

LEGISLATIVE BILL 143

Approved by the Governor May 13, 2003

Introduced by Schrock, 38

AN ACT relating to solid waste; to amend sections 13-2001, 13-2003, 13-2033, 13-2039, 13-2040, 81-1504.01, 81-15,159.02, 81-15,161, and 81-15,162, Reissue Revised Statutes of Nebraska, and sections 13-2042 and 81-15,160, Revised Statutes Supplement, 2002; to provide, change, and eliminate definitions; to change and eliminate provisions under the Integrated Solid Waste Management Act and the Waste Reduction and Recycling Incentive Act; to eliminate obsolete language relating to the Scrap Tire Reduction and Recycling Incentive Fund; to harmonize provisions; to repeal the original sections; and to outright repeal sections 81-15,159.01, 81-15,161.01, 81-15,162.01, 81-15,162.02, and 81-15,162.08, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 13-2001, Reissue Revised Statutes of Nebraska, is amended to read:

13-2001. Sections 13-2001 to 13-2043 and sections 3 and 4 of this act shall be known and may be cited as the Integrated Solid Waste Management Act.

Sec. 2. Section 13-2003, Reissue Revised Statutes of Nebraska, is amended to read:

13-2003. For purposes of the Integrated Solid Waste Management Act, the definitions found in sections 13-2004 to 13-2016.01 and sections 3 and 4 of this act shall be used.

Sec. 3. Passenger tire equivalent of waste tires means twenty pounds of waste tire or processed waste tire.

Sec. 4. Scrap tire or waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

Sec. 5. Section 13-2033, Reissue Revised Statutes of Nebraska, is amended to read:

13-2033. (1) Except as provided in subsections (2) and (3) of this section, ~~after October 1, 1993,~~ no person shall dump or deposit any solid waste at any place other than a landfill approved by the director unless the department has granted a permit which allows the dumping or depositing of solid waste at any other facility. The council may adopt and promulgate rules and regulations regarding the permitting of this activity, which rules and regulations shall protect the public interest but may be based upon criteria less stringent than those regulating a landfill. The council may adopt and promulgate rules and regulations defining beneficial reuse and establishing construction standards and other criteria exempting from permit requirements under this section ~~(a) the~~ the following: (a) The use of dirt, stone, brick, or some inorganic compound for landfill, landscaping excavation, or grading purposes; ~~7~~ (b) the placement of tires, posts, or ferrous objects, not contaminated with other wastes, for ~~bank or~~ agricultural uses, such as bumpers on agricultural equipment, for ballast to maintain covers or structures on the agricultural site, for blowout stabilization, for fish habitat, or for tire mats for bank stabilization; or (c) such other waste placement or depositing activities that are found not to pose a threat to the public health or welfare. In developing construction standards, the council shall consider standards and practices established by the American Society for Testing and Materials.

(2) No person shall be found to be in violation of this section if (a) the solid waste generated by an individual is disposed of on such individual's property, (b) such property is outside the corporate limits of a municipality, and (c) the department determines that the county has not provided integrated solid waste management facilities for its residents.

(3) No person shall be found to be in violation of this section for storing five hundred or fewer passenger tire equivalents of waste tires. Storage of passenger tire equivalents of waste tires for more than one year without reuse, recycling, or shipment out of state is presumed to constitute disposal of solid waste under subsection (1) of this section. Speculative accumulation of more than five hundred passenger tire equivalents of waste tires shall be deemed disposal of solid waste and is prohibited. Tires are not accumulated speculatively if, in a calendar year beginning on January 1, the amount of tire material that is reused or recycled by weight equals at

least seventy-five percent of such material at the beginning of the year. The burden of proof that passenger tire equivalents of waste tires have not been speculatively accumulated rests with the person accumulating the passenger tire equivalents of waste tires to demonstrate through written documentation that the passenger tire equivalents of waste tires have not been accumulated speculatively. Any person, business, or other entity engaged in the business of picking up, hauling, and transporting scrap tires for storage, processing, or recycling shall obtain a permit from the department before engaging in such activity. The council may adopt rules and regulations regarding such permits and may exempt from permit requirements those entities having involvement with scrap tires which is incidental to their primary business activity. Persons holding a permit on the effective date of this act may continue to operate under such permits until new rules and regulations are established under this section. As a condition for obtaining a permit under this section, the department shall require the permittee to provide the department with an annual report indicating the number of scrap tires hauled, the location of the delivery of such scrap tires, and any additional information the council believes necessary to accomplish the purposes of the Integrated Solid Waste Management Act. Any person, county, municipality, or agency may apply to the department for an extension of the deadline contained in subsection (1) of this section. The department shall determine whether or not to grant such extension based upon the good faith efforts of the person, county, municipality, or agency to comply with the Integrated Solid Waste Management Act.

