

103^D CONGRESS
1ST SESSION

H. R. 1810

To amend the Solid Waste Disposal Act to require producers and importers of tires to recycle a certain percentage of scrap tires each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such tires, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 1993

Mr. TORRES introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Solid Waste Disposal Act to require producers and importers of tires to recycle a certain percentage of scrap tires each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such tires, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tire Recycling Incen-
5 tives Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) The generation of solid and hazardous
4 waste has grown to alarming proportions in the
5 United States, with per capita disposal having in-
6 creased by 80 percent from 1960 to 1989. Each per-
7 son in the United States throws away 3.6 pounds of
8 garbage every day—enough annually to fill a convoy
9 of 10-ton garbage trucks 145,000 miles long, which
10 is the equivalent of half-way to the moon or roughly
11 7 times around the Equator.

12 (2) Frequently, economic incentives are not suf-
13 ficient to encourage waste minimization and respon-
14 sible environmental behavior, and such incentives ac-
15 tually may favor increased waste generation and im-
16 proper behavior.

17 (3) A system of economic incentives targeted at
18 waste reduction and recycling together with respon-
19 sible regulation of recycling activity can reduce both
20 the amount and toxicity of materials entering the
21 environment.

22 (4) The Administrator of the Environmental
23 Protection Agency requires additional statutory au-
24 thority to establish appropriate management and re-
25 cycling requirements and to address situations in
26 which economic incentives to encourage waste reduc-

1 tion and responsible environmental behavior are not
2 adequate.

3 (5) There is a need to encourage greater recycling of scrap tires. Americans generate more than
4 250 million scrap tires annually. Such scrap tires,
5 piled one on top of another, would be 98,000 Empire
6 State Buildings. Less than 30 percent of the currently generated scrap tires are recycled. Currently,
7 2½ to 3 billion scrap tires are stockpiled across
8 America and these scrap tire dumps grow larger
9 every year. Such stockpiling is, itself, a potential
10 health concern.

11 (6) While wornout tire casings currently represent only 1.2 percent of the solid waste stream,
12 scrap tires present a special disposal/reuse challenge
13 because of their size, shape, and physical/chemical
14 nature.

15 (7) Scrap tires, when disposed of whole in a
16 landfill, have a unique tendency to rise back to the
17 surface, thus disrupting the landfill cap and allowing
18 water to infiltrate the landfill.

19 (8) Of the more than 250 million scrap tires
20 generated in the United States every year, 84.5 percent
21 are landfilled, stockpiled, or illegally dumped.

1 (9) The whole scrap tires which are stockpiled
2 represent not only a waste of resources but also a
3 health hazard because they serve as an ideal breed-
4 ing ground for mosquitoes. According to the Envi-
5 ronmental Protection Agency, mosquito borne dis-
6 eases, like encephalitis and yellow fever, as a result
7 of stockpiled tires, cost an estimated \$5,400,000 a
8 year.

9 (10) Further, fire hazards as a result of tire
10 stockpiles are both severe and wide-ranging. Such
11 scrap tire fires frequently result in air, surface, and
12 ground water pollution. The major problem of a
13 scrap tire fire hazard is the difficulty in extinguish-
14 ing the fire due to the fact that 75 percent of tire
15 space is void. This void space makes it difficult to
16 put out fires or quench the oxygen supply.

17 (11) In addition to the difficulty in putting tire
18 fires out, such fires represent a potential health and
19 environmental risk in the form of both liquid and
20 gaseous emissions from the tires. Burning tires emit
21 solvents and poly-nucleic aeromatic hydrocarbons
22 (PAHs)—many of which are carcinogenic. The tires
23 also melt while burning, releasing both sooty smoke
24 and oily liquids. The water used to extinguish the

1 fire mobilizes these chemicals into the surface and
2 ground water.

3 (12) Estimated direct annual expenditures for
4 extinguishing tire fires are greater than \$2,000,000.
5 One tire fire alone, in Winchester, Virginia, required
6 more than \$5,000,000 for control and containment.
7 These estimates say nothing of the environmental
8 damage that must ultimately be paid for.

9 (13) The best way of eliminating the environ-
10 mental and health hazards associated with tire piles
11 is to minimize and ultimately eliminate the stock-
12 piling of tires.

13 (14) While adequate technology exists to signifi-
14 cantly reduce tire stockpiles, scrap tires are
15 underutilized because of adverse economics. It is
16 simply cheaper to throw them away than to recycle.
17 Until economic forces are reversed, tire stockpiling
18 will be the option of choice. Producers and importers
19 of tires are responsible for introduction of such tires
20 into commerce and therefore need to assure that
21 such tires are ultimately managed in a responsible
22 fashion.

