

65-3424k. Abatement and enforcement actions by secretary. (a) The secretary may undertake appropriate abatement action and may enter into contracts for the abatement of illegal waste tires accumulations or illegally managed waste tires utilizing funds from the waste tire management fund.

(b) Any authorized representative of the secretary may enter, at reasonable times and upon written notice, onto any property or premises where an accumulation of waste tires is located to conduct: (1) An inspection and site assessment to determine whether the accumulation creates a nuisance or risk to public health and safety or to the environment; or (2) interim measures to minimize risk to public health and safety or to the environment.

(c) Whenever the secretary has reason to believe that an accumulation of waste tires creates a nuisance or risk to public health and safety or to the environment or is in violation of rules and regulations adopted by the secretary or conditions of a permit issued by the secretary, the secretary may require the person or persons responsible for the accumulation to carry out abatement activities. Such abatement activities shall be performed in accordance with a plan approved by the secretary. The secretary shall give notice, by letter, to the property owner and responsible parties that the waste tires constitute a nuisance or risk to public health or the environment, and that the waste tire accumulation must be abated within a specified period. The secretary may undertake abatement action utilizing funds from the waste tire management fund if the responsible parties fail to take the required action within the time period specified in the notice.

(d) The department and its representatives are authorized to enter private property to perform abatement activities if the responsible party fails to perform required clean-up work, but no entry shall be made without the property owner's consent except upon notice and hearing in accordance with the Kansas administrative procedure act.

(e) All costs incurred by the secretary in the abatement of illegal waste tires accumulations or illegally managed waste tires or in performing interim measures, including administrative and legal expenses, are recoverable from a responsible party or parties and may be recovered in a civil action in district court brought by the secretary. Any abatement costs recovered under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the waste tire management fund. An action to recover abatement or interim measures costs may be commenced at any stage of an abatement.

(f) In performing or entering contracts for abatement actions under this section, the secretary shall give preference to actions that recycle waste tires or burn waste tires for energy recovery. Direct abatement expenditures may include landfilling when waste tires are contaminated or when feasible in-state markets cannot be identified.

(g) Permits granted by the secretary pursuant to K.S.A. 65-3424b, and amendments thereto, shall not be transferable and may be revoked or suspended whenever the secretary determines that the permit holder is operating in violation of this act or rules and regulations adopted pursuant to the act; is creating or threatens to create a hazard to persons, property or the environment; or is creating or threatens to create a public nuisance. The secretary may also revoke, suspend or refuse to issue a permit when the secretary determines that past or continuing violations of the provisions of K.S.A. 65-3409, and amendments thereto, have been committed by the applicant or permit holder.

(h) Neither the state of Kansas nor the waste tire management fund shall be liable to any owner, operator or responsible party for the loss of business, damages or taking of property associated with any abatement or enforcement action taken pursuant to this section.

(i) The secretary shall enter into contracts with one or more associations of tire retailers to: (1) Assist in disseminating information to all tire retailers on the requirements of solid waste laws and rules and regulations relating to waste tires; (2) establish a point of contact for persons requesting information on solid waste laws and rules and regulations relating to waste tires; (3) assist in planning and implementing conferences, workshops, and other requested training events for persons involved in the generation, transportation, processing, or disposal of waste tires; and (4) assemble and analyze data on waste tire management by tire retailers in Kansas.

History: L. 1994, ch. 283, § 8; L. 1996, ch. 173, § 9; L. 2001, ch. 126, § 6; L. 2001, ch. 167, § 5; L. 2003, ch. 130, § 20; July 1.