

CHAPTER 351

HEALTH AND ENVIRONMENT

HOUSE BILL 14-1352

BY REPRESENTATIVE(S) Tyler and Coram, Lee, Schafer, Buck, Stephens;
also SENATOR(S) Todd and King, Jones, Rivera.

AN ACT

CONCERNING THE MANAGEMENT OF WASTE TIRES, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

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

SECTION 1. In Colorado Revised Statutes, **add** part 14 to article 20 of title 30 as follows:

**PART 14
STRATEGIES FOR WASTE TIRES**

30-20-1401. Legislative declaration - rules - enforcement - recyclable material. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, IN ORDER TO PROTECT THE ENVIRONMENT AND THE PUBLIC HEALTH, THERE IS A SPECIAL NEED TO ADDRESS PROBLEMS CREATED BY THE DISPOSAL OF WASTE TIRES AND THE LACK OF RECYCLING AND BENEFICIAL USE OF WASTE TIRES. IT IS THE POLICY OF THIS STATE TO PURSUE PROPOSALS FOR RECYCLING AND OTHER BENEFICIAL USE OF WASTE TIRES IN LIEU OF STORAGE OR LANDFILL DISPOSAL, AND, IN ADDITION, IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ADOPTING THIS PART 14 TO ENCOURAGE THE DEVELOPMENT OF TECHNIQUES FOR RESOURCE RECOVERY, RECYCLING, AND REUSE OF WASTE TIRES AND TO PROVIDE FOR THE MANAGEMENT OF WASTE TIRES.

(2) **By May 31, 2015**, THE COMMISSION SHALL PROMULGATE RULES FOR THE IMPLEMENTATION AND ENFORCEMENT OF THIS PART 14. **UNTIL THE COMMISSION PROMULGATES RULES TO IMPLEMENT AND ENFORCE THIS PART 14, THE COMMISSION'S RULES IN EFFECT ON JULY 1, 2014, GOVERNING WASTE TIRES CONTINUE TO APPLY TO THE EXTENT THAT THEY DO NOT CONFLICT WITH THIS PART 14.**

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(3) THE DEPARTMENT SHALL ENFORCE THIS PART 14 THROUGH ITS ENFORCEMENT AUTHORITIES, INCLUDING THOSE SPECIFIED IN SECTIONS 30-20-113 AND 30-20-114.

(4) AFTER TIRES ARE USED FOR THEIR ORIGINAL INTENDED PURPOSE, THEY MUST BE USED BENEFICIALLY, RECYCLED, OR REUSED; EXCEPT THAT, IF AUTHORIZED BY SECTION 30-20-1414 (1) (b), THEY MAY BE DISPOSED OF AT A PERMITTED SOLID WASTE FACILITY. BECAUSE THEY CAN BE REUSED, REMANUFACTURED, RECLAIMED, OR RECYCLED, WASTE TIRES ARE A RECYCLABLE MATERIAL AS DEFINED IN SECTION 30-20-101 (4). AS RECYCLABLE MATERIALS, WASTE TIRES MUST BE COLLECTED, MANAGED, AND TRANSPORTED IN ACCORDANCE WITH THE MANIFEST SYSTEM REQUIRED BY SECTION 30-20-1417 (2) AND RECYCLED INTO TIRE-DERIVED PRODUCT, THEREBY BEING TRANSFORMED FROM A RECYCLABLE MATERIAL INTO A NEW PRODUCT. THE DEPARTMENT SHALL CONSIDER TIRES THAT HAVE BEEN COLLECTED UNDER A TIRE COLLECTION PROGRAM REGISTERED PURSUANT TO SECTION 30-20-1411 TO HAVE BEEN MANAGED UNDER AN APPROVED ESTABLISHED TIRE COLLECTION PROGRAM FOR PURPOSES OF THE FEDERAL COMMERCIAL INDUSTRIAL SOLID WASTE INCINERATOR RULES, 40 CFR PART 60 SUBPARTS CCCC AND DDDD.

30-20-1402. Definitions - repeal. 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.

(2) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE COMMISSION CREATED IN SECTION 25-15-302, C.R.S.

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(4) "END USER" MEANS A PERSON WHO:

(a) USES A TIRE-DERIVED PRODUCT FOR A COMMERCIAL OR INDUSTRIAL PURPOSE;

(b) USES A WHOLE WASTE TIRE TO GENERATE ENERGY OR FUEL; OR

(c) CONSUMES TIRE-DERIVED PRODUCT OR USES TIRE-DERIVED PRODUCT IN ITS FINAL APPLICATION OR IN MAKING NEW MATERIALS WITH A DEMONSTRATED SALE TO A THIRD-PARTY CUSTOMER.

(5) "MOBILE PROCESSOR" MEANS A PERSON WHO PROCESSES WASTE TIRES AT A LOCATION OTHER THAN THE LOCATION OF THE PERSON'S CERTIFICATE OF REGISTRATION.

(6) "MOTOR VEHICLE" MEANS A SELF-PROPELLED VEHICLE THAT IS DESIGNED FOR TRAVEL ON THE PUBLIC HIGHWAYS AND THAT IS GENERALLY AND COMMONLY USED TO TRANSPORT PERSONS AND PROPERTY OVER THE PUBLIC HIGHWAYS OR A LOW SPEED ELECTRIC VEHICLE. "MOTOR VEHICLE" INCLUDES AUTOMOBILES, MINIVANS,

ALL TRUCKS, MOTOR HOMES, AND MOTORCYCLES.

(7) "PUBLIC PROJECT" MEANS:

(a) A PUBLICLY FUNDED CONTRACT ENTERED INTO BY A GOVERNMENTAL BODY OF THE EXECUTIVE BRANCH OF THIS STATE THAT IS SUBJECT TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S.; AND

(b) A PUBLICLY FUNDED CONTRACT ENTERED INTO BY A COUNTY, MUNICIPAL GOVERNMENT, OR SPECIAL DISTRICT, INCLUDING A SCHOOL DISTRICT OR RECREATION DISTRICT.

(8) "TIRE" MEANS A RUBBER CUSHION THAT FITS AROUND A WHEEL.

(9) "TIRE-DERIVED PRODUCT" MEANS MATTER THAT:

(a) IS DERIVED FROM A PROCESS THAT USES WHOLE TIRES AS A FEEDSTOCK, INCLUDING SHREDDING, CRUMBING, AND CHIPPING;

(b) ADHERES TO ESTABLISHED ENGINEERING OR OTHER APPROPRIATE SPECIFICATIONS OR TO ESTABLISHED PRODUCT END USER SPECIFICATIONS OR CUSTOMER CONDITIONS OF ACCEPTANCE;

(c) HAS A DEMONSTRATED BENEFIT ASSOCIATED WITH THE END USE;

(d) CAN BE USED AS A SUBSTITUTE FOR OR IN CONJUNCTION WITH A COMMERCIAL PRODUCT OR RAW MATERIAL; AND

(e) HAS EITHER BEEN SOLD AND REMOVED FROM THE FACILITY OF A PROCESSOR OR HAS BEEN USED ON SITE BY THE PROCESSOR.

(10) "TRAILER" MEANS A WHEELED VEHICLE, WITHOUT MOTIVE POWER, THAT IS DESIGNED TO BE DRAWN BY A MOTOR VEHICLE.

(11) "USED TIRE" MEANS A TIRE THAT WAS PREVIOUSLY USED AS A TIRE AND IS GRADED AND CLASSIFIED FOR REUSE AS A TIRE BASED ON SPECIFICATIONS AND CRITERIA MAINTAINED PURSUANT TO SECTION 30-20-1410 (1) (a).

(12) "WASTE TIRE" MEANS A TIRE THAT IS MODIFIED FROM ITS ORIGINAL SPECIFICATIONS BUT NOT PROCESSED INTO A TIRE-DERIVED PRODUCT, IS NO LONGER BEING USED FOR ITS INITIAL INTENDED PURPOSE AS A TIRE, AND IS NOT A USED TIRE.

(13) "WASTE TIRE CLEANUP PROGRAM" OR "PROGRAM" MEANS THE PROGRAM CREATED BY THIS PART 14.