1 **SEC. 3. REQUIREMENTS TO RECYCLE SCRAP TIRES.**

2 (a) IN GENERAL.—(1) Subtitle D of the Solid Waste
3 Disposal Act (42 U.S.C. 6921 et seq.) is amended by add-
4 ing at the end the following new sections:

5 **“SEC. 4011. RECYCLING REQUIREMENTS FOR SCRAP TIRES.**

6 “(a) GENERAL REQUIREMENT.—(1) During the pe-
7 riod beginning not later than 24 months after the date
8 of the enactment of the Tire Recycling Incentives Act and
9 ending 10 years after such date, a producer or importer
10 of tires each year shall recycle, using a method described
11 in paragraph (2), an amount of scrap tires equal to at
12 least that amount of tires determined by—

13 “(A) multiplying the tires produced for domes-
14 tic use or consumption or imported that year by
15 such person, by

16 “(B) the recycling percentage established by the
17 Administrator under subsection (b).

18 “(2) A producer or importer of tires may comply with
19 this subsection by either or both of the following methods:

20 “(A) By recycling scrap tires in compliance
21 with the requirements of section 4012 and regula-
22 tions promulgated pursuant to such section through
23 reintroducing the recovered rubber into a manufac-
24 turing process for purposes of producing new tires
25 or by retreading old tire casings.

1 “(B) By purchasing recycling credits under the
2 recycling credit system established pursuant to
3 subsection (c).

4 “(3) A producer or importer of tires shall submit to
5 the Administrator, under regulations promulgated by the
6 Administrator, a report on the amount of tires produced
7 or imported in each calendar year by such person. The
8 report shall be submitted at least once a year, but the Ad-
9 ministrators also may require such interim reports under
10 this paragraph as he considers necessary.

11 “(b) RECYCLING PERCENTAGE.—The Administrator
12 each year shall establish a recycling percentage for use
13 under subsection (a). The percentage applicable during
14 the first year that the requirement established by sub-
15 section (a) is in effect shall be a percentage that is 5 per-
16 centage points higher than the recycling rate for tires that
17 exists on the date of the enactment of the Tire Recycling
18 Incentives Act. Such recycling rate shall be determined by
19 using data for 1992 or the most recent year for which
20 data are available. For each of the 10 years thereafter,
21 the recycling percentage shall be an additional 5 percent-
22 age points higher than the percentage of the previous year.
23 Such recycling percentage shall go into effect automati-
24 cally and shall be published in the Federal Register.

1 “(c) CREDIT SYSTEM FOR RECYCLING SCRAP
2 TIRES.—(1) Not later than 18 months after the date of
3 the enactment of the Tire Recycling Incentives Act, the
4 Administrator shall promulgate regulations to establish a
5 system under which (A) recyclers may create credits for
6 scrap tire recycling, and (B) producers or importers of
7 tires may purchase such recycling credits from such recy-
8 clers, for purposes of complying with subsection (a). No
9 person may create such credits, and no producer or im-
10 porter of tires may purchase such credits, except in ac-
11 cordance with this subsection and the regulations promul-
12 gated under this subsection. In developing the regulations,
13 the Administrator shall, to the maximum extent feasible,
14 allow for the use of records kept in the ordinary course
15 of business or other approaches that facilitate the simple,
16 rapid generation and exchange of credits without a case-
17 by-case approval.

18 “(2) At a minimum, the regulations under paragraph
19 (1) shall include each of the following requirements:

20 “(A) The owner or operator of any tire sale and
21 installation facility or any scrap tire collection facil-
22 ity shall keep receipts issued by any transporters
23 who take delivery of the scrap tires. The receipts
24 shall be kept for at least 3 years and shall show the
25 date, the quantity of scrap tires taken, and the

1 transporter's identification number. The owner or
2 operator shall show such receipts to the Adminis-
3 trator or to any State enforcing this section and sec-
4 tion 4012 upon demand. The owner or operator also
5 shall keep on file a copy of the contract or written
6 agreement between the owner or operator and the
7 transporter under which the transporter agrees to
8 take the scrap tires to a recycling facility.

9 “(B) The owner or operator of a scrap tire re-
10 cycling facility who obtains a permit in accordance
11 with section 4012(d) is the only person who may
12 create a recycling credit for the recycling credit sys-
13 tem. Recycling credits may be created through
14 shredding scrap tires, burning scrap tires for energy
15 recovery in a manner approved under Federal or
16 State law, reusing scrap tires through retreading,
17 utilizing crumb rubber made from scrap tires in an
18 asphalt road paving mix, recycling scrap tires by re-
19 covering rubber from the tires, or such other means
20 as may be identified by the Administrator. The
21 amount of recycling credit that may be created for
22 one scrap tire handled at a scrap tire recycling facil-
23 ity is as follows:

24 “(i) One-fourth of a credit for one tire
25 shredded.

1 “(ii) One-fourth of a credit for one tire
2 burned after shredding.

3 “(iii) One-half of a credit for one whole
4 tire burned in an approved manner.

5 “(iv) Three-fourths of a credit for one tire
6 reused or recycled after shredding.

7 “(v) One credit for one whole tire reused
8 or recycled. Methods of reuse may include re-
9 treading, and methods of recycling may include
10 recovering rubber from the tire to produce tires
11 or an asphalt road paving mix. If the method
12 of recovery involves shredding or crumbling of
13 the whole tire, an additional one-fourth of a
14 credit may not be claimed under clause (i) or
15 (ii).

