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TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

9 VAC 20-150-10 et seq. Waste Tire End User Reimbursement Regulation.

Statutory Authority: §§ 10.1-1402, 10.1-1422.3 and 10.1-1422.4 of the Code of Virginia.

Effective Date: November 18, 1997.

9 VAC 20-150-10. Definitions.

A. The definitions set out in Part I of the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 et seq., are incorporated by reference.

B. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Applicant" means any person or persons seeking reimbursement under this chapter.

"Asphalt pavement containing recycled rubber" means any hot mix or spray applied binder in asphalt paving mixture that contains rubber from waste tire materials which is used for asphalt pavement base, surface course or interlayer, or other road and highway related uses.

"Authorized signature" means the signature of an individual who has authority to sign on behalf of, and bind, the applicant.

"Available funds" means for a given fiscal year, a maximum of 80% of the previous fiscal year's collection of the waste tire tax plus 85% of nonobligated carryover funds at the end of the previous fiscal year.

"Burning" means the controlled burning of waste tire materials for the purpose of energy recovery.

"Cost of use" means the equipment, leasehold improvements, buildings, land, engineering, transportation, operating, taxes, interest, and depreciation or replacement costs of using waste tire materials incurred by the end user after deducting any tipping fee received by the end user.

"Daily cover" means using waste tire material as an alternate cover placed upon exposed solid waste to control disease vectors, fires, odors, blowing litter and scavenging without presenting a threat to human health and the environment.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality or the director's designee.

"Embankment" means a raised earthen structure to carry a roadway.

"End user" means:

1. For energy recovery: the person who utilizes the heat content or other forms of energy from the burning or pyrolysis of waste tire materials;
2. For other eligible uses: the last person who uses the waste tire materials to make a product with economic value. If the waste tire materials are processed by more than one person in becoming a product, the end user is the last person to use the tire as waste tire materials. A person who produces waste tire materials and gives or sells them to another person to use is not an end user.

"Energy recovery" means utilizing the heat content or other forms of energy from the burning or pyrolysis of waste tire materials.

"Fill material for construction" means the material is used as a base or sub-base under the footprint of a structure, a paved parking lot, sidewalk, walkway or similar application.

"Generator" means any person whose act or process produces waste tires or whose act first causes a tire to become a solid waste.

"Hauler" means a person who picks up or transports waste tires for the purpose of removal to a permitted storage, processing or disposal facility.

"Partial reimbursement" means reimbursement that does not exceed the purchase price of waste tire materials or the cost of use if the waste tire materials were not purchased.

"Passenger tire equivalent" means a measure of passenger, truck tires, and oversize tires where: One passenger car tire equals 20 pounds or 1/100 ton. One truck tire 20-24 inch rim equals 100 pounds or 1/200 ton and a tire with over 24-inch rim equals 200 pounds or greater as computed by the end user.

"Processor" means a person engaged in the processing of waste tires including, but not limited to, stamping, stripping, shredding, or crumbing; that operates under a permit issued by the local, state, or federal government; or is exempt from permit requirements.

"Pyrolysis" means thermal treatment of waste tire materials to separate it into other components with economic value.

"Retreading" means processing a waste tire by attaching a new tread to make a usable tire.

"Road bed base" means the foundation of a road prepared for surfacing.

"Tipping fee" means a fee charged to a person for disposal of a waste tire.

"Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle in which a person or property is transported, or by which they may be drawn on a highway.

"Tire pile" means an accumulation of waste tire materials that violates the Virginia Solid Waste Management Regulations (9 VAC 20-80-10 et seq.).

"Waste tire" means a tire that has been discarded because it is no longer suitable for its original intended purpose because of wear, damage or defect.

"Waste tire materials" means whole waste tires or waste tires that have been size reduced by physical or chemical process. This term includes waste tires or chips or similar materials as specified in §§ 10.1-1422.3 and 10.1-1422.4 of the Code of Virginia.

"Waste Tire Trust Fund" means the nonreverting fund set up by § 10.1-1422.3 of the Code of Virginia in which proceeds from the waste tire tax are deposited.

9 VAC 20-150-90. (Repealed.)

9 VAC 20-150-120. Application for reimbursement.

A. A person may apply to the director for reimbursement from the Waste Tire Trust Fund on a monthly or quarterly basis for utilizing waste tire materials if the request for reimbursement is complete and complies with other provisions of this chapter.

B. The minimum reimbursement application amount is 5,000 passenger tire equivalents or 50 tons of waste tire materials used.

C. In order to apply for reimbursement, the utilization of the waste tire materials must occur after December 20, 1994.

D. An applicant for reimbursement must file form DEQ-EURR with the director, providing at a minimum:

1. Applicant's name and address;
2. Name and location of facility where end use occurs;
3. A description of the end use;
4. A statement of the purchase price paid for the waste tire materials or, if the waste tire materials were not purchased, the cost of use; and
5. An authorized signature.

E. Application for quarterly reimbursement will be accepted up to the last business day of the month following a calendar quarter. Applications received after the one-month deadline will be considered late and reimbursement will not be considered for that calendar quarter. Such a late application will be considered in the following calendar month with other monthly applications.

Application for monthly reimbursement will be accepted up to the 15th calendar day of the month following a month. Applications received after the 15-day deadline will be considered late and reimbursement will not be considered for that month. Such a late application will be considered in the following month.

F. An applicant for a reimbursement for utilization of waste tire materials is subject to audit by the director. Applicants shall allow access to all records related to waste tire management activities during normal business hours for the purpose of determining compliance with this chapter for five years from the date of reimbursement.

G. In addition to any other penalty imposed by law, any person who knowingly or intentionally provides false information to the director in applying for a reimbursement shall be ineligible to receive any reimbursement under this chapter.

9 VAC 20-150-130. Review of application.

A. The director shall review the reimbursement application form, DEQ-EURR, for completeness and eligibility within three days of receipt.

B. If an application is not complete as required in 9 VAC 20-150-120 D, the director may require the applicant to submit the missing information. The director may delay reimbursement until the information is received.

C. The director will process for payment all applications for reimbursement that are complete and in compliance with the regulations up to the amount of available funds. The complete applications will be processed in the order received and until available funds are exhausted. Complete applications will be reviewed and acted on within three working days. When available funds for a given fiscal year are exhausted, all remaining eligible applications will be held and paid first in the following fiscal year.

D. When an applicant believes an error has been made in the review of or response to his application, he shall notify the director in writing within 30 days of receiving the director's response. The notice shall contain a copy of the application and the director's response, a brief statement describing the believed error, and copies of any documents supporting the statement.

The director shall review the notice and attached documents and may further investigate the matter. The director shall advise the applicant in writing in due course of his response to the applicant's notice of error.

If the director concludes that an error has been made, he shall reinstate the application and act on it. If the available funds are exhausted, and would not have been had the director acted correctly on the application originally, the reinstated application shall be carried over to the next year and paid from available funds.

FORMS:

Commonwealth of Virginia Waste Tire Certification, DEQ-WTC, Revised 1/96.

Waste Tire Program End User Reimbursement Application, DEQ-EURR, Revised 8/97.