



Rules of
Department of Natural Resources
Division 80—Solid Waste Management
Chapter 8—Waste Tires

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES
Division 80—Solid Waste
Management
Chapter 8—Waste Tires**

10 CSR 80-8.010 Waste Tires—First-Stage Permits

(Rescinded December 30, 1997)

*AUTHORITY: sections 260.225 and 260.270, RSMo (Cum. Supp. 1990). Emergency rule filed Dec. 21, 1990, effective Jan. 1, 1991, expired April 30, 1991. Original rule filed Dec. 21, 1990, effective July 8, 1991. Amended: Filed March 17, 1992.** Emergency rescission of the 1992 amendment filed March 19, 1997, effective April 1, 1997, expired Sept. 27, 1997. Rescission of the 1992 amendment filed April 3, 1997, effective Aug. 30, 1997. Rescinded: Filed April 16, 1997, effective Dec. 30, 1997.*

***The Missouri Supreme Court in Missouri Coalition for the Environment, et al., v. Joint Committee on Administrative Rules, et al., Case No. 78628, dated February 25, 1997, ordered the secretary of state to publish this amendment. The Missouri Department of Natural Resources subsequently filed an emergency rescission of this amendment as well as a proposed rescission of this amendment which became effective August 30, 1997. See the above authority section for filing dates.*

10 CSR 80-8.020 Waste Tire Collection Centers

PURPOSE: This rule contains the requirements for waste tire collection centers.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Definitions.

(A) A collection center is a site where waste tires are collected prior to being offered for recycling or processing and where fewer

than five hundred (500) tires are kept on site on any given day.

(B) A waste tire is a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

1. A tire no longer suitable for its original intended purpose due to wear is a tire with exposed cord or tread depth less than two thirty-seconds inch (2/32") when measured in any major groove.

2. A tire still mounted on a rim is not a waste tire, except as described in paragraph (1)(B)3.

3. Any tire that is discarded with the intent of final disposal is also a waste tire.

4. A cut tire, for the purposes of disposal in a permitted solid waste disposal area, is a waste tire cut in half circumferentially or cut into at least three (3) parts with no part being larger than approximately one-third (1/3) of the original tire's size.

5. A shredded or chipped tire, for the purposes of disposal in a permitted solid waste disposal area, is a waste tire that has been reduced to parts no larger than that defined in the definition of a cut tire.

(2) General Requirements.

(A) Waste tire collection centers shall be used only for the proper and temporary storage of waste tires. Waste tires shall be removed for recovery or processing or for temporary storage at a permitted waste tire site, waste tire processing facility or for permanent disposal at a permitted solid waste disposal area.

(B) The collection center must be in compliance with the requirements of the department's Clean Water Law, Chapter 644, RSMo and implementing regulations.

(C) All tire retailers or other businesses that generate waste tires shall use a waste tire hauler permitted by the department, except that business may haul such waste tires without a permit, if such hauling is performed without any consideration and such business maintains records on the waste tires hauled as required by section (5) of this rule.

(D) Tire retailers shall not be liable for illegal disposal of waste tires after such waste tires are delivered to a waste tire hauler, waste tire collection center, waste tire site, waste tire processing facility or waste tire end-user facility if such entity is permitted by the Department of Natural Resources.

(3) Applicability

(A) Exemptions. The following are not regulated as waste tire collection centers provided that pollution, a public nuisance or a health hazard is not created and provided the

tires are stored according to the requirements of section (4) of this rule:

1. A person collecting or storing less than twenty-five (25) waste tires;

2. Warranty tires or new defective tires stored by tire retailers and wholesalers prior to transit to the wholesaler or manufacturer for adjustment credit;

3. Tires that are to be reused without further processing as vehicle tires (reused for the original intended purpose) that are separated from waste tires within thirty (30) days of receipt at a waste tire collection center, provided these tires are stored in compliance with the requirements of section (4) of this rule and are not stored outside for more than one (1) year;

4. Retreadable tire casings held in inventory by tire retreaders for retreading that are stored separately from other waste tires, provided these tires are stored in compliance with section (4) of this rule and provided they are not stored outside for more than one (1) year; or

5. Tires stored in conjunction with a department-approved or nonprofit cleanup if the waste tires are stored for a period not to exceed thirty (30) days are exempt from this rule.

(B) This rule shall pertain to whole, cut, shredded, baled or chipped waste tires.

(C) Underground storage of waste tires requires a permit as a solid waste disposal area and shall comply with the requirements of 10 CSR 80.

(4) Storage Requirements.

(A) Fire Protection. A waste tire collection center shall be in compliance with the fire protection requirements of this subsection.

1. Whole waste tire storage shall meet the *Standard for Storage of Rubber Tires*, NFPA 231D, 1994 edition, adopted by the National Fire Protection Association which by this reference is incorporated into this rule.

2. Cut, chipped, baled or shredded waste tire storage shall meet the fire prevention, exposure protection and firefighting access guidelines contained in the *Standard for Storage of Rubber Tires*, NFPA 231D, 1994 edition, adopted by the National Fire Protection Association.

3. Indoor storage requirements are contained in NFPA 231D, 1994 edition. Outdoor storage requirements are contained in NFPA 231D, Appendix C, 1994 edition. Copies of the NFPA standard may be obtained by contacting the NFPA, P.O. Box 9101, Quincy, MA 02269 (800-344-3555).

4. Alternately, the collection center may provide evidence that whole, cut, chipped,

baled or shredded waste tire storage is in compliance with the local fire code.

(B) Location. Waste tire collection centers shall not be located in a wetland, sinkhole or floodplain (unless protected against at least the one hundred (100)-year flood design by impervious dikes or other appropriate means to prevent the flood waters from contacting the waste tires).

(C) Vector Control. Conditions shall be maintained that are unfavorable for the harboring, feeding and breeding of vectors. If the method being used to control vectors is not effective, the owner/operator of the waste tire collection center shall use an alternate method to correct the vector problem. The owner/operator of a waste tire collection center storing tires shall use one (1) or more of the following methods of vector control:

1. Drain tires of water and keep them dry within a building, enclosed trailer or under a cover that is impermeable. The cover shall be maintained water impermeable;

2. Alter tires so they do not retain water;

3. Treat the tires with a larvicide and/or adulticide appropriate to prevent the development of mosquito larvae and pupae and repeat treatment as often as necessary to prevent this development, taking into account the effectiveness and life of the larvicide and/or adulticide utilized;

A. Larvicides and/or adulticides shall be applied in accordance with their labels, Chapter 281, RSMo and its implementing regulations.