16 “(C) Each year a producer or importer of tires
17 shall keep records of the quantity of tires produced
18 or imported, the recycling of scrap tires carried out
19 to comply with subsection (a), the amount of recy-
20 cling credits purchased, the names of recyclers from
21 whom the credits were purchased and the dates of
22 the purchases, the price paid for the credits, and the
23 amount, if any, of recycling credits sold or carried
24 over from previous years. The regulations shall allow
25 for a two-year carryover of credits.

1 “(3) The Administrator may include such other re-
2 quirements in the regulations under paragraph (1) with
3 respect to qualifications for recyclers, importers, and pro-
4 ducers, methods for auditing compliance with the system,
5 and enforcement of the system as the Administrator con-
6 siders necessary or appropriate for administering the recy-
7 cling credit system established under this subsection.

8 “(d) REPORTS.—(1) Not later than six years after
9 the date of the enactment of the Tire Recycling Incentives
10 Act, the Administrator shall submit to Congress an in-
11 terim report on the implementation of this section. The
12 report shall include, at a minimum—

13 “(A) a discussion of the effects of the require-
14 ments of this section on the tire industry, the scrap
15 tire recycling industry, and the environment, includ-
16 ing the extent of improper tire storage and disposal;
17 and

18 “(B) an evaluation of the level of the recycling
19 percentage under subsection (b) and recommenda-
20 tions on whether, and at what rate, the percentage
21 should be increased in future years above the per-
22 centage applicable under subsection (b).

23 “(2) Not later than 10 years after such date, the Ad-
24 ministrator shall submit to Congress a final report on the
25 implementation of this section. The report shall include

1 an updated version of the discussion and evaluation re-
2 quired in the interim report, as well as such other findings
3 and recommendations with respect to the implementation
4 of this section as the Administrator considers appropriate.

5 “(3) Each year the Attorney General shall determine
6 the effects of the credit system established under sub-
7 section (c) on competition within the tire industry and the
8 scrap tire recycling industry and shall submit to Congress
9 a report on such determination. With respect to any cal-
10 endar year occurring after the system is established, the
11 determination shall be made, and the report submitted to
12 Congress, not later than 6 months after completion of an
13 audit of compliance with the system carried out by the
14 Administrator during that calendar year, or 6 months
15 after the end of that calendar year, whichever is earlier.
16 The report shall include recommendations for remediating
17 any anti-competitive effects of the credit system, including
18 effects that may be violations of the Sherman Act or the
19 Clayton Act.

20 “(e) REGULATIONS.—The Administrator shall pro-
21 mulgate regulations to implement this section not later
22 than 18 months after the date of the enactment of the
23 Tire Recycling Incentives Act. If the Administrator fails
24 to promulgate such regulations by that date, the recycling
25 percentage under subsection (b) shall be 60 percent until

1 such time as the regulations are promulgated and shall
2 apply retroactively for each year the regulations are not
3 in effect.

4 “(f) CIVIL PENALTY.—(1) Whoever violates this sec-
5 tion shall be liable to the United States for a civil penalty
6 in an amount not to exceed \$2500 for each such violation.
7 Such civil penalty shall be assessed by the Administrator
8 of the Environmental Protection Agency by an order made
9 on the record after opportunity for a hearing in accord-
10 ance with section 554 of title 5, United States Code. Be-
11 fore issuing such an order, the Administrator shall give
12 written notice to the person to be assessed a civil penalty
13 and provide such person an opportunity to request, within
14 15 days of the date the notice is received by such person,
15 a hearing on the order.

16 “(2) In determining the amount of a civil penalty,
17 the Administrator shall take into account the nature, cir-
18 cumstances, extent, and gravity of the violation or viola-
19 tions and, with respect to the violator, ability to pay, effect
20 on ability to continue to do business, any history of prior
21 violations under this section, the degree of culpability, and
22 such other matters as justice may require.

23 “(3) The Administrator may compromise, modify, or
24 remit, with or without conditions, any civil penalty which
25 may be imposed under this subsection. The amount of

1 such penalty, when finally determined, or the amount
2 agreed upon in compromise, may be deducted from any
3 sums owing by the United States to the person charged.

4 “(4) Any person who requested in accordance with
5 this subsection a hearing respecting the assessment of a
6 civil penalty and who is aggrieved by an order assessing
7 a civil penalty may file a petition for judicial review of
8 such order with the United States Court of Appeals for
9 the District of Columbia Circuit or for any other circuit
10 in which such person resides or transacts business. Such
11 a petition may only be filed within the 30-day period be-
12 ginning on the date the order making such assessment was
13 issued.

14 “(5) If any person fails to pay an assessment of a
15 civil penalty—

16 “(A) after the order making the assessment has
17 become a final order and if such person does not file
18 a petition for judicial review of the order in accord-
19 ance with this section, or

20 “(B) after a court in an action brought under
21 this section has entered a final judgment in favor of
22 the Administrator,

23 the Attorney General shall recover the amount assessed
24 (plus interest at currently prevailing rates from the date
25 of the expiration of the 30-day period referred to in para-

1 graph (4) or the date of such final judgment, as the case
2 may be) in an action brought in any appropriate district
3 court of the United States. In such an action, the validity,
4 amount, and appropriateness of such penalty shall not be
5 subject to review.

