

Sec. 7. Section 455G.9, subsection 1, paragraph e, Code Supplement 1991, is amended by striking the paragraph.

Sec. 8. Section 455G.11, subsection 8, Code Supplement 1991, is amended to read as follows:

8. Account expenditures. Moneys in the insurance account may be expended for the following purposes:

a. ~~To~~ to take corrective action for and to compensate a third party for damages, including but not limited to payment of a judgment for bodily injury or property damage caused by a release from a tank, where coverage has been provided to the owner or operator from the insurance account, up to the limits of coverage extended. A personal injury is not a compensable third-party liability damage.

b. ~~For the costs of any other activities as the board may determine are necessary and convenient to facilitate compliance with and to implement the intent of federal laws and regulations and this chapter.~~

Sec. 9. NEW SECTION. 455G.20 FINAL APPROVAL.

Notwithstanding any other provision to the contrary, the department of natural resources shall have final approval for a determination as to when remediation shall begin on a site.

Sec. 10. The department of revenue and finance shall refund the amount of the environmental protection charge on petroleum diminution paid pursuant to chapter 424, as authorized by 1991 Iowa Acts, chapter 252, section 2, for aboveground storage tanks located at retail motor vehicle fuel outlets that are not physically connected directly to pumps which dispense petroleum that is sold at the motor vehicle fuel outlet on a retail basis.

Sec. 11. Sections 1, 2, and 10 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 19, 1992

CHAPTER 1218

WASTE TIRE MANAGEMENT

H.F. 2475

AN ACT relating to waste tire management, including the imposing of fees, providing a penalty, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 9B.1, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A certificate of registration shall at all times be carried and displayed in the vehicle used for transportation of waste tires and shall be shown to a representative of the state department of transportation, upon request. The state department of transportation may inspect vehicles used for the transportation of waste tires and request that the certificate of registration of the waste tire hauler be shown, upon request.

Sec. 2. Section 455B.423, subsection 2, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. For the administration of the waste tire collection or processing site permit program.

Sec. 3. Section 455D.11, subsection 1, paragraphs d and f, Code Supplement 1991, are amended to read as follows:

d. "Tire collector" means a person who owns or operates a site used for the storage, collection, or deposit of more than fifty five hundred waste tires.

f. "Waste tire" means a tire that is no longer suitable for its originally intended purpose due to wear, damage, or defect. "Waste tire" does not include a nonpneumatic tire.

Sec. 4. NEW SECTION. 455D.11A FINANCIAL ASSURANCE – WASTE TIRE COLLECTION OR PROCESSING SITES.

1. A person owning or operating a waste tire collection or processing site shall provide a financial assurance instrument to the department prior to the initial approval of a permit or prior to the renewal of a permit for an existing or expanding facility. The financial assurance instrument shall be used to provide for closure of the waste tire collection or processing facility.

2. The financial assurance instrument shall meet all requirements adopted by rule by the commission, and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department.

3. Financial assurance instruments may include instruments such as cash or surety bond, a letter of credit in a form prescribed by the department, or a secured trust fund.

3A. If the owner or operator of a waste tire collection or processing site chooses to provide financial assurance in the form of a surety bond, the bond shall be executed by a surety company authorized to do business in this state. The bond shall be continuous in nature until canceled by the surety. A surety shall provide at least ninety day's notice in writing to the owner or operator and to the department indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon compliance with this section. The surety's liability under this subsection is limited to the amount of the bond or the amount of the damages or moneys due, whichever is less. However, this subsection does not limit the amount of damages recoverable from an owner or operator in the amount of the surety bond. This subsection shall not limit the recovery of damages to the surety bond. The bond shall be made in a form prescribed by the commissioner of insurance and written by a company authorized by the commissioner of insurance to do business in this state. If a surety bond is canceled which has been provided as financial assurance under this subsection, the owner or operator of the waste tire collection or processing site shall demonstrate to the department within thirty days of the cancellation, a means of continued compliance with the financial assurance requirements of this section. If a means of continued compliance is not demonstrated within the thirty-day period, the department shall suspend the permit for the site, and the owner or operator shall perform proper closure of the site within thirty days. If the owner or operator does not properly close the site within the time period allowed, the department shall file a claim with the surety company, prior to the effective date of cancellation of the bond, to collect the amount of the bond for use in performing proper closure. A person who fails to provide for proper closure, notwithstanding collection by the department of the amount of the bond, is guilty of a serious misdemeanor.