(14) "WASTE TIRE COLLECTION FACILITY" MEANS A FACILITY AT WHICH WASTE TIRES ARE STORED AWAITING PICKUP BY A REGISTERED WASTE TIRE HAULER FOR TRANSPORTATION TO A REGISTERED WASTE TIRE PROCESSOR OR REGISTERED WASTE TIRE MONOFILL.

(15) "WASTE TIRE GENERATOR" MEANS A PERSON WHO GENERATES WASTE TIRES.

THE TERM INCLUDES NEW TIRE RETAILERS, USED TIRE RETAILERS, AUTOMOBILE DEALERS, AUTOMOBILE DISMANTLERS, PUBLIC AND PRIVATE VEHICLE MAINTENANCE SHOPS, GARAGES, SERVICE STATIONS, CAR CARE CENTERS, AUTOMOTIVE FLEET CENTERS, LOCAL GOVERNMENT FLEET OPERATORS, AND RENTAL FLEET OPERATORS.

(16) "WASTE TIRE HAULER" MEANS A PERSON WHO TRANSPORTS TEN OR MORE WASTE TIRES IN ANY ONE LOAD.

(17) "WASTE TIRE MONOFILL" MEANS PART OR ALL OF A SOLID WASTES DISPOSAL SITE AND FACILITY THAT HAS BEEN ISSUED A CERTIFICATE OF DESIGNATION AND AT WHICH ONLY WASTE TIRES ARE ACCEPTED.

(18) "WASTE TIRE PROCESSOR" MEANS A PERSON WHO PROCESSES A WASTE TIRE INTO A TIRE-DERIVED PRODUCT.

30-20-1403. Waste tire fee - distribution - rules. (1) (a) 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 ON THE SALE OF EACH NEW TIRE; EXCEPT THAT, EFFECTIVE ON AND AFTER JANUARY 1, 2018, THE WASTE TIRE FEE IS FIFTY-FIVE CENTS ON THE SALE OF EACH NEW TIRE. THE RECEIPT FROM THE RETAILER TO THE CUSTOMER FOR EVERY NEW TIRE 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."

(b) THE RETAILER SHALL SUBMIT TO THE DEPARTMENT BY THE TWENTIETH DAY OF EACH MONTH ALL FEES COLLECTED PURSUANT TO THIS SECTION IN THE PRECEDING MONTH TOGETHER WITH ANY REPORT REQUIRED BY THE DEPARTMENT. THE DEPARTMENT SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO SHALL CREDIT THEM IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION OR AS SPECIFIED IN RULES PROMULGATED BY THE COMMISSION.

(2)(a) UNTIL DECEMBER 31, 2017, THE STATE TREASURER SHALL DISTRIBUTE THE REVENUE FROM THE FEE ASSESSED IN SUBSECTION (1) OF THIS SECTION AS FOLLOWS:

(I) THIRTY PERCENT TO THE WASTE TIRE ADMINISTRATION, ENFORCEMENT, AND CLEANUP FUND CREATED IN SECTION 30-20-1404;

(II) SIXTY-FIVE PERCENT 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.

30-20-1404. Waste tire administration, enforcement, and cleanup fund - creation - rules - repeal. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE WASTE TIRE ADMINISTRATION, ENFORCEMENT, 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 APPROPRIATED TO IT. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE MONEYS 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 IN THE FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(2) THE DEPARTMENT SHALL USE THE MONEYS IN THE FUND FOR:

(a) COLLECTING THE FEE ASSESSED IN SECTION 30-20-1403 (1);

(b) INSPECTING RETAILERS TO DETERMINE WHETHER ALL FEES ARE BEING COLLECTED;

(c) ENFORCING THE REQUIREMENTS OF THIS PART 14 PURSUANT TO EXISTING AUTHORITY, INCLUDING SECTIONS 30-20-113 AND 30-20-114;

(d) DEVELOPING A SYSTEM TO ADDRESS THE RECEIPT BY REGISTERED PERSONS OF UNMANIFESTED WASTE TIRES FROM UNREGISTERED HAULERS;

(e) (I) SUBMITTING AN ANNUAL REPORT TO THE COMMITTEES OF REFERENCE IN EACH HOUSE OF THE GENERAL ASSEMBLY WITH JURISDICTION OVER TRANSPORTATION AND PUBLIC HEALTH, THE JOINT BUDGET COMMITTEE, AND THE COMMISSION. THE REPORT MUST INCLUDE, AT A MINIMUM:

(A) THE NUMBER OF RETAILERS PAYING THE FEE;

(B) THE DOLLAR AMOUNT OF FEES COLLECTED;

(C) THE NUMBER OF INSPECTIONS CONDUCTED;

(D) THE RESULTS OF THE INSPECTIONS;

(E) THE NUMBER OF TIRES SOLD;

(F) THE STATUS OF ABATEMENT PROJECTS RANKED PURSUANT TO SUBSECTION (6) OF THIS SECTION; AND

(G) AN ASSESSMENT OF THE IMPLEMENTATION OF PARAGRAPH (i) OF THIS SUBSECTION (2).

(II) PURSUANT TO SECTION 24-1-136 (11), C.R.S., THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2017.

(f) HIRING A CONTRACTOR TO CLEAN UP WASTE TIRES AND TIRE-DERIVED

PRODUCT THAT HAVE BEEN ILLEGALLY DISPOSED OF OR HAVE BEEN DISPOSED OF AT A LANDFILL PURSUANT TO SECTION 30-20-1009(2) AND FUNDING A GRANT PROGRAM TO REIMBURSE LOCAL GOVERNING AUTHORITIES FOR CLEANING UP WASTE TIRES AND TIRE-DERIVED PRODUCTS THAT HAVE BEEN ILLEGALLY DISPOSED OF OR HAVE BEEN DISPOSED OF AT A LANDFILL PURSUANT TO SECTION 30-20-1009 (2);

(g) FINANCING ONE-TIME OR OCCASIONAL COMMUNITY CLEANUP EVENTS WHERE WASTE TIRES ARE ACCEPTED FOR DROP-OFF BY PERSONS NOT ENGAGED IN COMMERCIAL OR INDUSTRIAL ACTIVITY AND WHERE, AT THE CONCLUSION OF THE EVENT, THE WASTE TIRES ARE EITHER PICKED UP BY A REGISTERED WASTE TIRE HAULER OR TRANSPORTED TO A REGISTERED WASTE TIRE HAULER OR TO ANY REGISTERED FACILITY;

(h) TRAINING AND HIRING CONTRACTORS TO PROVIDE TRAINING IN THE IMPLEMENTATION OF THIS PART 14;

(i) PROVIDING GRANTS TO LAW ENFORCEMENT, FIRE DEPARTMENTS, LOCAL HEALTH DEPARTMENTS, STATE AGENCIES, AND ANY OTHER APPLICABLE ENTITIES FOR PURCHASING EQUIPMENT AND SUPPLIES TO IMPLEMENT THIS PART 14;

(j) TRAINING OF AND ENFORCEMENT BY ENTITIES THAT ENFORCE THIS PART 14;

(k) AWARDING GRANTS AND DEVELOPING EDUCATIONAL PROGRAMS FOR ENFORCEMENT, FIRE PREVENTION AND SUPPRESSION, PROPER WASTE TIRE MANAGEMENT AND DISPOSAL, TRAINING, AND CUSTOMER TECHNICAL ASSISTANCE;

(l) MAINTAINING AN ON-LINE COMPLAINT FORM AND PROCESSES FOR LAW ENFORCEMENT, FIRE DEPARTMENTS, AND CITIZENS TO REPORT POTENTIAL WASTE TIRE VIOLATIONS;

(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 FOR ITS TIME SPENT ASSISTING THE DEPARTMENT IN IMPLEMENTING THIS PARAGRAPH (m); AND

(n) (I) REIMBURSING THE DEPARTMENT OF REVENUE FOR ITS COSTS, INCLUDING PROGRAMMING, ASSOCIATED WITH THE ENACTMENT OF THIS ARTICLE AND THE REPEAL OF PART 2 OF ARTICLE 17 OF TITLE 25, C.R.S.