6 “(g) RELATIONSHIP TO OTHER LAW.—(1) The cre-
7 ation of any recycling credits by the owner or operator
8 of a scrap tire recycling facility in accordance with this
9 section shall not alter the status of scrap tires as a waste
10 that may be used as fuel in a qualifying small power pro-
11 duction facility or a qualifying cogeneration facility under
12 the Federal Power Act (16 U.S.C. 791a et seq.).

13 “(2) For purposes of section 142(a)(6) of the Inter-
14 nal Revenue Code of 1986 (26 U.S.C. 142(a)(6)), a scrap
15 tire recycling or disposal facility shall be considered to be
16 a solid waste disposal facility.

17 **“SEC. 4012. MANAGEMENT STANDARDS FOR SCRAP TIRES**
18 **AND SCRAP TIRE COLLECTION AND RECY-**
19 **CLING FACILITIES.**

20 “(a) GENERAL REQUIREMENTS.—(1) Not later than
21 18 months after the date of enactment of the Tire Recy-
22 cling Incentives Act, the Administrator shall take each of
23 the following actions:

24 “(A) The Administrator shall publish in the
25 Federal Register a set of minimum requirements, to-

1 gether with a model program for the purposes of use
2 by States implementing and enforcing the provisions
3 of this section. Such minimum requirements and
4 model program shall include provisions for collection,
5 transport, storage, financial assurance, and manage-
6 ment of scrap tires. In developing such provisions,
7 the Administrator's first priority shall be to protect
8 public health and the environment, but in adhering
9 to that priority, he should not discourage environ-
10 mentally beneficial reuse, recovery, or recycling of
11 scrap tires.

12 “(B) The Administrator shall publish in the
13 Federal Register a procedure under which such min-
14 imum requirements shall be incorporated in the solid
15 waste management plan submitted to the Environ-
16 mental Protection Agency by such State under this
17 title. The Administrator may not approve a State
18 plan (or, if a State plan has already been approved
19 in a State, the portion of the plan for that State in-
20 corporating the minimum requirements under this
21 section) unless (i) the State has adopted all elements
22 of the model program developed under this section,
23 and (ii) the State has designated an agency or entity
24 to implement such program. In the case of a State
25 that adopts a program that is identical to the model

1 program developed under this section and that con-
2 tains a designation of an agency or entity to imple-
3 ment the program, the portion of the plan required
4 under this section shall be deemed to be approved by
5 the Administrator upon receipt by the Administrator
6 of written notification of the adoption of such a pro-
7 gram.

8 “(C) The Administrator shall publish enabling
9 regulations under which States may implement and
10 enforce this section by adoption of the model pro-
11 gram and regulations. Such enabling regulations
12 shall specify the percentage of paving materials de-
13 scribed in subparagraph (D)(i) necessary for a State
14 to acquire in order to qualify for expedited review
15 under that subparagraph.

16 “(D) In reviewing and approving the State
17 Plan, the Administrator shall provide expedited re-
18 view to any State which does one of the following in
19 its plan:

20 “(i) Encourages the recycling of scrap tires
21 by requiring the relevant State highway author-
22 ity to use paving materials made from crumb
23 rubber from scrap tires for use in asphalt or
24 roadbed construction. Under the plan the State
25 highway authority (or its paving contractor)

1 would be encouraged to acquire such paving
2 materials from a permitted tire recycler. In any
3 such case, the State may enter into contractual
4 arrangements to share in the revenue from the
5 sale of recycling credits under section 4011.

6 “(ii) Provides for directly acquiring and re-
7 cycling scrap tires for such paving materials in
8 the same manner as may be done directly by
9 the State highway authority. In any such case,
10 the State may obtain a permit to recycle such
11 tires and may generate and sell tire recycling
12 credits.

13 “(iii) Encourages the reuse of tires by re-
14 quiring that at least 20 percent of the tires pur-
15 chased each year by the State for motor vehi-
16 cles are retread tires.

17 “(b) MANAGEMENT STANDARDS.—Not later than 18
18 months after the date of enactment of the Tire Recycling
19 Incentives Act, the Administrator shall promulgate regula-
20 tions establishing standards for the purpose of minimizing
21 potential health and environmental damages from the im-
22 proper storage and disposal of scrap tires. States shall
23 adopt such standards in implementing and enforcing this
24 section. At a minimum, such standards shall provide for
25 each of the following:

1 “(1) BANS.—(A) Not later than 24 months
2 after the date of enactment of the Tire Recycling In-
3 centives Act, the Administrator shall ban the dis-
4 posal of whole tires in land disposal facilities. As
5 part of the ban, the Administrator shall allow for the
6 land disposal of shredded tires, but only in a
7 monofill.