Sec. 6. Section 13-2039, Reissue Revised Statutes of Nebraska, is amended to read:

13-2039. (1) ~~On and after September 1, 1994, land~~ Land disposal of yard waste ~~shall be~~ is prohibited from April 1 through November 30 of each year, except that yard waste which has been separated at its source from other solid waste may be accepted by a landfill for the purpose of soil conditioning or composting. State and local governmental entities responsible for the maintenance of public lands shall give preference to the use of composted materials in all land maintenance activities. ~~Nothing in this section shall be construed to~~ This section does not prohibit the use of yard waste as land cover or as soil-conditioning material.

(2) ~~On and after September 1, 1994, land~~ Land disposal of lead-acid batteries and waste oil ~~shall be~~ is prohibited.

~~(3)(a) On and after September 1, 1995, land disposal of waste tires shall be prohibited except for waste tires processed in a manner established by the department. A landfill shall not refuse to accept a waste tire which has been properly processed.~~

~~(b) On and after September 1, 1998, land~~

(3)(a) Land disposal of waste tires in any form ~~shall be~~ is prohibited except tires that are nonrecyclable. For purposes of this subsection, nonrecyclable tire means a press-on solid tire, a solid pneumatic shaped tire, or a foam pneumatic tire.

(b) On and after September 1, 2003, placing or causing the placement or disposal of scrap tires in any form into the waters of the state is prohibited except as provided in section 13-2033.

(c) Tires are not considered disposed if they are (i) processed into crumb rubber form and reused or recycled in manufactured products such as, but not limited to, products used for schools, playgrounds, and residential, lawn, and garden applications, (ii) used as tire-derived fuel, (iii) retreaded, (iv) processed into chip or shred form and used as drainage media in landfill construction or septic drain fields, (v) used as a raw material in steelmaking, or (vi) processed into shred form and used as an alternative daily cover in a landfill or for a civil engineering project if such project is designed and constructed in compliance with the Engineers and Architects Regulation Act and prior approval for such project is obtained from the department by the tire shredder and the end user, except that departmental approval is not necessary for a tire project involving three thousand five hundred or fewer passenger tire equivalents of waste tires if the department receives notification of the project not later than thirty days prior to any construction on such project. The notification shall contain the name and address of the tire shredder and end user, the location of the project, a description of the type of project, the number of passenger tire equivalents of waste tires to be used, and any additional information the council determines is necessary to accomplish the purposes of the Integrated Solid Waste Management Act.

(4) ~~On and after September 1, 1995, land~~ Land disposal of discarded household appliances ~~shall be~~ is prohibited.

(5) ~~On and after September 1, 1996, land~~ Land disposal of

unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act ~~shall be~~ is prohibited unless such disposal occurs at a licensed hazardous waste disposal facility.

(6) For purposes of this section, land disposal shall include, but not be limited to, incineration at a landfill.

Sec. 7. Section 13-2040, Reissue Revised Statutes of Nebraska, is amended to read:

13-2040. The department shall review all licenses for solid waste management facilities which were issued under the Environmental Protection Act prior to July 15, 1992, and which expire after October 1, 1993, to determine whether the licensee is in compliance with the requirements of the Integrated Solid Waste Management Act and the rules and regulations adopted by the council.

The department may require such licensee to furnish written documentation evidencing compliance. If the department determines that the licensee is not in compliance with the Integrated Solid Waste Management Act and the rules and regulations adopted by the council, the department may issue an amended permit as necessary to bring the licensee into compliance with these provisions.