(II) THIS PARAGRAPH (n) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2015.

(3) IF THE DEPARTMENT IS DENIED ACCESS OR IF CONSENT TO ACCESS HAS NOT BEEN GIVEN TO CLEAN UP A SITE WHERE THE DEPARTMENT REASONABLY BELIEVES WASTE TIRES EXIST ILLEGALLY, THE DEPARTMENT MAY OBTAIN FROM THE DISTRICT COURT FOR THE JUDICIAL DISTRICT IN WHICH THE PROPERTY IS LOCATED A WARRANT TO ENTER THE PROPERTY AND REMOVE THE WASTE TIRES.

(4) (a) IN ADDITION TO ANY PENALTIES ASSESSED, THE DEPARTMENT MAY ISSUE AN ORDER REQUIRING THE OWNER OR OPERATOR TO COMPENSATE THE DEPARTMENT FOR THE COST OF REMEDIATION OF THE SITE, AND THE DEPARTMENT MAY REQUEST

THE ATTORNEY GENERAL TO BRING SUIT FOR COMPENSATION FROM THE OWNER OR OPERATOR FOR MONEY EXPENDED REMEDIATING THE SITE. THE DEPARTMENT SHALL USE THE RECOVERED MONEYS TO REIMBURSE THE FUND FOR ACTUAL COSTS OF REMEDIATING THE SITE AND OF SEEKING COMPENSATION PURSUANT TO THIS SECTION. THE STATE TREASURER SHALL CREDIT ALL ADDITIONAL MONEYS TO THE GENERAL FUND.

(b) THE DEPARTMENT MAY PLACE A LIEN ON A PROPERTY ON WHICH THE DEPARTMENT FUNDS THE REMEDIATION OF WASTE TIRES PURSUANT TO THIS SECTION UNTIL THE COSTS OF REMEDIATION HAVE BEEN REPAID TO THE DEPARTMENT. IF COMPLETE REPAYMENT HAS NOT BEEN MADE BEFORE A SALE OF THE PROPERTY, THE DEPARTMENT SHALL BE REPAID IN FULL, TO THE EXTENT POSSIBLE, FROM PROCEEDS OF THE SALE.

(5) (a) IN PROVIDING ASSISTANCE PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL GIVE PRIMARY CONSIDERATION TO PROTECTION OF PUBLIC HEALTH AND THE ENVIRONMENT.

(b) IN AWARDING CONTRACTS FOR SERVICES PURSUANT TO THIS SECTION, THE DEPARTMENT MAY GIVE PREFERENTIAL BIDDING TREATMENT TO INDIVIDUALS OR ENTITIES THAT WILL RECYCLE, PURSUANT TO RULES OF THE DEPARTMENT CONCERNING RECYCLING, AND REUSE, RATHER THAN DISPOSE OF, THE WASTE TIRES.

(6) THE DEPARTMENT SHALL, EITHER ITSELF OR THROUGH A CONTRACTOR, CREATE A PRIORITY ABATEMENT LIST OF ILLEGAL WASTE TIRE DISPOSAL SITES.

(7) THE DEPARTMENT AND THE DEPARTMENT OF TRANSPORTATION SHALL COORDINATE WITH ONE ANOTHER TO SYSTEMATICALLY INVESTIGATE AND RESEARCH THE USE OF TIRE-DERIVED AGGREGATES IN TECHNICALLY FEASIBLE AND ECONOMICALLY VIABLE CIVIL APPLICATIONS ASSOCIATED WITH THE DEPARTMENT OF TRANSPORTATION'S ROADWAY MISSION. THE DEPARTMENT SHALL INCLUDE ANY FINDINGS REGARDING TIRE-DERIVED AGGREGATES, AS APPROPRIATE, IN THE DEPARTMENT'S ANNUAL REPORT TO THE GENERAL ASSEMBLY.

30-20-1405. End users fund - creation - monthly 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) OR (2) (b). THE STATE TREASURER SHALL CREDIT ALL INTEREST AND ANY OTHER RETURN ON THE INVESTMENT OF MONEYS IN THE FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND. THE FUND IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR THE PURPOSES SPECIFIED IN THIS SECTION.

(2) THE DEPARTMENT SHALL USE MONEYS IN THE FUND TO PROVIDE MONTHLY REBATES TO IN-STATE:

(a) END USERS;

(b) RETAILERS WHO SELL TIRE-DERIVED PRODUCT; AND

(c) PROCESSORS OF COLORADO WASTE TIRES WHO SELL THEIR TIRE-DERIVED PRODUCT TO OUT-OF-STATE END USERS.

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

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

(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;

(c) THE COMMISSION SHALL ANNUALLY SET THE AMOUNT OF THE MONTHLY REBATE, NOT TO EXCEED EIGHTY DOLLARS PER TON, IN AN AMOUNT THAT IS:

(I) THE SAME EACH MONTH FOR EACH SUCCESSIVE TWELVE-MONTH PERIOD;

(II) CALCULATED CONSIDERING, AMONG OTHER FACTORS, THE MONTHLY ROLLING WEIGHTED AVERAGE WEIGHT OF WASTE TIRES SUBMITTED FOR A REBATE DURING THE PREVIOUS THIRTY-SIX-MONTH PERIOD PURSUANT TO WHICH THE AVERAGE WEIGHT FROM THE LAST TWELVE MONTHS AFFECTS THE ROLLING AVERAGE MORE THAN THE AVERAGE WEIGHT FROM THE FIRST TWELVE MONTHS; AND

(III) CALCULATED TO EQUALIZE, BUT NOT EXCEED, THE AMOUNT OF REBATES PAID WITH THE ANTICIPATED INCOME TO THE END USERS FUND DURING EACH SUCCEEDING TWELVE-MONTH PERIOD.

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

(I) IF THE WEIGHT OF WASTE TIRES SUBMITTED FOR A REBATE IN ANY ONE MONTH MULTIPLIED BY THE AMOUNT OF THE REBATE EXCEEDS THE BALANCE OF THE END USERS FUND, THE DEPARTMENT SHALL REDUCE THE PER-TON AMOUNT OF THE REBATE THAT MONTH PRO RATA; AND

(II) THE DEPARTMENT SHALL QUARTERLY NOTIFY END USERS WHO HAVE SUBMITTED AN APPLICATION FOR A REBATE DURING THE PRECEDING YEAR OF THE DATE ON WHICH THE BALANCE OF THE END USERS FUND IS ANTICIPATED TO BE INSUFFICIENT TO PAY ALL OF THE REBATES APPLIED FOR;

(e) THE DEPARTMENT SHALL PAY THE REBATE ONLY FOR WASTE TIRES THAT ARE GENERATED AND PROCESSED IN COLORADO;

(f) THE DEPARTMENT SHALL PAY THE REBATE TO AN END USER ONLY IF THE END USER END USES TIRE-DERIVED PRODUCT IN COLORADO OR IF THE END USER USES WHOLE WASTE TIRES TO GENERATE ENERGY OR FUEL IN COLORADO; AND

(g) THE DEPARTMENT MAY DENY THE REBATE TO ANY PERSON WHO IS OUT OF COMPLIANCE WITH ANY STATE OR FEDERAL ENVIRONMENTAL LAWS, RULES, OR REGULATIONS.

(4) UNTIL THE COMMISSION PROMULGATES RULES PURSUANT TO SUBSECTION (3)

OF THIS SECTION, THE REBATE AMOUNT IS FORTY DOLLARS PER TON OF WASTE TIRES, SUBJECT TO MODIFICATION AS FOLLOWS:

(a) THE DEPARTMENT SHALL INCREASE OR DECREASE THE AMOUNT OF THE REBATE AFTER CONSIDERATION OF ALL OF THE REQUIREMENTS AND LIMITATIONS SPECIFIED IN SUBSECTION (3) OF THIS SECTION; AND

(b) THE MAXIMUM AMOUNT OF THE REBATE IS EIGHTY DOLLARS PER TON OF WASTE TIRES.

(5) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2018.