8 “(B) Not later than 12 months after the date
9 of enactment of the Tire Recycling Incentives Act,
10 the Administrator shall promulgate regulations to
11 ban the intentional infliction of damage on tire cas-
12 ings that is done to preclude a tire casing from
13 being used in retreading, including slashing of tire
14 casings. The ban shall apply to importers and manu-
15 facturers of tire casings, owners and operators of
16 tire sale and installation facilities, and transporters
17 covered by paragraph (5). An importer or manufac-
18 turer of tire casings shall not be held liable in any
19 court of law for damages resulting from subsequent
20 failure of retreaded tires if such a tire is retreaded
21 by a recycler creating recycling credits through re-
22 treading under section 4011(c).

23 “(2) INVENTORY; TIRE ADVISORY BOARD.—(A)
24 Not later than 12 months after the date of enact-
25 ment of the Tire Recycling Incentives Act, each

1 State shall conduct an inventory of scrap tire collec-
2 tion facilities, including existing tire piles, dumps,
3 and landfills with above-ground storage of old tires,
4 or any other scrap tire storage of more than 1,000
5 tires. Such inventory shall be provided to the Admin-
6 istrator and shall be made available by such State
7 to the public for comment. At a minimum, the in-
8 ventory shall include an estimate of the number of
9 tires in each scrap tire pile, an estimate of the total
10 amount of scrap tires at the site, a description of the
11 site characteristics, including proximity to the 100-
12 year flood plain, and surface water run-on/run-off
13 characteristics, along with current management
14 practices at the site. The inventory shall include the
15 name of the owner or operator of each such site.

16 “(B) Not later than 12 months after the date
17 of the enactment of the Tire Recycling Incentives
18 Act, each State shall convene a tire advisory board
19 of public and private interests. Such board shall
20 have at least 3 members and shall help coordinate
21 the State’s efforts under this section.

22 “(3) ABATEMENT.—In consultation with the
23 owner or operator of the scrap tire collection facility,
24 the tire advisory board, and the State public health
25 authorities, the State shall, within 18 months of the

1 date of enactment of the Tire Recycling Incentives
2 Act, develop a scrap tire abatement plan. The overall
3 abatement plan for the State inventory of sites shall
4 reflect the following parameters in such priorities as
5 determined by the State:

6 “(A) Overall size of tire collection site.

7 “(B) Risk to public health or the environ-
8 ment, including fire hazard.

9 “(C) Proximity to populated areas.

10 “(D) Other factors.

11 In developing an abatement strategy for individual
12 sites, the States may use the enforcement authorities
13 of section 4013.

14 “(4) SALE AND INSTALLATION FACILITIES.—

15 Any facility which distributes more than 1,000 tires
16 annually into commerce for final installation onto
17 motor vehicles shall enter into an agreement with a
18 licensed tire hauler. No person operating such tire
19 sale or installation facilities shall give, sell, donate or
20 otherwise provide scrap tires to any other person or
21 entity than a licensed tire hauler.

22 “(5) TRANSPORTATION IDENTIFICATION NUM-

23 BER.—(A) Except as provided in subparagraph (B),
24 no person may transport scrap tires from a tire sale
25 or installation facility or scrap tire collection facility

1 unless that person has obtained a scrap tire Trans-
2 portation Identification Number from the authority
3 designated by the State in its State plan. The Ad-
4 ministrator shall promulgate such standards and
5 recordkeeping requirements as are appropriate to as-
6 sure that scrap tires which are collected, trans-
7 ported, and ultimately stored, recycled or disposed of
8 can be correctly accounted for under this section and
9 section 4011.

10 “(B) The prohibition in subparagraph (A) does
11 not apply to any of the following:

12 “(i) A trash hauler, such as a municipal
13 solid waste collection truck, carrying fewer than
14 50 scrap tires.

15 “(ii) A recyclables hauler, such as an auto
16 dismantling yard, carrying fewer than 50 scrap
17 tires.

18 “(iii) An individual transporting fewer
19 than 10 scrap tires.

20 “(iv) A person transporting products de-
21 rived from tires.

22 “(v) A person transporting scrap tires for
23 appropriate agricultural purposes, as defined by
24 the Administrator.

1 “(vi) A business that generates and trans-
2 ports its own scrap tires.

3 “(c) SCRAP TIRE COLLECTION FACILITIES.—

4 “(1) PERMIT GUIDELINES.—The Administrator
5 shall publish guidelines for the State to use to issue
6 permits to scrap tire collection facilities. Permit
7 guidelines shall provide for effective regulatory con-
8 trol of scrap tires from the point of origination to
9 final disposition. Permit guidelines shall also provide
10 examples of cases in which class permits and permits
11 for mobile equipment are appropriate.

12 “(2) OPERATION REQUIREMENTS.—The Admin-
13 istrator shall promulgate regulations or publish
14 guidelines that shall include each of the following re-
15 quirements for the operation of such facilities:

16 “(A) The regulations or guidelines shall
17 limit the maximum size of both existing and fu-
18 ture scrap tire piles at scrap tire collection fa-
19 cilities. For existing tire piles subject to the re-
20 quirements of the inventory and abatement
21 plan, the maximum square area of such existing
22 piles shall be 10,000 square feet, with a height
23 limit of 40 feet and provision for adequate fenc-
24 ing, as determined by the Administrator, to pre-
25 vent additions to the pile. For such new tire

1 piles as may be required in the abatement pro-
2 gram, or until recycling facilities are in oper-
3 ation, any new tire piles shall be limited to
4 5,000 square feet, with a maximum height of
5 20 feet.