B. The dimensions of the tire pile and the method of stacking the tires must allow for application of the larvicide and/or adulticide to all tires; and

4. Alternate methods of vector control must be approved by the department.

(5) Recordkeeping Requirements. The owner/operator of a waste tire collection center shall maintain records, on forms provided by the department, as required by this rule. All records required by this rule shall be kept for at least three (3) years. The period of record retention extends upon the written request of the department or automatically during the course of any unresolved enforcement action regarding the regulated activity. The records shall be made available for inspection by the department or its designated representative upon request. Collection center shall also maintain records of vector control activities.

AUTHORITY: sections 260.225 and 260.270, RSMo (Cum. Supp. 1996). Original rule filed Jan. 3, 1991, effective July 8, 1991. Amended: Filed March 17, 1992.** Emergency rescission of the 1992 amendment filed*

March 19, 1997, effective April 1, 1997, expired Sept. 27, 1997. Rescission of the 1992 amendment filed April 3, 1997, effective Aug. 30, 1997. Amended: Filed April 16, 1997, effective Dec. 30, 1997.

**Original authority: 260.225, RSMo (1972), amended 1975, 1986, 1988, 1990, 1993, 1995 and 260.270, RSMo (1990), amended 1995.*

***Missouri Supreme Court in Missouri Coalition for the Environment, et al., v. Joint Committee on Administrative Rules, et al., Case No. 78628, dated February 25, 1997, ordered the secretary of state to publish this amendment. The Missouri Department of Natural Resources subsequently filed an emergency rescission of this amendment as well as a proposed rescission of this amendment which became effective August 30, 1997. See the above authority section for filing dates.*



MISSOURI DEPARTMENT OF NATURAL RESOURCES
 SOLID WASTE MANAGEMENT PROGRAM
 P.O. BOX 176, JEFFERSON CITY, MISSOURI 65102



WASTE TIRE MONTHLY SUMMARY TRACKING FORM - COLLECTION CENTER

MONTH OF: _____ PHONE: _____

COMPANY NAME: _____

MAILING ADDRESS: _____

CONTACT PERSON NAME: _____

DATE	NUMBER/WEIGHT OF TIRES GENERATED/SHIPPED				HAULER/PERMIT NUMBER
	TRUCK	OTR	TOTAL	HAULER/USER NAME ADDRESS AND PHONE NUMBER	
GENERATED					
SHIPPED					
GENERATED					
SHIPPED					
GENERATED					
SHIPPED					
GENERATED					
SHIPPED					
GENERATED					
SHIPPED					
GENERATED					
SHIPPED					
GENERATED					
SHIPPED					

MO 760-1596 (4-97)



10 CSR 80-8.030 Waste Tire Hauler Permits

PURPOSE: This rule sets forth requirements for obtaining a permit as a waste tire hauler.

(1) Applicability.

(A) Definitions.

1. A waste tire is a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

A. A tire no longer suitable for its original intended purpose due to wear is a tire with exposed cord or tread depth less than two thirty-seconds inch (2/32") when measured in any major groove.

B. A tire still mounted on a rim is not a waste tire, except as described in subparagraph (1)(A)1.C.

C. Any tire that is discarded with the intent of final disposal is also a waste tire.

D. A cut tire, for the purposes of disposal in a permitted solid waste disposal area, is a waste tire cut in half circumferentially or cut into at least three (3) parts with no part being larger than approximately one-third (1/3) of the original tire's size.

E. A shredded or chipped tire, for the purposes of disposal in a permitted solid waste disposal area, is a waste tire that has been reduced to parts no larger than that defined in the definition of a cut tire.

(B) Permit Exemptions. The following persons are not required to obtain a permit to haul waste tires provided that pollution, a public nuisance or a health hazard is not created:

1. A person who does not haul for consideration or commercial profit;

2. A person hauling warranty tires or new defective tires to the retailer, wholesaler or manufacturer for adjustment credit or return; and

3. A person hauling waste tires which have been generated at his/her own business or residence, provided that this transportation is done using his/her own employees and vehicles.

(2) Waste Tire Hauler Permit Requirements.

(A) Permit Application. A person applying for a waste tire hauler permit shall submit, by certified mail, the following information to the Missouri Department of Natural Resources, Solid Waste Management Program, P.O. Box 176, Jefferson City, MO 65102. This information must be submitted to the department at least thirty (30) days prior to expiration of the permit.

1. A completed application form provided by the department. The information submitted shall include the following:

A. The name, address and telephone number of the person in whose name the permit is to be issued;

B. The geographic area served by the hauler;

C. The approximate number or weight of waste tires transported per month;

D. The number and type(s) of vehicles used to haul waste tires;

E. The location(s) to which waste tires are to be hauled, including name(s), address(es) and phone numbers of the receiving facility(ies);

F. The drivers license number of each driver or, in the case of persons regulated through the United States Department of Transportation (DOT), the number the DOT has issued to the applicant; and

G. Other information deemed necessary by the department to ascertain compliance with sections 260.200 through 260.345, RSMo and implementing rules.

2. A nonreturnable waste tire hauler permit fee in the amount of one hundred dollars (\$100) shall be submitted with the completed application form. The fee shall be in the form of a check or money order made payable to the Department of Natural Resources.

(B) Application Review, Approval and Denial. The department shall review applications submitted under this rule and shall approve the application and issue a permit or shall deny the application. In the event that an application is denied, the department shall issue a written report to the applicant stating the reasons for the denial.

(C) Permit Issuance and Revocation. A waste tire hauler permit issued pursuant to this rule shall remain valid for a period of one (1) year unless revoked by the department. A waste tire hauler permit may be revoked or suspended for noncompliance with the provisions of sections 260.200—260.345, RSMo or corresponding rules.

(D) A person who has, within the preceding twenty-four (24) months, been found guilty or pleaded guilty to a violation of section 260.270, RSMo which involves the transport of waste tires may not be granted a permit to transport waste tires unless the person seeking the permit has provided to the department a performance bond or letter of credit as provided under this subsection.

