WEST VIRGINIA CODE: §22-15A-10

§22-15A-10. Department to administer funds for waste tire remediation; rules authorized; duties of secretary.

(a) The department shall administer all funds made available to the department by legislative appropriation or by funds made available by the Division of Highways, as well as federal, state or private grants for remediation of waste tire piles and for the proper disposal of waste tires removed from waste tire piles.

(b) All authority to promulgate legislative rules necessary to implement the provisions of this article is transferred from the Division of Highways to the Secretary of the Department of Environmental Protection as of the effective date of enactment of this section and article during the 2005 of the Legislature. Any legislative rules promulgated by the Commissioner of the Division of Highways in furtherance of the waste tire remediation program established in former article twenty-four, chapter seventeen of this code shall remain in force and effect as if promulgated by the secretary until they are amended in accordance with the provisions of article three, chapter twenty-nine-a of this code.

(c) The secretary also has the following powers:

(1) To apply and carry out the provisions of this article and the rules promulgated under this article.

(2) To investigate, from time to time, the operation and effect of this article and of the rules promulgated under this article and to report his or her findings and recommendations to the Legislature and the Governor.

(d) The secretary shall determine the location, approximate size and potential risk to the public of all waste tire piles in the state and establish, in descending order, a waste tire remediation list.

(e) The secretary may contract with the Department of Health or the Division of Corrections, or both, to remediate or assist in remediation of waste tire piles throughout the state. Use of available Division of Corrections work programs shall be given priority status in the contract process so long as such programs prove a cost-effective method of remediating waste tire piles.

(f) Waste tire remediation shall be stopped upon the discovery of any potentially hazardous material at a remediation site. The department shall respond to the discovery in accordance with the provisions of article nineteen of this chapter.

(g) The secretary may establish a tire disposal program within the department to provide for a cost effective and efficient method to accept passenger car and light truck waste tires at

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locations designated by the department that have sufficient space for temporary storage of waste tires and personnel to accept and handle waste tires. The secretary may pay a fee for each tire an individual West Virginia resident or West Virginia business brings to the department. The secretary may establish a limit on the number of tires an individual or business may be paid for during any calendar month. The secretary may in his or her discretion authorize commercial businesses to participate in the collection program: *Provided*, That no person or business who has a waste tire pile subject to remediation under this article may participate in this program.

(h) The Commissioner of the Division of Highways may pledge not more than two and one-half million dollars annually of the moneys appropriated, deposited or accrued in the A. James Manchin Fund created by section nine of this article to the payment of debt service, including the funding of reasonable reserves, on bonds issued by the Water Development Authority pursuant to section seventeen-a, article fifteen-a, chapter thirty-one of this code to finance infrastructure projects relating to waste tire processing facilities located in this state: *Provided*, That a waste tire processing facility shall be determined by the Solid Waste Management Board, established pursuant to the provisions of article three, chapter twenty-two-c of this code, to meet all applicable federal and state environmental laws and rules and to aid the state in efforts to promote and encourage recycling and use of constituent component parts of waste tires in an environmentally sound manner: *Provided, however*, That the waste tire processing facility shall have a capital cost of not less than $300 million and the council for community and economic development shall determine that the waste tire processing facility is a viable economic development project of benefit to the state's economy.

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