6 “(B) The regulations or guidelines shall re-
7 quire a ban on open burning within 50 feet of
8 a scrap tire pile, along with a requirement that
9 a 50-foot fire lane be maintained around each
10 pile.

11 “(C) The regulations or guidelines shall in-
12 clude guidance on vegetation, rodent, and mos-
13 quito control at such facilities as may be appro-
14 priate.

15 “(3) FLOOD PLAIN, WETLAND, SHORELINE,
16 AND RAVINE REQUIREMENTS.—The Administrator
17 shall establish different requirements in regulations
18 or guidelines for scrap tire collection facilities lo-
19 cated in a 100-year flood plain and such other areas
20 where water resources are critical, such as wetlands,
21 shorelines, and ravines.

22 “(4) EMERGENCY PLANNING REQUIREMENTS.—
23 The Administrator shall publish guidelines for
24 States to follow in making plans for emergencies in-
25 volving scrap tire collection facilities. The guidelines

1 shall require States to establish contingency plans
2 for handling an emergency. Such plans shall be de-
3 veloped in consultation with the tire advisory board,
4 the State fire marshal, and local fire departments.

5 “(5) EMERGENCY MANUAL.—The owner or op-
6 erator of a scrap tire collection facility shall prepare
7 and maintain at the facility an emergency prepared-
8 ness manual containing the following elements:

9 “(A) A list of names and numbers of per-
10 sons to be contacted in the event of a fire,
11 flood, or other emergency involving the tire fa-
12 cility.

13 “(B) A list of the emergency response
14 equipment present at the facility, its location,
15 and how it should be used in the event of a fire
16 or other emergency.

17 “(C) A description of the procedures that
18 should be followed in the event of a fire at the
19 facility, including procedures to contain and dis-
20 pose of the oily material generated by the com-
21 bustion of large numbers of tires.

22 The procedures in the emergency preparedness man-
23 ual shall be followed in the event of an emergency
24 at the facility. The emergency preparedness manual

1 shall be updated once a year, upon changes in oper-
2 ations at the facility, or if required by the State.

3 “(6) EMERGENCY NOTIFICATION AND RE-
4 PORTS.—The owner or operator of a scrap tire col-
5 lection facility shall immediately notify the State in
6 the event of a fire or other emergency at the facility
7 with potential off-site impacts. Within 2 weeks of
8 any emergency involving potential off-site impact,
9 the owner or operator of the facility shall submit to
10 the State a report on the emergency. This report
11 shall set forth the origins of the emergency, the ac-
12 tions that were taken to deal with the emergency,
13 the results of the actions that were taken, and an
14 analysis of the success or failure of the actions.

15 “(7) OPERATIONAL RECORD.—The Adminis-
16 trator shall promulgate regulations or publish guide-
17 lines requiring the owner or operator of a scrap tire
18 collection facility to maintain records of the number
19 of scrap tires received at the facility, stored at the
20 facility, and shipped from the facility. Records shall
21 also be kept of the amount of tire-derived products
22 received, stored, or shipped from the facility. At the
23 completion of an abatement increment, or a report-
24 ing period, the responsible owner or operator shall
25 submit to the State a record of the approximate

1 number of scrap tires remaining in the facility; the
2 amount of tire-derived products stored at the facil-
3 ity; and the number of scrap tires or amount of tire-
4 derived products received at the facility and shipped
5 from the facility during the abatement increment or
6 reporting period. For scrap tires and tire-derived
7 products shipped to another location, the date and
8 the amount shipped must be included.

9 “(8) INSPECTION.—At the completion of each
10 abatement increment or reporting period the owner
11 or operator of a scrap tire collection facility shall no-
12 tify the State so that an inspection of the tire facil-
13 ity may be conducted to certify the completion of the
14 required abatement or permit operating conditions.

15 “(9) OPERATION, CLOSURE, AND POST-CLO-
16 SURE.—The Administrator shall publish guidelines
17 for adoption by the State regulatory authority re-
18 quiring that all facilities regulated under this section
19 have appropriate financial responsibility or insurance
20 to maintain the facility for at least five years after
21 the facility is closed.

22 “(10) EXEMPTIONS.—The permitting require-
23 ments of this section shall not apply to any of the
24 following:

1 “(A) A tire retailer who stores no more
2 than 500 scrap tires on the business premises.

3 “(B) A retreading business that stores no
4 more than 15 percent of the amount of used
5 tires retreaded annually on the business prem-
6 ises.

7 “(C) A business such as an auto disman-
8 tling facility that does not remove tires from ve-
9 hicles as its main activity, if no more than
10 1,500 unmounted scrap tires are kept on the
11 business premises in any month.

12 “(D) A permitted sanitary landfill that
13 stores no more than 10,000 scrap tires at the
14 landfill site.