1. The bond or letter shall be conditioned upon faithful compliance with the terms and conditions of the permit and section 260.270, RSMo and shall be in the amount of ten thousand (\$10,000) dollars.

2. Such performance bond, placed on file with the department, shall be in one (1) of the following forms:

A. A performance bond, payable to the department and issued by an institution authorized to issue such bonds in this state; or

B. An irrevocable letter of credit issued in favor of and payable to the department from a commercial bank or savings and loan having an office in the state of Missouri.

3. Upon determination by the department that a person has violated the terms and conditions of the permit or section 260.270, RSMo, the department shall notify the person that the bond or letter of credit shall be forfeited and the moneys placed in an appropriate subaccount of the Solid Waste Management Fund, created under section 260.330, RSMo for remedial action.

4. The department shall expend whatever portion of the bond or letter of credit necessary to conduct resource recovery or nuisance abatement activities to alleviate any condition resulting from a violation of section 260.270, RSMo or the terms and conditions of a permit.

5. The requirement for a person to provide a performance bond or a letter of credit under this rule shall cease for that person after two (2) consecutive years in which the person has not been found guilty or pleaded guilty to a violation of section 260.270, RSMo.

(3) Operating Requirements.

(A) Recordkeeping.

1. During periods when a vehicle contains waste tires, a waste tire hauler shall maintain in the vehicle the current permit.

2. Record Keeping Requirements. A waste tire hauler shall maintain tracking and summary reports as required by the department on forms provided by the department or on similar forms or in a similar format that has been preapproved by the department. The tracking report(s) shall be filled out for each load delivered to an approved destination and shall include all applicable collection and receiver data. They shall be submitted to the Department of Natural Resources, Solid Waste Management Program, P.O. Box 176, Jefferson City, MO 65102 by the fifteenth of each month after the date the tires were delivered to their destination.

3. All records required by this rule shall be kept for at least three (3) years. The period of record retention extends upon the written request of the department or automatically during the course of any unresolved enforcement action regarding the regulated activity. The records shall be made available for inspection by the department or its designated representative upon request.

(B) Destination. A permitted waste tire hauler shall transport waste tires to—

1. A registered waste tire end user provider that the end user is in compliance with all applicable state and federal laws and regulations;

2. A solid waste disposal area or transfer station approved or permitted by the department;

3. A solid waste processing or waste tire processing facility permitted by the department;

4. A waste tire site permitted by the department;

5. A waste tire collection center;

6. A permit-exempt facility, provided the waste tires are stored and/or processed in compliance with 10 CSR 80-8.020(4); or

7. Out-of-state (provided that transport and the final destinations are in compliance with the requirements of that state).

(C) Mixed Loads. No tires shall be transported with other material on one vehicle if it could result in a hazardous combination likely to cause explosion, fire or release of a dangerous or toxic gas or in violation of any applicable state or federal law or regulation.

(D) Any person permitted as a waste tire hauler shall notify the department within thirty (30) days of any change of address, phone number, type and number of vehicles, or destination of tires hauled. Registered or certified mail sent to a permitted hauler with proper postage and last known address that is returned unclaimed shall be considered adequate notification of notice served. Refusal to accept mail is a violation of these regulations.

1997. See the above authority section for filing dates.

AUTHORITY: sections 260.225, 260.270 and 260.278, RSMo Supp. 1996. Original rule filed Jan. 3, 1991, effective July 8, 1991. Amended: Filed March 17, 1992.** Emergency rescission of the 1992 amendment filed March 19, 1997, effective April 1, 1997, expired Sept. 27, 1997. Rescission of the 1992 amendment filed April 3, 1997, effective Aug. 30, 1997. Amended: Filed April 16, 1997, effective Dec. 30, 1997.*

**Original authority: 260.225, RSMo 1972, amended 1975, 1986, 1988, 1990, 1993, 1995; 260.270, RSMo 1990, amended 1995; and 260.278, RSMo 1995.*

***The Missouri Supreme Court in Missouri Coalition for the Environment, et al., v. Joint Committee on Administrative Rules, et al., Case No. 78628, dated February 25, 1997, ordered the secretary of state to publish this amendment. The Missouri Department of Natural Resources subsequently filed an emergency rescission of this amendment as well as a proposed rescission of this amendment which became effective August 30,*



MISSOURI DEPARTMENT OF NATURAL RESOURCES
SOLID WASTE MANAGEMENT PROGRAM
P.O. BOX 176, JEFFERSON CITY, MISSOURI 65102
WASTE TIRE TRACKING FORM

REFERENCE NUMBER

1. HAULER SECTION - FILL OUT ONE FORM PER LOAD OF WASTE TIRES.

COMPANY NAME	OWNER NAME	PERMIT NUMBER	
MAILING ADDRESS		TELEPHONE NUMBER ()	
CITY	COUNTY	STATE	ZIP CODE

HAULER CERTIFICATION: I DECLARE THAT I HAVE RECEIVED WASTE TIRES AS OFFERED BY THE FOLLOWING GENERATOR(S) FOR DELIVERY TO THE FOLLOWING RECEIVER AND THAT THE INFORMATION CONTAINED IN PARTS 1, 2 AND 3 IS CORRECT AND COMPLETE.

SIGNATURE	DATE
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2. GENERATOR SECTION - MUST BE FILLED OUT ENTIRELY - IF YOU ARE BOTH GENERATOR AND HAULER, FILL OUT SECTIONS ONE AND TWO

COMPANY NAME	MAILING ADDRESS	CITY	STATE	ZIP
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GENERATOR CERTIFICATION: I DECLARE THAT THE INFORMATION BELOW IS CORRECT AND COMPLETE.

SIGNATURE	DATE
-----------	------

NUMBER OR WEIGHT OF TIRES SHIPPED	TRUCK	PASSENGER	OFF THE ROAD	DATE
NUMBER OR WEIGHT OF TIRES GIVEN TO END USERS OR HELD FOR REUSE OR RESALE	TRUCK	PASSENGER	OFF THE ROAD	DATE

COMPANY NAME	MAILING ADDRESS	CITY	STATE	ZIP
--------------	-----------------	------	-------	-----

GENERATOR CERTIFICATION: I DECLARE THAT THE INFORMATION BELOW IS CORRECT AND COMPLETE.

