenact, with amendments**, 30-20-1405 as follows:

**30-20-1405. End users fund - creation - quarterly rebates - rules - repeal.**

(1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE END USERS FUND, REFERRED TO IN THIS SECTION AS THE "FUND", CONSISTING OF THE FEE REVENUE CREDITED PURSUANT TO SECTION 30-20-1403 (2)(a)(II). THE STATE TREASURER SHALL CREDIT ALL INTEREST AND ANY OTHER RETURN ON THE INVESTMENT OF MONEY IN THE FUND TO THE FUND. THE FUND IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR THE PURPOSES SPECIFIED IN THIS SECTION.

(2) (a) THE DEPARTMENT SHALL USE THE MONEY IN THE FUND TO PROVIDE QUARTERLY REBATES TO IN-STATE:

(I) END USERS; AND

(II) RETAILERS THAT SELL TIRE-DERIVED PRODUCTS.

(b) A WASTE TIRE HAULER OF TIRES IN A RURAL COUNTY IS ONLY ELIGIBLE FOR REBATES PURSUANT TO THIS SUBSECTION (2) IF THE WASTE TIRE HAULER IS ALSO AN END USER OR HAS CONTRACTED WITH AN END USER THAT IS ALSO A WASTE TIRE HAULER.

(3) THE REBATE IS SUBJECT TO THE FOLLOWING CONDITIONS:

(a) THE DEPARTMENT SHALL PAY THE REBATE AMOUNT QUARTERLY, ON A PER-TON BASIS; AND

(b) ONCE THE DEPARTMENT HAS PAID A REBATE ON A PARTICULAR QUANTITY OF TIRE-DERIVED PRODUCT, EVERY PART OF THAT PARTICULAR QUANTITY OF TIRE-DERIVED PRODUCT IS NO LONGER ELIGIBLE FOR PAYMENT OF THE REBATE.

(4)(a) THE COMMISSION SHALL ANNUALLY SET THE AMOUNT OF THE REBATE, BY RULE, ON A PER-TON BASIS, AND THE DEPARTMENT SHALL PAY THE SET REBATE AMOUNT FOR EACH TON OF QUALIFIED TIRE-DERIVED PRODUCT. THE COMMISSION SHALL CALCULATE THE REBATE TO EQUAL, BUT NOT EXCEED, THE AMOUNT OF THE ANTICIPATED INCOME TRANSFERRED INTO THE FUND DURING EACH SUCCEEDING TWELVE-MONTH PERIOD.

(b) EACH YEAR, THE DEPARTMENT SHALL CONTINUE TO PROVIDE THE REBATE IN ACCORDANCE WITH THE TIERED STRUCTURE SET FORTH IN SUBSECTION (5)(e) OF THIS SECTION UNTIL:

(I) ALL QUALIFIED REBATE REQUESTS SUBMITTED IN THAT YEAR ARE SATISFIED; OR

(II) THERE IS INSUFFICIENT MONEY IN THE FUND TO SUPPORT ADDITIONAL REBATE PAYMENTS.

(5) THE COMMISSION SHALL PROMULGATE RULES GOVERNING ADMINISTRATION OF THE REBATE, WHICH RULES MUST INCLUDE THE FOLLOWING:

(a) A QUARTERLY REBATE SCHEDULE FOR QUALIFIED RECIPIENTS, WITH THE FIRST

END USER PAYOUT IN JULY 2020, TO BE ISSUED FOR END USES THAT OCCUR BETWEEN APRIL 1, 2020, AND JUNE 30, 2020;

(b) A REQUIREMENT THAT TWENTY-FIVE PERCENT OF THE EXPECTED ANNUAL REBATE AMOUNT BE HELD IN RESERVE BEFORE PAYING THE FIRST QUARTERLY REBATE;

(c) IF THE BALANCE OF THE FUND IS ANTICIPATED TO BE INSUFFICIENT TO PAY OUT ALL OF THE REBATES APPLIED FOR, A REQUIREMENT THAT THE DEPARTMENT:

(I) GIVE NOTICE OF THE ANTICIPATED INSUFFICIENCY TO ALL END USERS THAT DURING THE PRECEDING TWELVE MONTHS HAVE SUBMITTED AN APPLICATION FOR A REBATE; AND

(II) PAY A PROPORTIONALLY REDUCED REBATE BEGINNING WITH TIER 1 AND RURAL WASTE TIRE HAULER REBATE RECIPIENTS, CONTINUING TO TIER 2 REBATE RECIPIENTS, AND ENDING WITH TIER 3 REBATE RECIPIENTS;

(d) A REQUIREMENT THAT AN END USER THAT QUALIFIES FOR A REBATE BY UTILIZING WASTE TIRES FOR:

(I) ALTERNATIVE DAILY COVER MUST VERIFY WITH THE DEPARTMENT THAT THE ALTERNATIVE DAILY COVER MEETS ALL SPECIFICATION STANDARDS FOR ALL TYPE-B TIRE-DERIVED AGGREGATE, AS ESTABLISHED BY THE ASTM STANDARD D6270; AND

(II) TIRE-DERIVED AGGREGATE MUST VERIFY WITH THE DEPARTMENT THAT THE TIRE-DERIVED AGGREGATE MEETS ALL SPECIFICATION STANDARDS FOR ALL TYPE-A TIRE-DERIVED AGGREGATE, AS ESTABLISHED BY THE ASTM STANDARD D6270; AND

(e) THREE TIERS OF REBATE AMOUNTS THAT THE DEPARTMENT MAY PAY OUT BASED ON THE AMOUNT OF THE WASTE TIRE THAT WAS USED AND DESTROYED AS FOLLOWS:

(I) TIER 1: FULL REBATES GOING TO CRUMBED RUBBER END USES AND END USES THAT COMPLETELY DESTROY THE WASTE TIRE FOR THE PURPOSE OF ENERGY RECOVERY OR OTHER CLEAN TECHNOLOGIES AS DEFINED AND APPROVED BY THE COMMISSION BY RULE;

(II) TIER 2: FIFTY PERCENT OF THE FULL REBATE GOING TO END USES SUCH AS MOLDED PRODUCTS AND RUBBER MULCH; AND

(III) TIER 3: TWENTY-FIVE PERCENT OF THE FULL REBATE GOING TO TIRE BALE END USES AND END USES FOR ALTERNATIVE DAILY COVER AND TIRE-DERIVED AGGREGATE THAT MEET THE ASTM STANDARD D6270.