All licenses for solid waste management facilities issued under the Environmental Protection Act prior to July 15, 1992, shall expire at the stated date of expiration if such expiration date is before October 1, 1993, except that the department may extend such licenses to continue until October 1, 1993, if it finds that the facility remains in compliance with the Environmental Protection Act and the rules and regulations adopted thereunder by the council prior to July 15, 1992.

Permits for solid waste processing facilities, as defined in rules and regulations adopted and promulgated by the council, issued pursuant to the Integrated Solid Waste Management Act shall expire not more than ten years following the date of issuance, as determined by the department. Permits may be renewed only if the department determines, upon application, that the permitholder is in compliance with all requirements of the act.

Permits for solid waste disposal areas, as defined in rules and regulations adopted and promulgated by the council, issued pursuant to the act shall expire not more than five years following the date of issuance as determined by the department. Permits may be renewed only if the department determines, upon application, that the permitholder is in compliance with all requirements of the act.

~~Permits for facilities issued pursuant to the Integrated Solid Waste Management Act shall expire five years following the date of issuance and may be renewed only if the department determines, upon application, that the permitholder is in compliance with all requirements of the act.~~

~~If the applicant is an individual, the application shall include the applicant's social security number.~~

Sec. 8. Section 13-2042, Revised Statutes Supplement, 2002, is amended to read:

13-2042. (1) A disposal fee of one dollar and twenty-five cents is imposed for each six cubic yards of uncompacted solid waste, one dollar and twenty-five cents for each three cubic yards of compacted solid waste, or one dollar and twenty-five cents per ton of solid waste disposed of at landfills regulated by the department. Each operator of a landfill disposal facility shall make the fee payment quarterly. The fee shall be paid quarterly to the department on or before the forty-fifth day following the end of each quarter. For purposes of this section, landfill has the same definition as municipal solid waste landfill unit in 40 C.F.R. part 258, subpart A, section 258.2.

(2) Each fee payment shall be accompanied by a form prepared and furnished by the department and completed by the permitholder. The form shall state the total volume of solid waste disposed of at that facility during the payment period and shall provide any other information deemed necessary by the department. The form shall be signed by the permitholder.

(3) If a permitholder fails to make a timely payment of the fee, he or she shall pay interest on the unpaid amount at the rate specified in section 45-104.02, as such rate may from time to time be adjusted.

(4) This section shall not apply to a site used solely for the reclamation of land through the introduction of landscaping rubble or inert material.

(5) Fifty percent of the total of such fees collected in each quarter shall be remitted to the State Treasurer for credit to the Integrated Solid Waste Management Cash Fund and shall be used by the department to cover the direct and indirect costs of responding to spills or other environmental emergencies, of regulating, investigating, remediating, and monitoring

facilities during and after operation of facilities, or of performance of regulated activities under the Integrated Solid Waste Management Act, the Nebraska Litter Reduction and Recycling Act, and the Waste Reduction and Recycling Incentive Act. The department may seek recovery of expenses paid from the fund for responding to spills or other environmental emergencies or for investigation, remediation, and monitoring of a facility from any person who owned, operated, or used the facility in violation of the Integrated Solid Waste Management Act, the Nebraska Litter Reduction and Recycling Act, and the Waste Reduction and Recycling Incentive Act in a civil action filed in the district court of Lancaster County. Of the amount credited to the Integrated Solid Waste Management Cash Fund, the department may disburse amounts to political subdivisions for costs incurred in response to and remediation of any solid waste disposed of or abandoned at dump sites or discrete locations along public roadways or ditches and on any contiguous area affected by such disposal or abandonment. Such reimbursement shall be by application to the department on forms prescribed by the department. The department shall prepare and make available a schedule of eligible costs and application procedures which may include a requirement of a demonstration of preventive measures to be taken to discourage future dumping. The department may not disburse to political subdivisions an amount which in the aggregate exceeds five percent of total revenue from the disposal fees collected pursuant to this section in the preceding fiscal year. These disbursements shall be made on a fiscal-year basis, and applications received after funds for this purpose have been exhausted may be eligible during the next fiscal year but are not an obligation of the state. Any eligible costs incurred by a political subdivision which are not funded due to a lack of funds shall not be considered an obligation of the state. In disbursing funds under this section, the director shall make efforts to ensure equal geographic distribution throughout the state and may deny reimbursements in order to accomplish this goal.