SIGNATURE	DATE
-----------	------

NUMBER OR WEIGHT OF TIRES SHIPPED	TRUCK	PASSENGER	OFF THE ROAD	DATE
NUMBER OR WEIGHT OF TIRES GIVEN TO END USERS OR HELD FOR REUSE OR RESALE	TRUCK	PASSENGER	OFF THE ROAD	DATE

COMPANY NAME	MAILING ADDRESS	CITY	STATE	ZIP
--------------	-----------------	------	-------	-----

GENERATOR CERTIFICATION: I DECLARE THAT THE INFORMATION BELOW IS CORRECT AND COMPLETE.

SIGNATURE	DATE
-----------	------

NUMBER OR WEIGHT OF TIRES SHIPPED	TRUCK	PASSENGER	OFF THE ROAD	DATE
NUMBER OR WEIGHT OF TIRES GIVEN TO END USERS OR HELD FOR REUSE OR RESALE	TRUCK	PASSENGER	OFF THE ROAD	DATE

COMPANY NAME	MAILING ADDRESS	CITY	STATE	ZIP
--------------	-----------------	------	-------	-----

GENERATOR CERTIFICATION: I DECLARE THAT THE INFORMATION BELOW IS CORRECT AND COMPLETE.

SIGNATURE	DATE
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NUMBER OR WEIGHT OF TIRES SHIPPED	TRUCK	PASSENGER	OFF THE ROAD	DATE
NUMBER OR WEIGHT OF TIRES GIVEN TO END USERS OR HELD FOR REUSE OR RESALE	TRUCK	PASSENGER	OFF THE ROAD	DATE

MO 780-1593 (4-97)



COMPANY NAME		MAILING ADDRESS		CITY	STATE	ZIP
GENERATOR CERTIFICATION: I DECLARE THAT THE INFORMATION BELOW IS CORRECT AND COMPLETE.						
SIGNATURE					DATE	
NUMBER OR WEIGHT OF TIRES SHIPPED		TRUCK	PASSENGER	OFF THE ROAD		
NUMBER OR WEIGHT OF TIRES GIVEN TO END USERS OR HELD FOR REUSE OR RESALE		TRUCK	PASSENGER	OFF THE ROAD		
COMPANY NAME		MAILING ADDRESS		CITY	STATE	ZIP
GENERATOR CERTIFICATION: I DECLARE THAT THE INFORMATION BELOW IS CORRECT AND COMPLETE.						
SIGNATURE					DATE	
NUMBER OR WEIGHT OF TIRES SHIPPED		TRUCK	PASSENGER	OFF THE ROAD	DATE	
NUMBER OR WEIGHT OF TIRES GIVEN TO END USERS OR HELD FOR REUSE OR RESALE		TRUCK	PASSENGER	OFF THE ROAD	DATE	
3. RECEIVER SECTION (PROCESSOR, END USER, EXEMPT PERSON OR LANDFILL) MUST BE FILLED OUT ENTIRELY						
COMPANY NAME		OWNER NAME			PERMIT/REGISTRATION NUMBER	
MAILING ADDRESS		CITY		STATE	ZIP	
NUMBER OR WEIGHT OF TIRES RECEIVED		TRUCK	PASSENGER	OFF THE ROAD	DATE	
I DECLARE THAT THE INFORMATION CONTAINED ABOVE IS CORRECT AND COMPLETE.						
SIGNATURE					DATE	
COMPANY NAME		OWNER NAME			PERMIT/REGISTRATION NUMBER	
MAILING ADDRESS		CITY		STATE	ZIP	
NUMBER OR WEIGHT OF TIRES RECEIVED		TRUCK	PASSENGER	OFF THE ROAD	DATE	
I DECLARE THAT THE INFORMATION CONTAINED ABOVE IS CORRECT AND COMPLETE.						
SIGNATURE					DATE	
COMPANY NAME		OWNER NAME			PERMIT/REGISTRATION NUMBER	
MAILING ADDRESS		CITY		STATE	ZIP	
NUMBER OR WEIGHT OF TIRES RECEIVED		TRUCK	PASSENGER	OFF THE ROAD	DATE	
I DECLARE THAT THE INFORMATION CONTAINED ABOVE IS CORRECT AND COMPLETE.						
SIGNATURE					DATE	
NUMBER OR WEIGHT OF TIRES RECEIVED		TRUCK	PASSENGER	OFF THE ROAD	DATE	



MISSOURI DEPARTMENT OF NATURAL RESOURCES
 SOLID WASTE MANAGEMENT PROGRAM
 P.O. BOX 176, JEFFERSON CITY, MISSOURI 65102
APPLICATION FOR WASTE TIRE HAULER PERMIT

OFFICE USE ONLY
EXPIRES _____

APPLICANT'S NAME (NAME IN WHICH PERMIT IS TO BE ISSUED)			TELEPHONE NUMBER ()	
MAILING ADDRESS		CITY	STATE	ZIP CODE
INSPECTION ADDRESS (LIST ALL LOCATIONS IN MO WHERE TRUCKS ARE STORED) IF NONE, WRITE N/A			TELEPHONE NUMBER ()	
CITY	COUNTY	STATE	ZIP CODE	
TRANSPORTER'S PRINCIPAL OR AUTHORIZED REPRESENTATIVE TO ACT AS CONTACT PERSON IN REFERENCE TO THIS PERMIT				
TITLE			TELEPHONE NUMBER ()	
DRIVER'S LICENSE NUMBER(S) OF HAULERS EMPLOYED BY APPLICANT OR COMPANY MODOT, USDOT OR FHWA (ICC) NUMBERS. (ATTACH LIST IF NECESSARY.)				
LIST MISSOURI CITIES WITH BRANCH OFFICES (ATTACH LIST IF NECESSARY.) _____				
GEOGRAPHIC AREA SERVED (LIST MISSOURI COUNTIES TO BE SERVED - ATTACH LIST IF NECESSARY.) _____ _____				
LIST APPROXIMATE NUMBER OR WEIGHT OF WASTE TIRES TRANSPORTED PER MONTH				
RECEIVING FACILITY (IES)				
NAME			TELEPHONE NUMBER ()	
ADDRESS		CITY	STATE	ZIP CODE
NAME			TELEPHONE NUMBER ()	
ADDRESS		CITY	STATE	ZIP CODE
NAME			TELEPHONE NUMBER ()	
ADDRESS		CITY	STATE	ZIP CODE
HAVE YOU EVER BEEN IN VIOLATION OF SECTIONS 260.270 THROUGH 260.278 RSMO. IF YES, LIST DETAILS THAT INCLUDE THE NOTICE OF VIOLATION NUMBER, COUNTY, CASE NUMBER, DATE, CHARGE(S) AND DISPOSITION OF THE CASE. (ATTACH LIST IF NECESSARY.)				