30-20-1406. Waste tire market development fund - creation - incentive programs - legislative declaration - repeal. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE WASTE TIRE MARKET DEVELOPMENT FUND, REFERRED TO IN THIS SECTION AS THE "FUND", CONSISTING OF REVENUES CREDITED PURSUANT TO SECTION 30-20-1403 (2) (a) (III) OR (2) (b). THE STATE TREASURER SHALL CREDIT ALL INTEREST AND ANY OTHER RETURN ON THE INVESTMENT OF MONEYS IN THE FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND. THE FUND IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR THE PURPOSES SPECIFIED IN THIS SECTION.

(2) THE DEPARTMENT SHALL USE THE FUND:

(a) TO ENCOURAGE WASTE TIRE MARKET DEVELOPMENT. THE DEPARTMENT SHALL HIRE A CONTRACTOR TO ASSIST WITH THE IMPLEMENTATION OF A WASTE TIRE MARKETING PLAN, DEVELOPMENT AND IMPLEMENTATION OF FUTURE MARKET DEVELOPMENT PLANS, AND DEVELOPMENT OF THE PROGRAM. THE DEPARTMENT AND CONTRACTOR SHALL BASE THE MARKETING PLAN ON THE COLORADO WASTE TIRE MARKET DEVELOPMENT PLAN PUBLISHED ON BEHALF OF THE DEPARTMENT ON MAY 19, 2013.

(b) TO PROVIDE LIMITED FUNDING TO END USERS TO ASSIST IN THE RESEARCH AND DEVELOPMENT OF NEW AND EXISTING WASTE TIRE RECYCLING TECHNOLOGIES;

(c) TO PROVIDE LIMITED FUNDING TO END USERS TO ASSIST IN THE INCORPORATION OF TIRE-DERIVED MATERIALS INTO ONE OR MORE TIRE-DERIVED PRODUCTS, INCLUDING GROUND RUBBER, TIRE-DERIVED AGGREGATE, AND TIRE-DERIVED FUEL;

(d) TO ASSIST THE DEPARTMENT, THE DEPARTMENT OF TRANSPORTATION, AND OTHER STATE AGENCIES IN THE DEVELOPMENT AND IMPLEMENTATION OF A PUBLIC EDUCATION CAMPAIGN THAT PROMOTES THE BENEFITS OF THE USE OF TIRE-DERIVED PRODUCTS;

(e) TO PROVIDE TECHNICAL ASSISTANCE FOR END USERS IN THE DEVELOPMENT OF TIRE-DERIVED PRODUCTS;

(f) (I) TO FUND RECYCLING INCENTIVE PROGRAMS FOR PUBLIC PROJECTS THAT

CONTAIN OR MAKE USE OF TIRE-DERIVED PRODUCTS. THE DEPARTMENT SHALL DETERMINE HOW TO DISTRIBUTE TIRE REUSE OR RECYCLING INCENTIVE MONEYS AMONG APPROVED PROJECTS. ANY STATE AGENCY IS AUTHORIZED TO EXPEND MONEYS DISTRIBUTED PURSUANT TO THIS SECTION.

(II) THE GENERAL ASSEMBLY DECLARES THAT THE PURPOSE OF THE REUSE AND RECYCLING INCENTIVES UNDER THIS PARAGRAPH (f) IS TO ENCOURAGE THE USE OF COLORADO TIRE-DERIVED PRODUCT AND IS NOT INTENDED TO USURP FUNCTIONS PROPERLY PERFORMED BY THE PRIVATE SECTOR OR TO COMPETE UNFAIRLY WITH PRIVATE BUSINESSES.

(III) FOR THE PURPOSE OF EXPENDING TIRE REUSE OR RECYCLING INCENTIVES UNDER THIS PARAGRAPH (f), THE STATE PURCHASING DIRECTOR AND ANY PURCHASING AGENT HAVE THE AUTHORITY TO PURCHASE TIRE-DERIVED PRODUCTS UNLESS ANY OF THE FOLLOWING CONDITIONS EXIST:

(A) THE PRODUCT IS NOT AVAILABLE WITHIN A REASONABLE PERIOD OF TIME;

(B) THE PRODUCT FAILS TO MEET EXISTING PURCHASING RULES, INCLUDING ANY APPLICABLE SPECIFICATIONS; OR

(C) THE PRODUCT FAILS TO MEET FEDERAL OR STATE HEALTH OR SAFETY STANDARDS AS SET FORTH IN THE CODE OF FEDERAL REGULATIONS OR THE COLORADO CODE OF REGULATIONS; AND

(g) TO ESTABLISH A WASTE TIRE INNOVATIVE TECHNOLOGY BUSINESS DEVELOPMENT GRANT, LOAN, AND INCENTIVE FUNDING PROGRAM THAT WILL ASSIST IN THE CREATION OF WASTE TIRE BUSINESS OPPORTUNITIES AND MARKET DEVELOPMENT ACTIVITIES AND THE CREATION OF WASTE TIRE RECYCLING JOBS.

(3) THE FUND SHALL NOT BE USED:

(a) AS A REBATE PROGRAM OR AS AN END USERS FUND AS SET FORTH IN SECTION 30-20-1405; OR

(b) TO MAKE CAPITAL EQUIPMENT OR INFRASTRUCTURE GRANTS.

(4) THE DEPARTMENT SHALL SUBMIT A REPORT TO THE COMMITTEES OF REFERENCE IN EACH HOUSE OF THE GENERAL ASSEMBLY WITH JURISDICTION OVER TRANSPORTATION AND PUBLIC HEALTH ANNUALLY BEGINNING JULY 1, 2015, INCLUDING A DESCRIPTION OF THE STATUS OF THE PROGRAM, A SUMMARY OF THE GRANTS AWARDED TO END USERS, THE NUMBER AND TYPE OF MARKETS DEVELOPED OR TARGETED FOR DEVELOPMENT, AND RECOMMENDATIONS FOR CONTINUED USE OF THE FUND.

(5) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2018.

30-20-1407. Scope. A PERSON SHALL COMPLY WITH EVERY REQUIREMENT OF THIS PART 14 THAT APPLIES TO THE PERSON'S ACTIVITIES.

30-20-1408. Waste tire haulers. (1) A PERSON WHO TRANSPORTS TEN OR MORE

WASTE TIRES IN ANY ONE LOAD SHALL:

(a) TRANSPORT THE WASTE TIRES EITHER OUT OF STATE OR TO A REGISTERED WASTE TIRE GENERATOR, WASTE TIRE HAULER, WASTE TIRE COLLECTION FACILITY, WASTE TIRE PROCESSOR, WASTE TIRE MONOFILL, APPROVED BENEFICIAL USER OF WHOLE WASTE TIRES, MUNICIPAL OR COUNTY-OWNED WASTE TIRE COLLECTION AREA, OR MUNICIPAL OR PRIVATELY OWNED SOLID WASTE LANDFILL IN COMPLIANCE WITH THE RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(b) REGISTER WITH THE DEPARTMENT AS A WASTE TIRE HAULER PURSUANT TO RULES PROMULGATED PURSUANT TO THIS SECTION;

(c) AFFIX TO THE VEHICLE USED FOR SUCH TRANSPORTATION A WASTE TIRE HAULER DECAL ACQUIRED FROM THE DEPARTMENT PURSUANT TO SECTION 30-20-1417 (1);

(d) COMPLY WITH THE MANIFEST REQUIREMENTS OF SECTION 30-20-1417 (2), INCLUDING CREATING AND MAINTAINING, FOR AT LEAST THREE YEARS, RECORDS RELATING TO SUCH TRANSPORTATION;

(e) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT; AND

(f) COMPLETE AND SUBMIT SELF-CERTIFICATION DOCUMENTATION AS REQUIRED BY THE DEPARTMENT.

(2) A WASTE TIRE HAULER THAT IS NOT ALSO REGISTERED AS A WASTE TIRE COLLECTION FACILITY, WASTE TIRE PROCESSOR, OR WASTE TIRE MONOFILL SHALL NOT HAVE ON SITE:

(a) MORE THAN ONE THOUSAND FIVE HUNDRED WASTE TIRES AT ANY ONE TIME;

(b) A WASTE TIRE FOR MORE THAN THREE DAYS; OR

(c) WASTE TIRES OUTSIDE THE WASTE HAULER'S VEHICLE OR TRAILER.