(6) The remaining fifty percent of the total of such fees collected per quarter shall be remitted to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund. For purposes of determining the total fees collected, any amount of fees rebated pursuant to section 13-2042.01 shall be included as if the fees had not been rebated, and the amount of the fees rebated pursuant to such section shall be deducted from the amount to be credited to the Waste Reduction and Recycling Incentive Fund.

(7) The council shall adopt and promulgate rules and regulations for the distribution of grants under subsection (6) of this section from the proceeds of the fees imposed by this section to counties, municipalities, and agencies for the purposes of planning and implementing facilities and systems to further the goals of the Integrated Solid Waste Management Act. The fees collected pursuant to this section shall not be used as grant proceeds to fund landfill closure site assessments, closure, monitoring, or investigative or corrective action costs for existing landfills or landfills already closed prior to July 15, 1992. The rules and regulations shall base the awarding of grants on a project's reflection of the integrated solid waste management policy and hierarchy established in section 13-2018, the proposed amount of local matching funds, and community need.

Sec. 9. Section 81-1504.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-1504.01. ~~(1) Except as provided in subsection (2) of this section,~~ The Department of Environmental Quality shall provide the following information to the Clerk of the Legislature by December 1 of each year:

(1) ~~(a)~~ A report by type of service or aid provided by the use and distribution of federal funds received by the department. The report shall also include user fees, permit fees, license fees, and application fees authorized by the federal Environmental Protection Agency as follows:

(a) ~~(i)~~ Actual expenditure of each grant or authorized fees for the most recently completed state fiscal year, including state matching funds;

(b) ~~(ii)~~ Current budget and planned use and distribution of each grant and authorized fees for the current state fiscal year, including state matching funds;

(c) ~~(iii)~~ A summary of the projected funding level of each grant and authorized fees and the impact of federal mandates and regulations upon the future use of each grant and authorized fees; and

(d) ~~(iv)~~ Program summaries including statistical summaries when applicable for the most recently completed state fiscal year and program activity goals for the current state fiscal year;

(2) ~~(b)~~ A summary of regulations of the federal Environmental Protection Agency which the department is required to implement and which do

not include federal funding assistance and the possible financial impact to the state and political subdivisions;

(3) ~~(e)~~ A report by type of service or aid provided by the use and distribution of state general and cash funds, including user fees, permit fees, license fees, and application fees, to carry out activities that are not funded by federal grants as follows:

(a) ~~(i)~~ Actual expenditure of state funds, by agency sections, for the most recently completed state fiscal year, including a breakdown of expenditures by personal services, operations, travel, capital outlay, and consulting and contractual services;

(b) ~~(ii)~~ Current budget and planned use and distribution of state funds, by agency sections, for the current state fiscal year, including a breakdown of expenditures for personal services, operations, travel, capital outlay, and consulting and contractual services;

(c) ~~(iii)~~ A summary of projected program funding needs based upon the statutory requirements and public demand for services and the department's assessment of anticipated needs statewide; and

(d) ~~(iv)~~ Program summaries including statistical summaries when applicable for the most recently completed state fiscal year and program activity goals for the current state fiscal year;

(4) ~~(d)~~ A report regarding staff turnover by job class and the department's assessment of its ability to hire and retain qualified staff considering the state's personnel pay plan;

(5) ~~(e)~~ A report listing the method used by each new or existing licensee, permittee, or other person who is required by the department to establish proof of financial responsibility; and

(6) ~~(f)~~ A report of funds credited to the Nebraska Litter Reduction and Recycling Fund under the Nebraska Litter Reduction and Recycling Act.