MO 780-1280 (4-97)



VEHICLE DESCRIPTION: PROVIDE INFORMATION FOR EACH TYPE VEHICLE TO BE USED FOR HAULING WASTE TIRES (LIST CARGO CARRYING BODY ONLY)

VEHICLE DESCRIPTION TYPE (FLATBED, ROLLOFF, PICK-UP, ETC.)	VEHICLE IDENTIFICATION NUMBER (VIN) AND LICENSE NUMBER
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	
21.	

I, the undersigned, certify that the information contained herein is true and complete and that the transport, disposal, storage or processing of waste tires will comply with the requirements of the Missouri Solid Waste Management Law and Rules. I understand that in the event of any false or fraudulent information in the application or of failure to operate in compliance with the applicable laws and rules, the permit may be revoked after due notice from the Missouri Department of Natural Resources.

SIGNATURE (APPLICANT OR AUTHORIZED REPRESENTATIVE)	DATE
----------------------------------------------------	------

PRINT NAME AND TITLE

10 CSR 80-8.040 Waste Tire Site Permits

PURPOSE: This rule contains the requirements for obtaining a permit as a waste tire site.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.

(1) Definitions.

(A) A waste tire is a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

1. A tire no longer suitable for its original intended purpose due to wear is a tire with exposed cord or tread depth less than two thirty-seconds inch (2/32") when measured in any major groove.

2. A tire still mounted on a rim is not a waste tire, except as described in subparagraph (1)(A)3.

3. Any tire that is discarded with the intent of final disposal is also a waste tire.

(B) A cut tire, for the purposes of disposal in a permitted solid waste disposal area, is a waste tire cut in half circumferentially or cut into at least three (3) parts with no part being larger than approximately one-third (1/3) of the original tire's size.

(C) A shredded or chipped tire, for the purposes of disposal in a permitted solid waste disposal area, is a waste a tire that has been reduced to parts no larger than that defined in the definition of a cut tire.

(D) A waste tire site is a site at which five hundred (500) or more waste tires are accumulated, but not including a site owned or operated by a waste tire end-user that burns waste tires for the generation of energy or converts waste tires to a useful product.

(2) General Requirements.

(A) This rule is intended to provide minimum requirements for operation of a waste tire site. If techniques other than those listed in this rule are to be used, it is the obligation of the waste tire site owner/operator to demonstrate to the department in advance that the techniques to be employed satisfy the requirements. Detailed site and operational plans for the techniques shall be submitted to the department in writing and approved by the department in writing prior to being employed. The techniques utilized shall not

result in pollution, a public nuisance or a health hazard.

(B) The waste tire site must be in compliance with the requirements of the department's Clean Water Law, Chapter 644, RSMo and implementing regulations.

(C) Permitted waste tire sites are to be used only for the proper and temporary storage of waste tires.

(3) Applicability.

(A) Exemptions. The following are not required to obtain a permit as a waste tire site provided that pollution, a public nuisance or a health hazard is not created and provided the tires are stored according to the requirements of section (5) of this rule:

1. Warranty tires or new defective tires stored by tire retailers and wholesalers prior to transit to the wholesaler or manufacturer for adjustment credit;

2. Any tire retailer or wholesaler may hold more than five hundred (500) waste tires for a period not to exceed thirty (30) days without being permitted as a waste tire site, if such tires are stored according to requirements in section (5) of this rule;

3. Any person licensed as an auto dismantler and salvage dealer under Chapter 301, RSMo may, without further license, permit or payment of fee, store but shall not bury on his/her property, up to five hundred (500) waste tires that have been chipped, cut or shredded, if such tires are only from vehicles acquired by him/her, and such tires are stored in accordance with section (5) of this rule. No additional waste tires shall be stored unless the auto dismantler and salvage dealer has arranged for the proper disposal of the waste tires to take place within thirty (30) days. Appropriate documentation of the disposal arrangements shall be made available to the department upon request. In no case shall more than five hundred (500) waste tires be stored for more than thirty (30) days unless the auto dismantler and salvage dealer is permitted as a waste tire site and/or a waste tire processor;

4. Tires that are to be reused without further processing as vehicle tires (reused for the original intended purpose) that are separated from waste tires within thirty (30) days of receipt at a waste tire site, provided these tires are stored in compliance with section (5) of this rule and are not stored outside for more than one (1) year;

5. Retreadable tire casings held in inventory by tire retreaders for retreading that are stored separately from other waste tires, provided these tires are stored in compliance with section (5) of this rule and provided they are not stored outside for more than one (1) year; and

6. Tires stored as part of state-approved or nonprofit waste tire cleanups as long as tires are not stored for more than thirty (30) days.

(B) This rule shall pertain to whole, cut, baled, shredded or chipped waste tires.

(C) Underground storage of waste tires require a permit as a solid waste disposal area and shall comply with the requirements of 10 CSR 80.

(D) A waste tire processing facility that stores five hundred (500) or more whole, cut, chipped, baled or shredded waste tires is also a waste tire site and requires a permit as a waste tire site.

(E) No new waste tire sites shall be permitted after August 28, 1997, unless they are located at permitted waste tire processing facilities or registered waste tire end-user facilities.

(F) A person who maintained a waste tire site on or before August 28, 1997, shall not accept any quantity of additional waste tires at such site after August 28, 1997, unless the site is an integral part of the person's waste tire processing or end-user facility, or unless the person who maintains such site can verify that a quantity of waste tires at least equal to the number of additional waste tires received was shipped to a waste tire processing or end-user facility within thirty (30) days after receipt of such additional waste tires.

(4) Permit Application.

(A) A person desiring to establish, maintain or operate a waste tire site shall make application to the department for a permit to operate a waste tire site.