15 “(E) A person using scrap tires on an ag-
16 ricultural site for legitimate agricultural pur-
17 poses.

18 “(F) A person who has entered into a
19 scrap tire facility cleanup agreement and is
20 doing work specified by the agreement.

21 “(d) SCRAP TIRE RECYCLING FACILITIES.—The Ad-
22 ministrator shall promulgate regulations for the State to
23 use to issue permits to scrap tire recycling facilities. The
24 regulations shall include requirements with respect to the
25 operation of such facilities and shall include such record-

1 keeping requirements as are necessary to implement this
2 section and section 4011.

3 “(e) FEDERAL RESPONSIBILITY.—

4 “(1) REMEDIATION OF TIRE PILES ON PUBLIC
5 LANDS.—The Secretary of the Interior, together
6 with the heads of all Federal departments and agen-
7 cies with responsibilities for public lands or military
8 installations, shall determine the extent of scrap tire
9 piles on such lands or installations and shall develop
10 and implement a plan within 18 months after the
11 date of enactment of the Tire Recycling Incentives
12 Act to remediate such tire piles. The requirements
13 developed in the plan shall also apply to the Na-
14 tional Railroad Passenger Corporation.

15 “(2) PROCUREMENT GUIDELINE.—(A) The Ad-
16 ministrator, in consultation with the Secretary of
17 Energy, the Secretary of Defense, the Secretary of
18 Transportation, the Administrator of the Federal
19 Highway Administration, and the Administrator of
20 General Services (as appropriate), shall develop a
21 guideline for procuring items that make use of rub-
22 ber from scrap or used tires, including asphalt made
23 from crumb rubber from scrap tires, retread tires,
24 and tires made utilizing crumb rubber from scrap
25 tires.

1 “(B) Such procurement guideline shall require
2 that, in the procurement of such items, the heads of
3 the Federal departments covered by the guideline
4 shall procure such an item if the item is available at
5 the same (or lower) cost as alternative items made
6 from rubber other than rubber from scrap or used
7 tires. The cost of such an item shall be determined
8 in accordance with standards developed by the Na-
9 tional Institute for Standards and Technology under
10 paragraph (3).

11 “(C) If the Administrator fails to issue the pro-
12 curement guideline within 24 months after the date
13 of the enactment of the Tire Recycling Incentives
14 Act, then the head of each Federal department shall
15 procure items containing 75 percent or more of post-
16 consumer scrap rubber from scrap tires if such post-
17 consumer scrap rubber is reasonably available within
18 a reasonable period of time at a reasonable price and
19 meets reasonable performance standards of the de-
20 partment.

21 “(3) COST STANDARDS.—The Secretary of
22 Commerce, acting through the Director of the Na-
23 tional Institute of Standards and Technology, shall
24 develop and publish standards for determining, for
25 purposes of complying with the procurement guide-

1 line under paragraph (2), the life-cycle costs and
2 benefits of asphalt made from crumb rubber from
3 scrap tires, retread tires, tires made utilizing crumb
4 rubber from scrap tires, and other items that make
5 use of rubber from scrap or used tires, as compared
6 with items that make use of rubber other than rub-
7 ber from scrap or used tires. The standards shall be
8 used by Federal departments covered by the pro-
9 curement guideline developed under paragraph (2)
10 and by States in the portion of the State plan incor-
11 porating the requirements under this section. The
12 standards under this paragraph shall be developed in
13 consultation with the Secretary of Transportation
14 not later than 18 months after the date of the enact-
15 ment of the Tire Recycling Incentives Act.

16 “(4) DETERMINATIONS BY SECRETARY OF
17 TRANSPORTATION.—(A) The Secretary of Transpor-
18 tation, in consultation with the Administrator and
19 through the use of data available from the Environ-
20 mental Protection Agency, the Department of
21 Transportation, and States, shall determine each of
22 the following:

23 “(i) Whether there are any direct worker
24 environmental health effects relating to asphalt

1 made from crumb rubber from scrap tires, and
2 what those health effects are.

3 “(ii) The recyclability of asphalt road sur-
4 faces made from crumb rubber from scrap tires.

5 “(iii) The estimated life of existing asphalt
6 road surfaces made from crumb rubber from
7 scrap tires.

8 “(B) Not later than 6 months after the date of
9 the enactment of the Tire Recycling Incentives Act,
10 the Secretary of Transportation shall submit to Con-
11 gress a plan for making the determinations required
12 by subparagraph (A). Not later than 18 months
13 after such date, the Secretary shall complete the de-
14 terminations and submit to Congress a report on the
15 determinations.

16 “(C) Unless and until the Secretary of Trans-
17 portation determines otherwise, the estimated life of
18 asphalt road surfaces made from crumb rubber from
19 scrap tires is deemed to be twice that of conven-
20 tional asphalt road surfaces.