(3) LAW ENFORCEMENT OFFICERS HAVE AUTHORITY TO STOP A PERSON OR PERSONS HAULING WASTE TIRES IN VIOLATION OF THIS SECTION; IMPOUND THE VEHICLE BEING USED IN VIOLATION OF THIS SECTION; AND ISSUE A CITATION TO THE DRIVER.

(4) A GOVERNMENT ENTITY THAT REMOVES ILLEGALLY DISPOSED WASTE TIRES IS EXEMPT FROM THIS SECTION IF THE WASTE TIRES ARE DISPOSED OF OR RECYCLED IN ACCORDANCE WITH THIS PART 14.

(5) NOTHING IN THIS SECTION PROHIBITS A BENEFICIAL USER OF WASTE TIRES FROM TRANSPORTING WASTE TIRES TO A DEPARTMENT-APPROVED BENEFICIAL USE LOCATION.

(6) THE DEPARTMENT MAY ISSUE A WAIVER RELATING TO ANY REQUIREMENT OF THIS SECTION.

30-20-1409. Waste tire generators - requirements - exemptions. (1) A WASTE TIRE GENERATOR SHALL, AS SPECIFIED BY THE COMMISSION BY RULE:

- (a) REGISTER WITH THE DEPARTMENT;
- (b) AFFIX A DECAL REQUIRED PURSUANT TO SECTION 30-20-1417 (1) TO THE REQUIRED LOCATION;
- (c) MAINTAIN RECORDS, INCLUDING THE MANIFEST REQUIRED BY SECTION 30-20-1417 (2), RELATING TO SUCH GENERATION;
- (d) ENGAGE ONLY A REGISTERED WASTE TIRE HAULER TO TRANSPORT THE WASTE TIRES THE GENERATOR GENERATES;
- (e) DEVELOP AND MAINTAIN WRITTEN CRITERIA FOR DISTINGUISHING WASTE TIRES FROM USED TIRES, KEEP THE CRITERIA ON SITE, AND MAKE THE CRITERIA AVAILABLE FOR INSPECTION;
- (f) CLEARLY IDENTIFY WASTE TIRES AND USED TIRES ACCORDING TO THE CRITERIA DEVELOPED PURSUANT TO PARAGRAPH (e) OF THIS SUBSECTION (1); AND
- (g) ORGANIZE USED TIRES FOR SALE IN A MANNER THAT ALLOWS THE INSPECTION OF EACH INDIVIDUAL TIRE.

(2) A WASTE TIRE GENERATOR IS SUBJECT TO THE FOLLOWING REQUIREMENTS:

- (a) A GENERATOR THAT IS NOT ALSO REGISTERED AS A WASTE TIRE COLLECTION FACILITY, WASTE TIRE PROCESSOR, OR WASTE TIRE MONOFILL SHALL NOT HAVE ON SITE MORE THAN ONE THOUSAND FIVE HUNDRED WASTE TIRES AT ANY ONE TIME;
- (b) A GENERATOR THAT SELLS REPLACEMENT TIRES IN COLORADO SHALL NOT REFUSE TO ACCEPT FROM A CUSTOMER, AT THE POINT OF TRANSFER, WASTE TIRES OF THE SAME GENERAL TYPE AND IN A QUANTITY AT LEAST EQUAL TO THE NUMBER OF NEW TIRES PURCHASED;
- (c) A GENERATOR MAY ACCEPT WASTE TIRES; AND
- (d) A GENERATOR SHALL COMPLETE AND SUBMIT TO THE DEPARTMENT SELF-CERTIFICATION DOCUMENTATION AS REQUIRED BY THE DEPARTMENT.

(3) THE DEPARTMENT MAY ISSUE A WAIVER RELATING TO ANY REQUIREMENT OF THIS SECTION.

30-20-1410. Used tire management. (1) A PERSON WHO ACCUMULATES, STORES, TRANSPORTS, OR DISPENSES USED TIRES SHALL:

- (a)(I) DEVELOP WRITTEN CRITERIA FOR DISTINGUISHING WASTE TIRES FROM USED TIRES, MAINTAIN THE CRITERIA ON SITE, AND MAKE THE CRITERIA AVAILABLE FOR INSPECTION;
- (II) CLEARLY IDENTIFY WASTE TIRES AND USED TIRES ACCORDING TO THE

CRITERIA DEVELOPED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a);

(b)(I) DEVELOP WRITTEN CRITERIA FOR DISTINGUISHING USED TIRES BEING HELD FOR SALE IN COLORADO FROM USED TIRES BEING HELD FOR SALE OUTSIDE COLORADO, MAINTAIN THE CRITERIA ON SITE, AND MAKE THE CRITERIA AVAILABLE FOR INSPECTION;

(II) CLEARLY IDENTIFY USED TIRES BEING HELD FOR SALE IN COLORADO AND USED TIRES BEING HELD FOR SALE OUTSIDE COLORADO ACCORDING TO THE CRITERIA DEVELOPED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b); AND

(c) ORGANIZE USED TIRES FOR SALE IN A MANNER THAT ALLOWS THE INSPECTION OF EACH INDIVIDUAL TIRE.

(2) A PERSON SHALL NOT SELL A USED TIRE IF DOING SO WOULD VIOLATE ANY OF THE CONDITIONS LISTED IN SECTION 42-4-228, C.R.S.

(3) THE DEPARTMENT MAY ISSUE A WAIVER RELATING TO ANY REQUIREMENT OF THIS SECTION.

30-20-1411. Waste tire collection facility - requirements - exemptions. (1) A PERSON WHO OWNS OR OPERATES A WASTE TIRE COLLECTION FACILITY SHALL, AS SPECIFIED BY THE COMMISSION BY RULE:

(a) ESTABLISH AND MAINTAIN FINANCIAL ASSURANCE;

(b) REGISTER WITH THE DEPARTMENT;

(c) AFFIX A DECAL REQUIRED PURSUANT TO SECTION 30-20-1417 (1) TO THE REQUIRED LOCATION;

(d) DEVELOP AND MAINTAIN AN ENGINEERING DESIGN AND OPERATIONS PLAN, INCLUDING A FIRE PREVENTION AND CONTROL PLAN AND A PLAN FOR EMERGENCY RESPONSE;

(e) MAINTAIN RECORDS, INCLUDING THE MANIFESTS REQUIRED BY SECTION 30-20-1417 (2), RELATING TO THE COLLECTION OF WASTE TIRES;

(f) DEVELOP AND MAINTAIN A CLOSURE PLAN;

(g) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT; AND

(h) COMPLETE AND SUBMIT SELF-CERTIFICATION DOCUMENTATION AS REQUIRED BY THE DEPARTMENT.

(2) A WASTE TIRE COLLECTION FACILITY THAT IS NOT ALSO REGISTERED AS A WASTE TIRE PROCESSOR OR WASTE TIRE MONOFILL SHALL NOT HAVE ON SITE MORE THAN SEVEN THOUSAND FIVE HUNDRED WASTE TIRES AT ANY ONE TIME.

(3) A LOCAL, STATE, OR FEDERAL AGENCY THAT STORES WASTE TIRES AS PART OF A ROADSIDE CLEANUP ACTIVITY IS EXEMPT FROM THIS SECTION IF THE AGENCY

STORES FEWER THAN ONE THOUSAND FIVE HUNDRED WASTE TIRES AT THE FACILITY AND THE WASTE TIRES ARE DISPOSED OF OR RECYCLED IN ACCORDANCE WITH THIS PART 14.

(4) THE DEPARTMENT MAY ISSUE A WAIVER RELATING TO ANY REQUIREMENT OF THIS SECTION.