~~(2) By December 1, 1996, the department shall provide a status report on the statewide scrap tire program developed pursuant to section 81-15,161.01, including applications for grants and loans from the Scrap Tire Reduction and Recycling Incentive Fund, grants and loans made from the fund, the current status of each loan, the contributions each grant and loan have made to the development of the statewide scrap tire program, and the current status of the scrap tire problem in the state.~~

Sec. 10. Section 81-15,159.02, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,159.02. For purposes of the Waste Reduction and Recycling Incentive Act:

(1) ~~Collection site means a site used for the temporary storage of more than one hundred scrap tires;~~

~~(2) Council means the Environmental Quality Council;~~

~~(2) (3) Department means the Department of Environmental Quality;~~

~~(3) (4) Director means the Director of Environmental Quality;~~

~~(5) Manufacturing process means a process that uses the resources contained in scrap tires to create a new rubber-based product but does not include the recovery of energy from scrap tires;~~

~~(6) (4) Scrap tire or waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;~~

~~(5) (7) Tire means any tire made of rubber or other resilient material and normally used on any vehicle, listed in section 81-15,162;~~

~~(8) Tire collector means a person, business, or other entity who owns or operates a collection site;~~

~~(9) (6) Tire-derived product means the usable product produced from a scrap tire. Tire-derived product does not include crumb rubber or chipped tires not intended for a direct end use and does not include baled tires or tire-derived fuel; and~~

~~(10) Tire hauler means a person, business, or other entity engaged in the business of picking up and transporting scrap tires for storage, processing, or disposal but does not include an entity the involvement of which with scrap tires is incidental to hauling refuse, rubbish, or garbage as those terms are defined in section 81-1502;~~

~~(11) Tire processing means the chemical or physical alteration of a scrap tire;~~

~~(12) Tire processing facility means a facility used for tire processing;~~

~~(13) Tire processor means a person, business, or other entity engaged in tire processing; and~~

~~(14) (7) Tire retailer means a person, business, or other entity which engages in the retail sale of tires in any quantity for any use or purpose by the purchaser other than for resale.~~

Sec. 11. Section 81-15,160, Revised Statutes Supplement, 2002, is

amended to read:

81-15,160. (1) The Waste Reduction and Recycling Incentive Fund is created. The department shall deduct from the fund amounts sufficient to reimburse itself for its costs of administration of the fund. The fund shall be administered by the Department of Environmental Quality. The fund shall consist of proceeds from the fees imposed pursuant to the Waste Reduction and Recycling Incentive Act.

(2) The fund may be used for purposes which include, but are not limited to:

(a) Technical and financial assistance to political subdivisions for creation of recycling systems and for modification of present recycling systems;

(b) Recycling and waste reduction projects, including public education, planning, and technical assistance;

(c) Market development for recyclable materials separated by generators, including public education, planning, and technical assistance;

(d) Capital assistance for establishing private and public intermediate processing facilities for recyclable materials and facilities using recyclable materials in new products;

(e) Programs which develop and implement composting of yard waste and composting with sewage sludge;

(f) Technical assistance for waste reduction and waste exchange for waste generators;

(g) Programs to assist communities and counties to develop and implement household hazardous waste management programs; and

~~(h) Incentive grants to political subdivisions to assist and encourage the closure of landfills operating without a permit, the regional consolidation of solid waste disposal facilities operating with a permit, and the use of transfer stations. Grants awarded for programs involving land disposal shall include provisions for waste reduction and recycling; and~~

~~(i) Capital assistance for establishing private and public facilities to manufacture combustible waste products and to incinerate combustible waste to generate and recover energy resources, except that no disbursements shall be made under this section for scrap tire processing related to tire-derived fuel.~~

The State Treasurer shall transfer two million one hundred thousand dollars from the Waste Reduction and Recycling Incentive Fund to the General Fund within five days after August 16, 2002.

~~(3) No grant shall be made under section 81-15,161 to a political subdivision which operates a landfill operating without a permit unless the grant will be used to meet permit standards and the landfill is issued a permit within two years after the award of the grant.~~

~~(4) Grants up to one million dollars annually shall be available until June 1, 2004 30, 2007, for new scrap tire projects only, if acceptable scrap tire project applications are received. Eligible categories of disbursement under section 81-15,161 may include, but are not limited to:~~

~~(a) Reimbursement for the purchase of crumb rubber generated and used in Nebraska, with disbursements not to exceed fifty percent of the cost of the crumb rubber;~~

~~(b) Reimbursement for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content, with disbursements not to exceed twenty-five percent of the product's retail cost, except that persons who applied for a grant between June 1, 1999, and May 31, 2001, for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content may apply for reimbursement on or before July 1, 2002. Reimbursement shall not exceed twenty-five percent of the product's retail cost and may be funded in fiscal years 2001-02 and 2002-03;~~