(B) An application for a permit must be sent by certified mail to the Missouri Department of Natural Resources, Solid Waste Management Program, P.O. Box 176, Jefferson City, MO 65102. The application shall consist of—

1. A completed Permit Application Form for a waste tire site provided by the department;

2. Detailed site plans and operational plans containing the information necessary to comply with the storage and recordkeeping requirements of this rule. Plans shall include:

A. Topographic and boundary surveys prepared by a registered land surveyor showing contour intervals of ten feet (10') or less. This survey shall have a scale of not less than one inch equals four hundred feet (1"=400'). All existing and proposed storage areas and structures shall be shown on the survey; and

B. A map showing the land use and zoning within five hundred feet (500') of the property boundaries, including the location of all residences, buildings, utilities and easements. This map shall have a scale of not less

than one inch equals four hundred feet (1"=400');

3. Detailed plans containing the information necessary to comply with the closure requirements and financial assurance instrument requirements of this rule;

4. Plans for final disposition of the waste tires;

5. A contingency plan designed to minimize the hazards to human health and the environment from fires, runoff of contaminants resulting from fires and from mosquitoes in case of failure of the primary method of vector control. The contingency plan shall include, but not be limited to, the following items, as applicable:

A. The actions site personnel must take in response to fires, runoff resulting from fires and mosquito breeding in waste tires;

B. An evacuation plan for site personnel, in case of fire; and

C. Evidence that the fire contingency plan has been provided to the local fire and police departments;

6. Evidence of compliance with local zoning requirements;

7. Evidence of compliance with department water pollution control regulations, 10 CSR 20-6.010;

8. Evidence of property ownership; and

9. Nonreturnable waste tire site permit fee of two hundred dollars (\$200). The fee shall be paid by check or money order made payable to the Department of Natural Resources. If the facility is required to apply for both a waste tire site permit and a waste tire processing facility permit and the permits are applied for at the same time, the department will only charge one (1) permit fee.

(C) The applicant for a waste tire site permit shall submit the application to the department in triplicate.

(D) The applicant shall reimburse the department for all permit review costs incurred by the department up to a maximum of two thousand dollars (\$2000). The department will submit a bill to the applicant for review costs incurred after completion of the investigation of the original application and upon completion of the investigation of any subsequent submittals. Payment must be received before the permit will be issued. Permit review costs shall include: permit application review time, public notification costs and costs associated with site visits. If the facility is required to apply for both a waste tire site permit and a waste tire processing facility permit and the permits are applied for at the same time, the department will only charge for one (1) permit review.

(E) Application Review, Approval and Denial. The department will complete an investigation of the application to determine compliance with the requirements of sections 260.200–260.345, RSMo, and corresponding rules, and render a decision to the applicant. When the investigation reveals that the waste tire site application—

1. Complies with the provisions of sections 260.200–260.345, RSMo, and corresponding rules, the department will approve the application and issue a permit; or

2. Does not comply with the provisions of sections 260.200–260.345, RSMo, and corresponding rules, the department will issue a written report to the applicant as to the reasons for denial of the permit.

(F) Permit Issuance, Modification and Revocation.

1. A permit for a waste tire site will be issued to the owner/operator.

2. A waste tire site permit may be revoked or suspended for noncompliance with the provisions of sections 260.200–260.345, RSMo or corresponding rules.

3. The department may, at any time during the life of the permit, open and modify or alternately revoke the permit and require the permittee to comply with any currently applicable federal, state or local requirements.

(5) Storage Requirements.

(A) Fire Protection.

1. Whole waste tire storage shall meet the *Standard for Storage of Rubber Tires*, NFPA 231D, 1994 edition, adopted by the National Fire Protection Association (NFPA) which by reference is incorporated into this rule.

2. Cut, chipped, baled or shredded waste tire storage shall meet the fire prevention, exposure protection and fire fighting access guidelines contained in the *Standard for Storage of Rubber Tires*, NFPA 231D, 1994 edition, adopted by the National Fire Protection Association.

3. Indoor storage requirements are contained in NFPA 231D, 1994 edition. Outdoor storage requirements are contained in NFPA 231D, Appendix C, 1994 edition. Copies of the NFPA standard may be obtained by contacting the NFPA, P.O. Box 9101, Quincy, MA 02269 (1-800-344-3555).

(B) Runoff Protection. Surface water drainage must be diverted around and away from waste tires.

(C) Location. Waste tire sites shall not be located in a wetland, sinkhole or floodplain (unless protected against at least the one hundred (100)-year design flood by impervious dikes or other appropriate means to prevent

the flood waters from contacting the waste tires).

(D) Site Control. Waste tire sites shall be fenced or enclosed or otherwise made inaccessible. Signs shall be posted to prohibit unauthorized entry. (Wording such as "Access Restricted to Authorized Haulers Only" may be used.)

(E) Vector Control. Conditions shall be maintained that are unfavorable for the harboring, feeding and breeding of vectors. If the method being used to control vectors is not effective, the owner/operator of the waste tire collection center shall use an alternate method to correct the vector problem. The owner/operator of a waste tire site storing tires shall use one (1) or more of the following methods of vector control:

1. Drain tires of water and keep them dry within a building, enclosed trailer or under a cover that is impermeable. The cover shall be maintained impermeable;

2. Alter tires so they do not retain water;

3. Treat the tires with a larvicide and/or adulticide appropriate to prevent the development of mosquito larvae and pupae and repeat treatment as often as necessary to prevent such development, taking into account the effectiveness and life of the larvicide and/or adulticide utilized.

A. Larvicides and/or adulticides must be applied in accordance with their label, Chapter 281, RSMo and its implementing regulations.

B. The dimensions of the tire pile and the method of stacking the tires shall allow for application of the larvicide and/or adulticide to all tires; and

4. Alternate methods of vector control must be approved by the department.

(6) Recordkeeping Requirements. The owner/operator of a waste tire site shall maintain records required by this rule. All records required by this rule shall be kept for at least three (3) years. The period of record retention extends upon the written request of the department or automatically during the course of any unresolved enforcement action regarding the regulated activity. The records shall be made available for inspection by the department or its designated representative upon request. The records shall include at least the following:

(A) Major operational problems, complaints and difficulties;

(B) The approximate number of tires received each week, number of tires removed to final disposition each week, final disposition of removed tires and the name and permit number, if applicable, of each waste tire hauler bringing tires to or removing tires

from the site. This information shall be summarized monthly; and

(C) Records of vector control activities. For a waste tire site utilizing a larvicide and/or adulticide for vector control, the records shall include the following:

1. If the larvicide/adulticide is applied by a registered pest control company, record the name of the company and the date of application; or

2. If the larvicide/adulticide is not applied by a registered pest control company, type(s) of larvicide/adulticide utilized, amount utilized and date applied.