21 **“SEC. 4013. ENFORCEMENT AND PENALTIES FOR SCRAP**
22 **TIRE REQUIREMENTS.**

23 “(a) ABATEMENT AUTHORITIES.—For the purposes
24 of enforcing the scrap tire abatement provisions of section
25 4012, States are authorized to enter into consent agree-

1 ments with the owner or operator of any scrap tire collec-
2 tion facility for proper management and abatement of
3 scrap tires. If the owner or operator of a scrap tire collec-
4 tion facility does not agree to enter into a consent agree-
5 ment, the State or a county government, acting with the
6 consent of the State, is authorized to obtain an abatement
7 order from a court of competent jurisdiction for the pur-
8 poses of taking temporary control of the scrap tire facility
9 and conducting the cleanup and collecting the abatement
10 costs through the United States Claims Court. A court
11 may not issue an abatement order if the owner or operator
12 of such a facility shows justifiable cause for refusing to
13 enter into a consent agreement. States are also authorized
14 to levy fines of \$1,000 per day on scrap tire facilities not
15 complying with sections 4011 and 4012. Notwithstanding
16 any other provision of law, in the case of an abandoned
17 scrap tire collection facility, the State or a county govern-
18 ment may seize the property, perform the cleanup, and
19 dispose of the property.

20 “(b) TIRE SALES AND INSTALLATION FACILITIES
21 PENALTIES.—Any tire sale or installation facility which
22 is not exempt under sections 4011 and 4012 may be fined
23 up to \$100 per day for managing scrap tires in violation
24 of such sections.

1 “(c) LANDFILLS.—Any landfill which is found to
2 knowingly violate the prohibition on land disposal by
3 landfilling more than 100 whole tires in any month shall
4 be subject to a \$5,000 fine for each 100 tires (or incre-
5 ment thereof) over that limit disposed of in a month.

6 “(d) TIRE COLLECTION AND RECYCLING FACILITIES
7 PENALTIES.—Any tire collection or recycling facility de-
8 termined to be in noncompliance with section 4011 or sec-
9 tion 4012 shall be subject to fines of \$1,000 per day for
10 each violation.”.

11 (2) The table of contents for subtitle D (contained
12 in section 1001) is amended by adding at the end the fol-
13 lowing new items:

“Sec. 4011. Recycling requirements for scrap tires.

“Sec. 4012. Management standards for scrap tires and scrap tire collection and
recycling facilities.

“Sec. 4013. Enforcement and penalties for scrap tire requirements.”.

14 (b) DEFINITIONS.—Section 1004 of the Solid Waste
15 Disposal Act is amended by adding the following at the
16 end thereof:

17 “(42) The term ‘producer’ with respect to tires means
18 any person who produces tires for an automobile, motor-
19 cycle, truck, trailer, semitrailer or combination, or truck
20 tractor. Such production does not include retreading tires.

21 “(43) The term ‘importer’ with respect to tires means
22 any person who imports tires, either individually or as part
23 of an automobile or other vehicle.

1 “(44) The term ‘scrap tire’ means a tire from an
2 automobile, motorcycle, truck, trailer, semitrailer or com-
3 bination, or truck tractor, that is no longer usable for the
4 original purpose.

5 “(45) The term ‘scrap tire collection facility’ means
6 any facility or entity that voluntarily or involuntarily col-
7 lects, stores, or otherwise accumulates scrap tires in
8 amounts in excess of 1,000 tires a year, including an auto
9 parts retailer or municipality.

10 “(46) The term ‘recycler’ means with respect to tires
11 the owner or operator of a tire recycling facility who has
12 a permit under section 4012.

13 “(47) The term ‘recycling credit’ means with respect
14 to tires a legal record of a recycling activity undertaken
15 in accordance with section 4012 that represents scrap
16 tires recycled for purposes of complying with that section
17 and section 4011.

18 “(48) The term ‘tire sale and installation facility’
19 means any facility which sells or installs more than 1,000
20 tires for operation on the highways of the United States.

21 “(49) The term ‘tire-derived product’ means a prod-
22 uct made from the usable materials produced from the
23 chemical or physical processing of a scrap tire. Such term
24 does not include ash from burning a scrap tire.

1 “(50) The term ‘tire fuel’ means tires used to produce
2 heat in an energy recovery combustion device designed to
3 burn fossil fuels (including coal, oil, and natural gas), re-
4 gardless of the size or shape of the tire upon entering the
5 combustion device.

6 “(51) The term ‘tire-derived fuel’ means tire fuel that
7 is composed of shredded tires from which 95 percent of
8 the metal has been removed.

9 “(52) The term ‘abatement increment’ means a pe-
10 riod of time not greater than six months and not less than
11 one month, as specified in an abatement plan, during
12 which a specified number of scrap tires will be removed
13 from a scrap tire collection facility and processed in ac-
14 cordance with section 4011.

15 “(53) The term ‘shredded tire’ means a scrap tire
16 reduced to chips no larger than 2 inches by 2 inches.

17 “(54) The term ‘crumb rubber’ means rubber from
18 a scrap tire that is separated from the steel fabric and
19 other contaminants of the tire, and reduced, with or with-
20 out processing agents, into particles of specified sizes and
21 shapes.

22 “(55) The term ‘asphalt road paving mix’ includes
23 surface treatments, interlayers, and crack sealants.”.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out the amendments made by this Act.

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