4. Financial assurance shall be provided in the amounts as follows:

a. For a waste tire collection or processing site initially permitted on or after July 1, 1992, the financial assurance instrument for a waste tire collection site shall provide coverage in an amount which is equivalent to eighty-five cents per tire collected by the site and the financial assurance instrument for a waste tire processing site shall provide coverage in an amount which is equivalent to eighty-five cents per tire collected for processing by the site which is above the three-day processing supply of tires for the site as determined by the department.

b. For a waste tire collection or processing site in existence prior to July 1, 1992, a waste tire collection site shall provide a financial assurance instrument in an amount which is eighty-five cents per additional tire collected after July 1, 1992, and a waste tire processing site shall provide a financial assurance instrument in an amount which is eighty-five cents per additional tire collected for processing, above the three-day processing supply of tires for the site as determined by the department, after July 1, 1992.

c. Six months after the adoption of financial assurance rules by the department, for a waste tire collection or processing site in existence prior to July 1, 1992, the financial assurance instrument shall provide coverage in an amount which is equivalent to eighty-five cents per tire based upon one-half of the aggregate amount of tires collected prior to July 1, 1992, and remaining on site. One year after the adoption of financial assurance rules by the department, a waste tire collection or processing site shall provide a financial assurance instrument in an amount which is eighty-five cents per tire for all waste tires stored at the site above the three-day processing supply of tires.

5. The financial assurance instrument shall not be assigned for the benefit of creditors with the exception of the state, and shall not be used to pay any final judgment against a permit holder arising out of the ownership or operation of the site. The commission shall adopt rules to establish conditions under which the department may gain access to the financial assurance instrument.

6. The requirement for financial assurance shall not apply to waste tire collection or processing sites operated by a city or county, or operated in conjunction with a sanitary landfill.

Sec. 5. NEW SECTION. 455D.11B PERMITTING OF WASTE TIRE COLLECTION OR PROCESSING SITES — FEES.

An owner or operator of a waste tire collection or processing site, including an enclosed site, shall obtain a permit from the department prior to operation of the site. The owner or operator shall pay an annual fee of eight hundred fifty dollars to the department. The moneys collected by the department shall be deposited in the hazardous substance remedial fund established pursuant to section 455B.423 and shall be used for the purposes of administering the waste tire collection or processing site permit program.

Sec. 6. WASTE TIRE COLLECTION PILOT PROGRAM.

1. The waste management authority division of the department of natural resources shall establish a waste tire collection pilot program to promote the safe collection and disposal of waste tires, beginning July 1, 1992, and ending June 30, 1993. The following counties shall be included in the pilot program: Benton, Black Hawk, Carroll, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Lee, Linn, Marshall, Polk, Pottawattamie, Scott, Story, Wapello, Webster, Winnesheik, and Woodbury.

2. Moneys shall be allocated to the board of supervisors of a county for the establishment and implementation of the program. The board of supervisors shall work in cooperation with the city councils of the cities located within the county in developing and implementing the program, and may work with nonprofit organizations in implementing the program.

3. Notwithstanding section 455B.310, subsection 2, paragraph "b", subparagraphs (2) and (4), \$300,000 of the moneys collected pursuant to subparagraph (2) and \$233,000 of the moneys collected pursuant to subparagraph (4) are appropriated to the department of natural resources for the fiscal year beginning July 1, 1992, and ending June 30, 1993, to provide grants to counties for the development and implementation of waste tire collection pilot projects. Not more than \$18,000 of the \$233,000 collected pursuant to section 455B.310, subsection 2, paragraph "b", subparagraph (4), may be used by the department for administrative costs of the waste tire collection or processing site permit program.

Of the amount appropriated, the moneys shall be allocated as follows:

1. Counties with populations of less than 60,000 shall each be allocated \$15,000.
2. Counties with populations of 60,000 through 110,000 shall each be allocated \$30,000.
3. Counties with populations of 110,001 through 200,000 shall each be allocated \$50,000.
4. Counties with populations of 200,001 or more shall each be allocated \$65,000.

5. Each county participating in the pilot program is encouraged to promote the pilot program, to encourage nonprofit organization participation, and to generate local funding for the development and implementation of the initial program and for the continuation of the program.

6. The pilot program in each county shall be available to private citizens at no charge, and limitations regarding the number of waste tires accepted from an individual may be

established by each county. A pilot program shall not accept waste tires from tire dealers, distributors, or manufacturers, waste tire collection sites, waste tire haulers, or any other person who collects, stores, processes, or recycles waste tires for a profit. A county collecting waste tires shall not store the waste tires, but shall provide for the recycling, processing, or safe disposal of the waste tires collected, which shall not include disposal at a sanitary landfill.

7. Each county participating in the pilot program shall submit a report to the waste management authority division by September 1, 1993, which shall include an itemization of expenditures, a report of the volume of tires collected, and recommendations for the establishment of permanent waste tire collection programs or sites. Following receipt of the reports, the waste management authority division shall submit a compilation of the reports to the general assembly by January 15, 1994.

Sec. 7. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 19, 1992

CHAPTER 1219

INTERNAL REVENUE CODE REFERENCES

H.F. 2401

AN ACT updating the Iowa Code reference to the federal Internal Revenue Code and providing retroactive applicability and effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.3, subsection 5, Code Supplement 1991, is amended to read as follows:

5. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, ~~1991~~ 1992, whichever is applicable.

Sec. 2. This Act applies retroactively to January 1, 1991, for tax years beginning on or after that date.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 22, 1992