(7) Closure, Financial Assurance.

(A) Closure Plan Requirements.

1. Plans for closure of the waste tire site shall include methods, time schedules and cost estimates for removal of all waste tires and site clean-up and restoration activities. The cost estimates for the amount of the financial assurance instrument shall be based upon the current costs of similar cleanups using data from actual waste tire cleanup project bids received by the department to remediate waste tire sites of similar size. The following shall be performed as a part of closure of a waste tire site and shall be included in the plans:

A. Removal and clean-up plans and cost estimates. Waste tires shall be removed from the site and taken to a site or facility that has obtained applicable permits from the department. The site shall be cleaned up so as to remove all other solid waste to provide a pleasing appearance;

B. Site restoration plans and cost estimates. If necessary, removal of any contaminated soil, debris, residue, and/or placement of cover and establishment of vegetation in a manner as to minimize erosion, control drainage and provide a pleasing appearance;

C. The owner/operator must demonstrate in the closure plan that the estimate represents the maximum closure costs at any time during the active operation of the waste tire site;

D. The cost estimate(s) submitted with the closure plan shall contain an estimate in current dollars (based upon the current costs of similar cleanups using data from actual waste tire clean-up project bids received by the department to remediate waste tire sites of similar size) and an adjusted estimate for the succeeding five (5) years based on the projected rate of inflation. The rate of inflation used for this purpose shall be the percent change in the implicit price deflator for the Gross National Product for the latest completed year, by quarters, as determined by the United States Department of

Commerce. The adjusted cost estimate shall be used to determine the amount of the financial assurance instrument; and

E. The closure cost estimates shall be adjusted every five (5) years by the owner/operator based upon the actual rate of inflation for the preceding five (5) years and the projected rate of inflation for the succeeding five (5) years. The adjusted cost estimates shall be submitted to the department for review every five (5) years after the date of permit issuance.

2. The owner/operator of a waste tire site shall notify the department in writing at least ninety (90) days prior to the date the owner/operator expects to begin closure. The owner/operator shall begin implementation of the closure plan required in this rule within thirty (30) days after the closure date specified in the closure plan.

3. Owner/operators of a permitted waste tire site as a part of closure of the waste tire site, shall execute an easement with the department, which allows the department, its agents or its contractors to enter the premises to complete work specified in the closure plan, to monitor or maintain the waste tire site, or take remedial action. This easement will be terminated upon proper closure of the site.

4. If changes in the design and/or operation of a waste tire site make modifications in the closure plans or cost estimates necessary, modified closure plans and cost estimates shall be submitted to the department for approval prior to implementation of the changes.

(B) Financial Assurance Requirements.

1. A permit will not be issued until financial assurance instruments as required by subsection (7)(B) of this rule have been submitted and approved by the department.

A. Increasing and decreasing financial assurance instruments. The following shall apply to all financial assurance instruments as specified in paragraph (7)(B)2. of this rule except the financial test, corporate guarantee and insurance: When the estimated closure cost increases, the amount of the financial assurance instrument shall be adjusted to cover the increase in the cost estimate. The owner/operator shall increase the amount of the financial assurance instrument within one hundred eighty (180) days of the increase in the estimate and submit written evidence of the increase to the director or obtain other financial assurance as specified in paragraph (7)(B)2. of this rule to cover the increase. If the current closure cost decreases and the owner/operator has received written approval from the director of this decrease,

the owner/operator may decrease the amount of the closure financial assurance instrument.

B. Release of closure financial assurance instruments. The department will inspect a permitted waste tire site when notified by the owner/operator that the closure plan has been implemented. If the inspection reveals that the approved closure plan has been properly effected, the director shall authorize the release or proportional release of the financial assurance instrument submitted for closure and interest, if any.

C. Forfeiture of financial assurance instruments. If the owner/operator fails to properly implement the closure plan, the director will give written notice of the violation and order the owner/operator to implement the closure plan. If corrective measures approved by the director are not commenced within a specified and reasonable time, the director will order forfeiture of all or that part of the owner/operator's financial assurance instrument necessary to implement the closure plans. Any owner/operator aggrieved by a forfeiture order may appeal as provided in section 536.150, RSMo.

2. Financial assurance instruments. The requirements of subsection (7)(B) of this rule for financial assurance instrument(s) for closure may be satisfied by establishing a trust fund or escrow account, securing a financial guarantee bond or a performance bond, obtaining an irrevocable letter of credit or insurance, or a combination of these as outlined in paragraph (7)(B)2. of this rule. This requirement may also be satisfied by meeting a financial test and by using a corporate guarantee. A municipality or county may satisfy the requirements by signing a contract of obligation.

A. Trust fund or escrow account. The establishment of a trust fund or escrow account may be used to satisfy the requirement for a financial assurance instrument to provide for closure.

(I) A bank or other financial institution which is authorized to administer trusts in Missouri and whose trust operations are regulated and examined by Missouri or a federal agency shall act as the trustee of the closure trust fund. An escrow account shall be established at a bank or financial institution which is located in Missouri and which is examined by Missouri or a federal agency.

(II) The trust fund or escrow account shall consist of cash, certificates of deposit or United States government securities. United States government securities include treasury bills, treasury bonds and treasury notes guaranteed by the federal government.

(III) Wording of trust fund or escrow account agreements.

(a) The wording of the trust fund agreement must be identical to the wording specified in Form 1A and the trust fund agreement must be accompanied by a formal certification of acknowledgment (Form 1B). An original or an originally signed duplicate of the trust fund agreement shall be submitted to the department.

(b) The wording of the escrow account agreement shall be identical to the wording in Form 2. An original or an originally signed duplicate of the escrow account agreement shall be submitted to the department.