30-20-1412. Waste tire processors - requirements. (1) A WASTE TIRE PROCESSOR SHALL, AS SPECIFIED BY THE COMMISSION BY RULE:

(a) ESTABLISH AND MAINTAIN FINANCIAL ASSURANCE;

(b) REGISTER WITH THE DEPARTMENT;

(c) AFFIX A DECAL REQUIRED PURSUANT TO SECTION 30-20-1417 (1) TO THE REQUIRED LOCATION;

(d) DEVELOP, MAINTAIN, KEEP AVAILABLE FOR INSPECTION, AND COMPLY WITH AN ENGINEERING DESIGN AND OPERATIONS PLAN, INCLUDING A FIRE PREVENTION AND CONTROL PLAN, AND A PLAN FOR EMERGENCY RESPONSE;

(e) MAINTAIN RECORDS, INCLUDING THE MANIFESTS REQUIRED BY SECTION 30-20-1417 (2), RELATING TO THE COLLECTION OF WASTE TIRES;

(f) DEVELOP AND MAINTAIN A CLOSURE PLAN;

(g) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT; AND

(h) COMPLETE AND SUBMIT SELF-CERTIFICATION DOCUMENTATION AS REQUIRED BY THE DEPARTMENT.

(2) A WASTE TIRE PROCESSOR IS SUBJECT TO THE FOLLOWING:

(a) A WASTE TIRE PROCESSOR THAT IS NOT ALSO REGISTERED AS A WASTE TIRE MONOFILL SHALL NOT HAVE AT THE PROCESSING FACILITY AT ANY ONE TIME MORE THAN THE LESSER OF:

(I) ONE HUNDRED THOUSAND WASTE TIRES;

(II) THE AMOUNT OF WASTE TIRES ALLOWED UNDER LOCAL REQUIREMENTS; OR

(III) THE AMOUNT OF WASTE TIRES ANTICIPATED IN THE WASTE TIRE PROCESSOR'S FINANCIAL ASSURANCE INSTRUMENT.

(b) FOLLOWING A ONE-YEAR ACCUMULATION PERIOD, THE WEIGHT OR VOLUME OF WASTE TIRES THAT ARE PROCESSED MUST BE AT LEAST SEVENTY-FIVE PERCENT OF THE TOTAL WEIGHT OR VOLUME OF WASTE TIRES RECEIVED AND CURRENTLY IN STORAGE OVER A THREE-YEAR ROLLING AVERAGE. THE CALCULATION AND ACCUMULATION PERIOD SPECIFIED IN THIS PARAGRAPH (b) MUST BE BASED ON A MEASURE APPROVED BY THE COMMISSION BY RULE.

(3) THE DEPARTMENT MAY ISSUE A WAIVER RELATING TO ANY REQUIREMENT OF THIS SECTION.

30-20-1413. Mobile processors - requirements. (1) A MOBILE PROCESSOR SHALL, AS SPECIFIED BY THE COMMISSION BY RULE:

(a) ESTABLISH AND MAINTAIN FINANCIAL ASSURANCE IN THE AMOUNT OF TEN THOUSAND DOLLARS IF NOT ALREADY REGISTERED AS A WASTE TIRE COLLECTION FACILITY, WASTE TIRE PROCESSOR, OR WASTE TIRE MONOFILL;

(b) REGISTER THE MOBILE PROCESSOR'S PERMANENT BUSINESS ADDRESS WITH THE DEPARTMENT;

(c) AFFIX A DECAL REQUIRED PURSUANT TO SECTION 30-20-1417 (1) TO THE REQUIRED LOCATION;

(d) DEVELOP AND MAINTAIN AN ENGINEERING DESIGN AND OPERATIONS PLAN, INCLUDING A FIRE PREVENTION AND CONTROL PLAN;

(e) MAINTAIN MOBILE PROCESSING RECORDS, INCLUDING THE MANIFESTS REQUIRED BY SECTION 30-20-1417 (2), RELATING TO THE MOBILE PROCESSING OF WASTE TIRES;

(f) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT;

(g) NOT LEASE OR OWN THE PROPERTY ON WHICH THE PROCESSING OCCURS;

(h) NOT ACCEPT OR ACCUMULATE WASTE TIRES UNLESS ALSO REGISTERED AS A WASTE TIRE PROCESSOR AT THE PROPERTY ON WHICH THE PROCESSING OCCURS;

(i) NOTIFY AND RECEIVE PERMISSION FROM THE LOCAL GOVERNING AUTHORITY TO PROCESS WASTE TIRES AT THE LOCATION FOR ANY PERIOD OF TIME;

(j) NOT PROCESS WASTE TIRES AT A LOCATION FOR MORE THAN THIRTY CONSECUTIVE DAYS UNLESS THE MOBILE PROCESSOR:

(I) RECEIVES DEPARTMENT APPROVAL TO PROCESS AT THE LOCATION; AND

(II) REMAINS IN COMPLIANCE WITH ALL STATE AND LOCAL ENVIRONMENTAL REQUIREMENTS AT THE LOCATION OF MOBILE PROCESSING; AND

(k) COMPLETE AND SUBMIT SELF-CERTIFICATION DOCUMENTATION AS REQUIRED BY THE DEPARTMENT.

(2) THE DEPARTMENT MAY ISSUE A WAIVER RELATING TO ANY REQUIREMENT OF THIS SECTION.

30-20-1414. Limitations on the disposal of tires. (1) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1), A PERSON SHALL DISPOSE OF WASTE TIRES ONLY BY DELIVERY TO A GENERATOR ENGAGING IN WASTE TIRE COLLECTION, TO A WASTE TIRE PROCESSOR, TO A WASTE TIRE MONOFILL, OR TO A WASTE TIRE

COLLECTION FACILITY.

(b) IF A PERSON IS ABLE TO ESTABLISH THAT DUE DILIGENCE HAS BEEN CONDUCTED AND NO REASONABLE OPTION FOR DISPOSING OF A WASTE TIRE AS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1) IS AVAILABLE, THEN THE PERSON MAY DISPOSE OF THE WASTE TIRE IN A SOLID WASTES DISPOSAL SITE AND FACILITY OR TRANSFER STATION.

(2) A WASTE TIRE GENERATOR AND AN OWNER OR OPERATOR OF A WASTE TIRE COLLECTION FACILITY SHALL ARRANGE FOR THE COMMERCIAL HAULING OF WASTE TIRES ONLY WITH A HAULER WHO IS CURRENTLY REGISTERED PURSUANT TO SECTION 30-20-1408.

(3) EACH WASTE TIRE IMPROPERLY DISPOSED OF CONSTITUTES A SEPARATE VIOLATION.

30-20-1415. Waste tire monofills - requirements. (1) AN OWNER OR OPERATOR OF A WASTE TIRE MONOFILL SHALL, AS SPECIFIED BY THE COMMISSION BY RULE:

(a) ESTABLISH AND MAINTAIN FINANCIAL ASSURANCE;

(b) REGISTER WITH THE DEPARTMENT;

(c) AFFIX A DECAL REQUIRED PURSUANT TO SECTION 30-20-1417 (1) IN THE REQUIRED LOCATION;

(d) MAINTAIN A CERTIFICATE OF DESIGNATION THAT CONTAINS AN ENGINEERING DESIGN AND OPERATIONS PLAN, INCLUDING A FIRE PREVENTION AND CONTROL PLAN, PLAN FOR EMERGENCY RESPONSE, INVENTORY REDUCTION PLAN, AND CLOSURE PLAN;

(e) MAINTAIN RECORDS, INCLUDING THE MANIFESTS REQUIRED BY SECTION 30-20-1417 (2), RELATING TO THE STORAGE OF WASTE TIRES;

(f) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT;

(g) COMPLY WITH THE MONOFILL'S CERTIFICATE OF DESIGNATION;

(h) COMPLY WITH THE COMMISSION'S RULE ON FINAL DISPOSAL OF WASTE TIRES;

(i) COMPLETE AND SUBMIT SELF-CERTIFICATION DOCUMENTATION AS REQUIRED BY THE DEPARTMENT;

(j) ON AN ANNUAL BASIS, FOR EVERY ONE WASTE TIRE RECEIVED, END USE AT LEAST TWO WASTE TIRES, OR PROCESS AT LEAST TWO WASTE TIRES INTO TIRE-DERIVED PRODUCT; AND

(k) NOT PLACE ANY WASTE TIRES INTO MONOFILL STORAGE AFTER JANUARY 1, 2018, AND CLOSE, OR CAUSE TO BE CLOSED, THE WASTE TIRE MONOFILL BY JULY 1, 2024.