~~(c) Participation in the capital costs of building, equipment, and other capital improvement needs or startup costs for scrap tire processing or manufacturing of tire-derived product, with disbursements not to exceed fifty percent of such costs or five hundred thousand dollars, whichever is less;~~

~~(d) Participation in the capital costs of building, equipment, or other startup costs needed to establish collection sites or to collect and transport scrap tires, with disbursements not to exceed fifty percent of such costs;~~

~~(e) Cost-sharing for the manufacturing of tire-derived product, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;~~

~~(f) Cost-sharing for the processing of scrap tires, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;~~

(g) Cost-sharing for the use of scrap tires for civil engineering applications for specified projects, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually; and

(h) Disbursement to a political subdivision up to one hundred percent of costs incurred in cleaning up scrap tire collection and disposal sites.

The director shall give preference to projects which utilize scrap tires generated and used in Nebraska.

~~(5)~~ (4) Priority for grants made under section 81-15,161 shall be given to grant proposals demonstrating a formal public/private partnership except for grants awarded from fees collected under subsection (6) of section 13-2042.

~~(6)~~ (5) Grants awarded from fees collected under subsection (6) of section 13-2042 may be renewed for up to a five-year grant period. Such applications shall include an updated integrated solid waste management plan pursuant to section 13-2032. Annual disbursements are subject to available funds and the grantee meeting established grant conditions. Priority for such grants shall be given to grant proposals showing regional participation and programs which address the first integrated solid waste management hierarchy as stated in section 13-2018 which shall include toxicity reduction. Disbursements for any one year shall not exceed fifty percent of the total fees collected after rebates under subsection (6) of section 13-2042 during that year.

~~(7)~~ (6) Any person who ~~operates a scrap tire collection site~~ stores waste tires in violation of state law section 13-2033, which storage is the subject of abatement or cleanup, shall be liable to the State of Nebraska for the reimbursement of expenses of such abatement or cleanup paid by the Department of Environmental Quality.

~~(8)~~ (7) The Department of Environmental Quality may receive gifts, bequests, and any other contributions for deposit in the Waste Reduction and Recycling Incentive Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 12. Section 81-15,161, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,161. (1) Allocations from the Waste Reduction and Recycling Incentive Fund ~~and from the Scrap Tire Reduction and Recycling Incentive Fund~~ may be made as grants to a political subdivision or other entity or organization, public, private, or nonprofit, when it is found that the proposed program, project, or study appears to benefit the general public, to further the goals of waste reduction and recycling, and to be consistent with proper waste management practices. Each application for a grant under the Waste Reduction and Recycling Incentive Act shall be filed with the department in a manner and form prescribed by the department.

(2) The council shall adopt guidelines for the determination of eligibility of public, private, and nonprofit entities, organizations, or persons to receive funds pursuant to the ~~Waste Reduction and Recycling Incentive Act~~ act and for the determination of qualification and suitability of plans submitted by such entities, organizations, and persons consistent with the act.

(3) An application for a grant shall: (a) Describe the nature and purpose of the proposed program, project, or study; (b) set forth or be accompanied by a plan for development of the proposed program, project, or study, together with engineering, economic, and financial feasibility data and information and such estimated costs of construction or implementation as may be required by the department; (c) state whether money other than that for which the application is made will be used to help in meeting program, project, or study costs and whether such money is available or has been sought for this purpose; (d) when appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands; (e) show that the applicant possesses all necessary authority to undertake or participate in the proposed program, project, or study; and (f) demonstrate the probable environmental and ecological consequences that may result from the proposed program or project. Upon receipt of an application the director shall evaluate and investigate all aspects of the proposed program, project, or study and the proposed schedule for the development and completion of such program, project, or study and determine the eligibility of the program, project, or study for funding. As a part of his or her investigation, the director shall consider whether the plan for development of the program, project, or study is satisfactory. If the director determines that the plan is unsatisfactory or that the application

does not contain adequate information upon which to make determinations, the director shall return the application to the applicant and may make recommendations to the applicant which the director considers necessary to make the plan or the application satisfactory.

