§ 27-0703. Powers and duties of the department; solid waste management facilities.

1. To the maximum extent feasible, the department shall carry out the provisions of this title so as to facilitate short and long term planning for solid waste disposal, to promote cooperation among neighboring localities in the planning and implementation of solid waste management programs and facilities, and to facilitate implementation of solutions to solid waste management problems confronted by localities.

2. The department shall have the power to: (a) Adopt and promulgate, amend and repeal rules and regulations governing the operation of solid waste management facilities. Such rules and regulations shall be directed at the prevention or reduction of (i) water pollution, (ii) air pollution, (iii) noise pollution, (iv) obnoxious odors, (v) unsightly conditions caused by uncontrolled release of litter, (vi) infestation of flies and vermin, and (vii) other conditions inimical to the public health, safety and welfare. In promulgating such rules and regulations, the department shall give due regard to the economic and technological feasibility of compliance therewith. Any rule or regulation promulgated pursuant hereto may differ in its terms and provisions as between particular types of solid waste management facilities and as between particular areas of the state.

(b) Provide technical assistance to municipalities and other persons engaged in solid waste management and provide training for proper operation of solid waste management facilities.

(c) Cooperate with appropriate local, state, interstate and federal agencies to promote the operation of solid waste management facilities in a safe, sanitary, efficient and environmentally sound manner.

3. The department shall, in promulgating any new or revised rule or regulation, accompany such rule making with an environmental impact statement or a written assessment stating the extent to or means by which such rule or regulation will prevent or reduce the factors identified in subparagraphs (i) through (vii) of paragraph (a) of subdivision two of this section.

4. Siting, design, construction, and operating requirements established pursuant to subdivision two of this section for solid waste management facilities shall be embodied in rules and regulations of the department promulgated pursuant to the state administrative procedure act.

5. The commissioner shall cause program plans to be prepared for all solid waste management assistance programs of the department enacted or substantially modified by the solid waste management act of 1988 or hereafter enacted, for the program of funding small scale, low technology approaches to resource recovery pursuant to section 51-0905 of this chapter, and for the local resource reuse and development program established by section 27-0405 of this article. Such plans shall be consistent with the legislative intent and statutory authorization for such programs. Program plans shall be derived from and shall be consistent with the state solid waste management policy set forth in section 27-0106 of this article. Such plans shall be transmitted to the temporary president and the minority leader of the senate and the speaker and the minority leader of the assembly within ninety days of the effective date of this act or of the effective date of any statute authorizing such program. Program plans shall describe the goals and objectives of each program, operational priorities and administrative procedures to be established in administering each program, shall guide the development of operating procedures and administrative rules and regulations governing each program, shall set forth the manner in which the program shall be coordinated with other solid waste management programs and shall set forth a description of the operating relationships with the department of environmental conservation, other relevant agencies and authorities and regional and local public and private organizations.

6. Notwithstanding any other provision of law or rule or regulation to the contrary, the owner or operator of a solid waste management facility engaged in the storage of one thousand or more waste tires in existence on or after the effective date of this subdivision shall submit to the department a completed application for a permit to continue to operate such facility, or cease operations and begin removal of the waste tires

from the facility and dispose of or treat them in a lawful manner pursuant to a removal plan approved by the department. The owner or operator must provide financial assurance to cover the cost of closure of the facility at its maximum capacity, in a form and amount acceptable to the department, before a permit will be issued. Any owner or operator who obtained a permit pursuant to this subdivision before the effective date of the waste tire management and recycling act of 2003 shall provide such financial assurance within one hundred eighty days of the effective date of such act. Failure to provide or maintain financial assurance shall be grounds for the denial or revocation of a permit.