(6) THE DEPARTMENT:

(a) SHALL PAY:

(I) THE REBATE ONLY FOR WASTE TIRES THAT ARE GENERATED AND PROCESSED IN COLORADO; AND

(II) TO AN END USER ONLY IF THE END USE INVOLVES TIRE-DERIVED PRODUCTS IN COLORADO OR USE OF THE ENTIRE WASTE TIRE TO GENERATE ENERGY OR FUEL IN COLORADO; AND

(b) MAY DENY:

(I) THE REBATE TO A PERSON THAT IS OUT OF COMPLIANCE WITH ANY STATE OR FEDERAL ENVIRONMENTAL LAWS, RULES, OR REGULATIONS; AND

(II) ALL FUTURE REBATES PURSUANT TO THIS SECTION AND GRANTS OF MONEY FROM THE WASTE TIRE ADMINISTRATION, ENFORCEMENT, MARKET DEVELOPMENT, AND CLEANUP FUND CREATED IN SECTION 30-20-1404 TO AN APPLICANT THAT KNOWINGLY OR INTENTIONALLY PROVIDES FALSE INFORMATION TO THE DEPARTMENT WHEN APPLYING FOR A REBATE OR FOR A GRANT OF MONEY FROM THE WASTE TIRE ADMINISTRATION, ENFORCEMENT, MARKET DEVELOPMENT, AND CLEANUP FUND.

(7) WASTE TIRES OBTAINED FROM RURAL COUNTIES ARE ELIGIBLE FOR AN ADDITIONAL REBATE AMOUNT OF TWENTY-FIVE DOLLARS PER TON; HOWEVER, THE ADDITIONAL REBATE AMOUNT MUST NOT EXCEED THE REBATE AMOUNT FOR TIER 3 REBATES AS DETERMINED BY THE COMMISSION BY RULE PURSUANT TO SUBSECTION (5)(e)(III) OF THIS SECTION. TO QUALIFY FOR THE ADDITIONAL REBATE AMOUNT SET FORTH IN THIS SUBSECTION (7), AN END USER MUST PROVIDE EVIDENCE TO THE DEPARTMENT DOCUMENTING THE COUNTY OF ORIGIN FOR EACH WASTE TIRE.

(8) THE DEPARTMENT SHALL REQUIRE THAT AN END USER SUBMIT AN APPLICATION FOR A REBATE THAT CONTAINS SELF-CERTIFICATIONS PROVIDED BY THE END USER REGARDING:

(a) THE TOTAL TONNAGE OF TIRES PROCESSED; AND

(b) THE TOTAL TONNAGE OF TIRES COLLECTED IN RURAL COUNTIES.

(9)(a) THE DEPARTMENT MAY ISSUE REBATES AFTER JANUARY 1, 2026, ONLY FOR END USES OCCURRING AND REBATES APPLIED FOR ON OR BEFORE DECEMBER 31, 2025.

(b) THE COMMISSION SHALL REPEAL ANY RULES CONCERNING THE FUND AND IMPLEMENTATION OF THIS SECTION ONCE THE DEPARTMENT HAS ISSUED THE FINAL REBATES PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION.

(c) ON JULY 1, 2026, THE STATE TREASURER SHALL TRANSFER ANY MONEY LEFT IN THE FUND TO THE GENERAL FUND.

(10) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2026.

**SECTION 5.** In Colorado Revised Statutes, 30-20-1415, **amend** (3) as follows:

**30-20-1415. Waste tire monofills - requirements.** (3) AFTER SOLICITING PUBLIC COMMENT, the department may issue a waiver relating to any requirement of this section; EXCEPT THAT THE DEPARTMENT SHALL NOT ISSUE A WAIVER OF

SUBSECTION (1)(j) OR (1)(k) OF THIS SECTION TO A WASTE TIRE MONOFILL OWNER OR OPERATOR UNLESS THE OWNER OR OPERATOR HAS DEMONSTRATED THAT IT HAS ACHIEVED A NET REDUCTION ON AN ANNUAL BASIS IN THE NUMBER OF WASTE TIRES IN THE MONOFILL OR UNLESS AN EMERGENCY EVENT OF LIMITED DURATION SUCH AS A FIRE OR FLOOD, AS DEFINED BY THE COMMISSION, HAS OCCURRED.

**SECTION 6. Appropriation.** For the 2019-20 state fiscal year, \$3,262,500 is appropriated to the department of public health and environment for use by the hazardous materials and waste management division. This appropriation consists of \$3,375,000 from the end users fund created in section 30-20-1405 (1), C.R.S., and a reduction of \$112,500 from the waste tire administration, enforcement, market development, and cleanup fund created in section 30-20-1404 (1), C.R.S. To implement this act, the division may use this appropriation for waste tire program administration.

**SECTION 7. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Approved: May 31, 2019