(4) The director shall within a reasonable time, not to exceed six months, after receipt of such application approve or reject grant funding for the program, project, or study. ~~Funds for grants from the Scrap Tire Reduction and Recycling Incentive Fund shall be allocated as provided in section 81-15,162.02.~~ The grant shall be for a specific dollar amount of funds, and the funds shall be used only for the purpose specified in the grant. ~~Subject to section 81-15,162.02,~~ The director may set any terms for the administration of the funds as he or she deems necessary and any penalties to be imposed upon the recipient if it fails to comply with any requirements of the grant.

(5) It is the intent of the Legislature that allocations from the Waste Reduction and Recycling Incentive Fund ~~and the Scrap Tire Reduction and Recycling Incentive Fund~~ shall be made in an equitable manner which maximizes the benefits of the ~~funds~~ fund. When awarding grants, the director shall balance the needs of: (a) All geographic areas of the state; (b) all sizes and classes of communities; and (c) all manner and scale of programs, projects, and studies. The director shall also give consideration to eligible programs, projects, and studies which would specifically employ disabled or handicapped persons.

(6) The director may deny any application which he or she determines (a) is not in conformance with this section, (b) does not reflect reasonable costs for the type of project proposed, (c) contains inaccurate, incomplete, or misleading information in the application, or (d) would require the expenditure of funds beyond the fund's unobligated balance or for any other reason which the director determines is necessary to properly administer this section.

(7) All disbursements made under this section shall be formalized by a written agreement between the department and all recipients of the disbursement. The agreement may include, but need not be limited to, the following conditions designed to protect the fund and ensure completion of the project: (a) Mechanics of funding disbursement; (b) any bidding requirements; (c) completion timelines for any deliverables; (d) record-keeping and reporting requirements; (e) security interest and insurance requirements on equipment; (f) forfeiture and repayment of funds; and (g) other conditions necessary or desirable to carry out this section.

(8) The council shall adopt and promulgate rules and regulations to carry out the Waste Reduction and Recycling Incentive Act. ~~7 except for disbursements under section 81-15,162.02 which shall be determined by the director.~~

~~(7) The director, when making disbursements under section 81-15,162.02, shall do so in a manner which (a) is consistent with the categories established in such section and (b) provides funding to projects which most effectively carry out the purposes of such section.~~

Sec. 13. Section 81-15,162, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,162. (1) ~~Commencing October 1, 1990, there~~ There is hereby imposed a fee of one dollar on each tire of every new motor vehicle, trailer, or semitrailer sold at retail in this state. Such fee shall be collected by the county treasurer at the time of registration of the motor vehicle, trailer, or semitrailer and remitted to the Department of Revenue.

(2) ~~Commencing October 1, 1990, there~~ There is hereby imposed a fee of one dollar on every tire sold at retail in this state, including every farm tractor tire, which tires are not on a motor vehicle, trailer, or semitrailer pursuant to subsection (1) of this section. Such fee shall be collected from the purchaser by the tire retailer at the time of purchase and shall be remitted to the Department of Revenue.

(3) For purposes of this section, tire shall have the definition found in section 81-15,159.02 and shall include a pneumatic and solid tire but shall not include a recapped or regrooved tire.

(4) Subject to section 81-15,165, +

~~(a) On or before June 30, 1999, the fees remitted to the Department of Revenue under this section shall be remitted to the State Treasurer for credit to the Scrap Tire Reduction and Recycling Incentive Fund, and~~

~~(b) After June 30, 1999, the fees remitted to the Department of Revenue under this section along with any unobligated balance in the Scrap Tire Reduction and Recycling Incentive Fund shall be remitted to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund. Fees collected in excess of one million dollars shall be available for grants~~

to political subdivisions under rules and regulations adopted pursuant to subsection (7) of section 13-2042.

Sec. 14. Original sections 13-2001, 13-2003, 13-2033, 13-2039, 13-2040, 81-1504.01, 81-15,159.02, 81-15,161, and 81-15,162, Reissue Revised Statutes of Nebraska, and sections 13-2042 and 81-15,160, Revised Statutes Supplement, 2002, are repealed.

Sec. 15. The following sections are outright repealed: Sections 81-15,159.01, 81-15,161.01, 81-15,162.01, 81-15,162.02, and 81-15,162.08, Reissue Revised Statutes of Nebraska.