(2) A GOVERNING BODY HAVING JURISDICTION SHALL NOT GRANT AN APPLICATION FOR A LANDFILL DESIGNATED FOR THE DISPOSAL ONLY OF TIRES. NOTHING IN THIS SECTION LIMITS MODIFICATIONS TO EXISTING LANDFILLS THAT ACCEPT WASTE TIRES.

(3) THE DEPARTMENT MAY ISSUE A WAIVER RELATING TO ANY REQUIREMENT OF THIS SECTION.

30-20-1416. End users. (1) END USERS WHO USE MORE THAN AN AMOUNT SET BY THE COMMISSION BY RULE OF TIRE-DERIVED PRODUCT OR WHOLE WASTE TIRES USED TO GENERATE ENERGY OR FUEL SHALL, AS SPECIFIED BY THE COMMISSION BY RULE:

(a) REGISTER WITH THE DEPARTMENT;

(b) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT;

(c) USE ONLY A REGISTERED HAULER TO HAUL WASTE TIRES; AND

(d) MAINTAIN RECORDS, INCLUDING THE MANIFESTS REQUIRED BY SECTION 30-20-1417 (2), RELATING TO WASTE TIRES.

(2) THE DEPARTMENT MAY ISSUE A WAIVER RELATING TO ANY REQUIREMENT OF THIS SECTION.

30-20-1417. Decals - manifests. (1) **Decals.** (a) A PERSON SHALL NOT STORE IN COLORADO TEN OR MORE WASTE TIRES FOR ANY PURPOSE UNLESS:

(I) THE DEPARTMENT HAS ISSUED A DECAL PURSUANT TO THIS SECTION; AND

(II) THE PERSON HAS, PURSUANT TO RULES PROMULGATED PURSUANT TO SECTION 30-20-1401 (2), AFFIXED THE DECAL TO A UNIFORM LOCATION AT THE ADDRESS USED TO STORE THE WASTE TIRES OR THE VEHICLE USED TO HAUL WASTE TIRES OR PROCESSING EQUIPMENT.

(b) THE DEPARTMENT SHALL ISSUE A DECAL TO A PERSON IF THE PERSON HAS SUBMITTED AN APPLICATION TO THE DEPARTMENT CONTAINING ALL INFORMATION REQUIRED BY RULE PROMULGATED PURSUANT TO SECTION 30-20-1401 (2) AND IS NOT IN VIOLATION OF ANY REQUIREMENT OF THIS PART 14.

(c) DECALS ARE VALID FOR A PERIOD DETERMINED BY THE COMMISSION BY RULE. A DECAL ISSUED PURSUANT TO THIS SECTION MUST CONTAIN THE INFORMATION REQUIRED BY RULE PROMULGATED PURSUANT TO SECTION 30-20-1401 (2), INCLUDING AT LEAST AN EXPIRATION DATE AND THE DECAL NUMBER.

(2) **Uniform manifests.** (a) A PERSON SHALL NOT ACCEPT FOR TRANSPORTATION TEN OR MORE WASTE TIRES UNLESS THE PERSON HAS COMPLETED A UNIFORM MANIFEST, AVAILABLE FROM THE DEPARTMENT'S WEB SITE, IN A FORM ESTABLISHED BY THE DEPARTMENT CONTAINING THE INFORMATION SPECIFIED BY RULE PROMULGATED PURSUANT TO SECTION 30-20-1401 (2), INCLUDING AT LEAST THE FOLLOWING:

(I) THE MANIFEST NUMBER;

(II) THE DECAL NUMBER OF THE VEHICLE USED TO TRANSPORT THE TIRES;

(III) THE PERSON'S NAME, ADDRESS, TELEPHONE NUMBER, AND SIGNATURE, UNDER PENALTY OF PERJURY;

(IV) THE CURRENT DATE; THE WASTE TIRE REGISTRATION NUMBER, NAME, ADDRESS, AND TELEPHONE NUMBER OF THE SOURCE OF THE TIRES; AND THE WASTE TIRE REGISTRATION NUMBER, NAME, ADDRESS, AND TELEPHONE NUMBER OF THE FACILITY TO WHICH THE WASTE TIRES WILL BE TRANSPORTED; AND

(V) THE NUMBER OR WEIGHT OF TIRES IN THE LOAD.

(b) A WASTE TIRE HAULER OR MOBILE PROCESSOR SHALL RETAIN ONE COPY OF THE MANIFEST AND, WITHIN A TIME PERIOD ESTABLISHED BY THE COMMISSION BY RULE, SHALL PROVIDE ONE COPY OF THE MANIFEST TO:

(I) THE SOURCE OF THE WASTE TIRE; AND

(II) THE FACILITY TO WHICH THE WASTE TIRES ARE TRANSPORTED.

(c) (I) THE WASTE TIRE HAULER OR MOBILE PROCESSOR, THE SOURCE OF THE WASTE TIRE, AND THE FACILITY TO WHICH THE WASTE TIRES ARE TRANSPORTED SHALL EACH KEEP A COPY OF THE MANIFEST FOR AT LEAST THREE YEARS AFTER THE DATE STATED ON THE MANIFEST.

(II) THE DEPARTMENT MAY ENTER AND INSPECT THE FACILITY OF ANY OF THE ENTITIES NAMED ON THE MANIFEST DURING NORMAL BUSINESS HOURS AND MAY REQUEST A COPY OF THE MANIFEST. FAILURE TO KEEP THE MANIFEST AS REQUIRED BY THIS SUBPARAGRAPH (II) OR TO PRODUCE THE MANIFEST UPON REQUEST BY THE DEPARTMENT OR THE DEPARTMENT'S AGENT IS A VIOLATION OF THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 2-3-1203, **repeal** (3) (gg) (II) as follows:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(gg) July 1, 2020:

(II) ~~The waste tire advisory committee created in section 25-17-208, C.R.S.;~~

SECTION 3. In Colorado Revised Statutes, 24-33.5-1203.5, **amend** (2) introductory portion and (2) (b) as follows:

24-33.5-1203.5. Powers and duties of director. (2) In order to carry out the purposes and provisions of this part 12 and ~~section 25-17-206~~ PART 14 OF ARTICLE 20 OF TITLE 30, C.R.S., the director of the division shall promulgate rules in accordance with article 4 of this title:

(b) Adopting nationally recognized standards that the director of the division reasonably finds necessary to carry out the purposes and provisions of this part 12 and sections 12-28-108 AND 12-47.1-516 and ~~25-17-206~~ PART 14 OF ARTICLE 20 OF TITLE 30, C.R.S.

SECTION 4. In Colorado Revised Statutes, 25-15-302, **repeal** (4.7) as follows:

25-15-302. Solid and hazardous waste commission - creation - membership - rules - fees - administration. (4.7) ~~The commission shall adopt rules pertaining to waste tire haulers pursuant to section 25-17-204.~~

SECTION 5. In Colorado Revised Statutes, 25-17-305, **amend** (2) as follows:

25-17-305. Immunity. (2) A waste hauler, as that term is defined in section ~~30-20-1001 (16)~~ 30-20-1402 (16), C.R.S., or owner or operator of a landfill or transfer station does not violate this part 3 if the hauler, owner, or operator has made a good-faith effort to comply with this part 3 by posting and maintaining, in a conspicuous location at the waste hauler's facility, transfer station, or the landfill, a sign stating that electronic devices will not be accepted at the facility, transfer station, or landfill.

SECTION 6. In Colorado Revised Statutes, 30-20-113, **amend** (1) introductory portion; and **add** (1) (e) as follows:

30-20-113. Inspection - enforcement - nuisances - violations - civil penalty. (1) ~~No~~ A person shall NOT:

(e) VIOLATE ANY PROVISION OF PART 14 OF THIS ARTICLE 20 OR ANY RULE ADOPTED PURSUANT TO PART 14 OF THIS ARTICLE 20.

SECTION 7. In Colorado Revised Statutes, 30-20-1001, **amend** (7), (8), and (19); and **repeal** (12), (17), and (18) as follows:

30-20-1001. Definitions. As used in this part 10, unless the context otherwise requires:

(7) "Residentially generated" means used lead-acid batteries AND used oil ~~and waste tires~~ generated by a person.

(8) "Retailer" means any corporation, limited liability company, partnership, individual, sole proprietorship, joint-stock company, joint venture, or other private legal entity that engages in the sale of new lead-acid batteries OR lubricating oil ~~or new tires~~ directly to the end user.

(12) "Fire" 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.

(17) ~~"Waste tire" has the meaning established in section 25-17-202 (1), C.R.S.~~

(18) ~~"Waste tire monofill" means any duly licensed and permitted solid wastes~~

~~disposal site and facility or section of solid wastes disposal site and facility at which only waste tires are accepted.~~

(19) "Wholesaler" means any corporation, limited liability company, partnership, individual, sole proprietorship, joint-stock company, joint venture, or other private legal entity that sells new lead-acid batteries OR lubricating oil ~~or new tires~~ for resale.

SECTION 8. In Colorado Revised Statutes, 30-20-1009, **amend** (3) as follows:

30-20-1009. Inspection - enforcement - nuisances - violations - civil penalty.

(3) Notwithstanding subsection (1) of this section and sections 30-20-1010 and 30-20-113 (1) (c), any solid wastes disposal site and facility in substantial compliance with its waste characterization plan developed pursuant to section 30-20-110 (1) (g), and rules promulgated thereunder, ~~shall be deemed to be~~ IS in compliance with this part 10 so long as ~~such~~ THE waste characterization plan contains waste acceptance procedures to minimize the disposal of lead-acid batteries AND used oil and waste tires consistent with the requirements of this part 10. ~~Solid wastes disposal sites and facilities existing on August 8, 2005, shall submit an amended waste characterization plan incorporating such waste acceptance procedures to the department of public health and environment no later than January 1, 2006.~~

SECTION 9. In Colorado Revised Statutes, 39-26-706, **amend** (5) as follows:

39-26-706. Miscellaneous sales and use tax exemptions - internet access - refractory materials - precious metal bullion and coins. (5) On and after July 1, 2010, the collection of the waste tire fee pursuant to section ~~25-17-202~~ 30-20-1403, C.R.S., is exempt from taxation under part 1 of this article.

SECTION 10. In Colorado Revised Statutes, **repeal** part 2 of article 17 of title 25.

SECTION 11. Transfers of fund balances. (1) On July 1, 2014, the state treasurer shall transfer the unobligated balances of the following funds, as they existed on June 30, 2014, and before any transfer of the unexpended and unencumbered moneys in the funds as specified in part 2 of article 17 of title 25, Colorado Revised Statutes, as follows:

(a) The balances of the waste tire fee administration cash fund created in section 25-17-202 (3) (c), Colorado Revised Statutes, waste tire cleanup fund created in section 25-17-202.6 (1), Colorado Revised Statutes, waste tire fire prevention fund created in section 25-17-202.8 (1), Colorado Revised Statutes, and law enforcement grant fund created in section 25-17-207 (4), Colorado Revised Statutes, to the waste tire administration, enforcement, and cleanup fund created in section 30-20-1404 (1), Colorado Revised Statutes;

(b) The balance of the processors and end users fund created in section 25-17-202.5 (1), Colorado Revised Statutes, to the end users fund created in section 30-20-1405 (1), Colorado Revised Statutes; and

(c) The balance of the waste tire market development fund created in section 25-17-202.9 (1), Colorado Revised Statutes, to the waste tire market development fund created in section 30-20-1406 (1), Colorado Revised Statutes.

SECTION 12. In Colorado Revised Statutes, 43-2-402, **amend** (5) (a) and (5) (b) as follows:

43-2-402. Noise mitigation measures. (5) (a) The department shall construct noise mitigation measures on the list of approved measures for which a local government has agreed to provide no less than fifty percent of the necessary moneys in the order of priority established pursuant to subsection (4) of this section, using moneys provided by local governments and any moneys distributed to the department by the department of public health and environment pursuant to part 2 of ~~article 17 of title 25~~ 14 OF ARTICLE 20 OF TITLE 30, C.R.S.

(b) After the construction of noise mitigation measures in accordance with paragraph (a) of this subsection (5), the department shall use any moneys provided by local governments or distributed to the department pursuant to part 2 of ~~article 17 of title 25~~ 14 OF ARTICLE 20 OF TITLE 30, C.R.S., to construct other noise mitigation measures on the list of approved measures in the order of priority established pursuant to subsection (4) of this section.

SECTION 13. In Colorado Revised Statutes, **repeal** sections 30-20-121, 30-20-1006, 30-20-1007, and 30-20-1008.

SECTION 14. Appropriation - adjustments to 2014 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of public health and environment for the fiscal year beginning July 1, 2014, are adjusted as follows:

(a) The cash funds appropriation from the waste tire cleanup fund created in section 25-17-202.6 (1), Colorado Revised Statutes, for the waste tire cleanup program, is decreased by \$2,183,991 and 1.0 FTE.

(b) The cash funds appropriation from the law enforcement grant fund created in section 25-17-207 (4), Colorado Revised Statutes, for law enforcement and waste tire fire prevention, is decreased by \$485,952 and 1.0 FTE.

(c) The cash funds appropriation from the waste tire fire prevention fund created in section 25-17-202.8 (1), Colorado Revised Statutes, for law enforcement and waste tire fire prevention, is decreased by \$448,398 and 1.1 FTE.

(d) The cash funds appropriation from the waste tire market development fund created in section 25-17-202.9 (1), Colorado Revised Statutes, for waste tire market development, is decreased by \$373,852 and 0.5 FTE.

(e) The cash funds appropriation from the processors and end users fund created in section 25-17-202.5 (1), Colorado Revised Statutes, for processors and end users reimbursement, is decreased by \$3,354,089 and 0.5 FTE.

(2) In addition to any other appropriation, there is hereby appropriated, out of any

moneys in the waste tire administration, enforcement, and cleanup fund created in section 30-20-1404 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2014, the sum of \$2,942,216 and 5.1 FTE, or so much thereof as may be necessary, to be allocated to the hazardous materials and waste management division for the administration and enforcement of the waste tire program, and for the cleanup of waste tires as related to the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the end users fund created in section 30-20-1405 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2014, the sum of \$3,900,000, or so much thereof as may be necessary, to be allocated to the hazardous materials and waste management division for payment of rebates to waste tire end users, retailers, and processors as related to the implementation of this act.

(4) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the waste tire market development fund created in section 30-20-1406 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2014, the sum of \$386,409, or so much thereof as may be necessary, to be allocated to the hazardous materials and waste management division for waste tire market development as related to the implementation of this act.

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2014, the sum of \$500,000, or so much thereof as may be necessary, for allocation to the waste tire program for the cleanup of waste tires related to the implementation of this act.

SECTION 15. Appropriation - adjustments to 2014 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of revenue for the fiscal year beginning July 1, 2014, are adjusted as follows:

(a) The cash funds appropriation from the waste tire fee administration cash fund created in section 25-17-202 (3) (c), Colorado Revised Statutes, for waste tire fee administration costs, is decreased by \$7,754.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the waste tire administration, enforcement, and cleanup fund created in section 30-20-1404 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2014, the sum of \$34,000, or so much thereof as may be necessary, for allocation to the taxation business group for CITA annual maintenance and support related to the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the waste tire administration, enforcement, and cleanup fund created in section 30-20-1404 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2014, the sum of

\$17,621 and 0.6 FTE, or so much thereof as may be necessary, for allocation to the taxation business group for personal services and operating expenses related to the implementation of this act.

SECTION 16. Effective date - applicability. This act takes effect July 1, 2014, and applies to conduct occurring on or after said date.

SECTION 17. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 2014