(IV) If the owner/operator establishes a trust fund or escrow account after having used one (1) or more alternate mechanisms specified in paragraph (7)(B)2. of this rule, the first payment must be in at least the amount that the trust fund or escrow account would contain if the trust fund or escrow account were established initially and annual payments made based upon the current costs of similar cleanups using data from actual waste tire clean-up project bids received by the department to remediate waste tire sites of similar size.

(V) If an owner/operator substitutes other financial assurance as specified in subsection (7)(B) of this rule for all or part of the trust fund or escrow account, s/he may submit a written request to the department for release of all or a portion of the amount covered by the trust fund or escrow account.

(VI) Within sixty (60) days after receiving a request from the owner/operator for release of funds as specified in part (7)(B)2.A.(V) of this rule, the director will instruct the trustee or escrow agent to release to the owner/operator those funds as the director specifies in writing.

(VII) If the owner/operator does not properly implement the closure plan and does not comply with an order by the department to do so, the department will order the forfeiture of all or part of the trust fund or escrow account as specified in subparagraph (7)(B)1.C. of this rule.

(VIII) The director will agree to termination of the trust fund or escrow account when—

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(B) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(B) of this rule.

B. Financial guarantee bond. The requirement for a financial assurance instru-

ment may be satisfied by securing a financial guarantee bond.

(I) The bond shall be executed by the owner/operator and a corporate surety licensed to do business in Missouri. The surety company issuing the bond, at a minimum, must be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury.

(II) The wording of the surety bond must be identical to the wording specified in Form 3.

(III) The owner/operator who uses a surety bond to satisfy the requirements of subsection (7)(B) of this rule must also establish a standby trust fund or escrow account. Under the terms of the bond, all payments made will be deposited by the surety directly into the standby trust fund or escrow account in accordance with instructions from the director. This standby trust fund or escrow account must meet the requirements specified in subparagraph (7)(B)2.A. of this rule except that—

(a) An original or an originally signed duplicate of the standby trust fund or escrow account agreement must be submitted to the department with the surety bond; and

(b) Unless the standby trust fund or escrow account is funded pursuant to the requirements of subparagraph (7)(B)2.B. of this rule, the following are not required by these rules:

I. Payments into the trust fund or escrow account;

II. Annual valuations as required by the trust fund or escrow account agreement; and

III. Notices of nonpayment as required by the trust fund or escrow account agreement.

(IV) The bond must guarantee that the owner/operator will—

(a) Fund the standby trust fund or escrow account in an amount equal to the penal sum of the bond before the beginning of final closure of the waste tire site;

(b) Fund the standby trust fund or escrow account in an amount equal to the penal sum within thirty (30) days after an order to begin closure is issued by the department; or

(c) Provide alternate financial assurance as specified in subsection (7)(B) of this rule; and within ninety (90) days after receipt, by both the owner/operator and the department, of a cancellation notice of the bond from the surety, obtain the director's written approval of the provided assurance.

(V) Under the terms of the bond, the surety will become liable on the bond

obligation when the owner/operator fails to perform as guaranteed by the bond.

(VI) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner/operator and to the department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner/operator and the director, as evidenced by the return receipts.

(VII) The owner/operator may cancel the bond if the director has given prior written consent based on receipt of evidence of alternate financial assurance as specified in subsection (7)(B) of this rule.

C. Performance bond. The requirement for a financial assurance instrument may be satisfied by securing a performance bond guaranteeing performance of closure.

(I) The bond shall be executed by the owner/operator and a corporate surety licensed to do business in Missouri. The surety company issuing the bond, at a minimum, must be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury.

(II) The wording of the surety bond must be identical to the wording specified in Form 4.

(III) The owner/operator who uses a surety bond to satisfy the requirements of subsection (7)(B) of this rule must also establish a standby trust fund or escrow account. Under the terms of the bond, all payments made will be deposited by the surety directly into the standby trust fund or escrow account in accordance with instructions from the director. This standby trust fund or escrow account must meet the requirements specified in subparagraph (7)(B)2.A. of this rule, except that—

(a) An original or an originally signed duplicate of the standby trust fund or escrow account agreement must be submitted to the department with the surety bond; and

(b) Unless the standby trust fund or escrow account is funded pursuant to the requirements of subparagraph (7)(B)2.C. of this rule, the following are not required by these rules:

I. Payments into the trust fund or escrow account as specified;

II. Annual valuations as required by the trust fund or escrow account agreement; and

III. Notices of nonpayment as required by the trust fund or escrow account agreement.

(IV) The bond must guarantee that the owner/operator will—

(a) Perform final closure in accordance with the closure plan and other requirements of the waste tire site permit whenever required to do so; or

(b) Provide alternate financial assurance as specified in subsection (7)(B) of this rule and obtain the director's written approval of the provided assurance, within ninety (90) days after receipt by both the owner/operator and the department of a notice of cancellation of the bond from the surety.

(V) Under the terms of the bond, the surety will become liable on the bond obligation when the owner/operator fails to perform as guaranteed by the bond. Following a determination that the owner/operator has failed to perform final closure in accordance with the closure plan, under the terms of the bond the surety will perform final closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund or escrow account.

(VI) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner/operator and to the department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner/operator and the department, as evidenced by the return receipts.

(VII) The owner/operator may cancel the bond if the director has given prior written consent. The director will provide written consent when—

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(B) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(B) of this rule.

(VIII) The surety will not be liable for deficiencies in the performance of closure by the owner/operator after the director releases the owner/operator from the requirements of subsection (7)(B) of this rule.

D. Letter of credit. The requirement for a financial assurance instrument may be satisfied by obtaining an irrevocable standby letter of credit.

(I) The letter of credit shall be issued by a state- or federally-chartered and regulated bank or trust association. If the issuing institution is not located in Missouri, a bank or trust association located in Missouri must confirm the letter of credit and the confirmation shall be filed with the department along with the letter of credit.

(II) The wording of the letter of credit must be identical to the wording specified in Form 5.

(III) An owner/operator who uses a letter of credit to satisfy the requirements of subsection (7)(B) of this rule must also establish a standby trust fund or escrow account. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund or escrow account in accordance with instructions from the director. This standby trust fund or escrow account must meet the requirements of the trust fund or escrow account specified in subparagraph (7)(B)2.A. of this rule, except that—

(a) An original or an originally signed duplicate of the standby trust fund or escrow account agreement must be submitted to the department with the letter of credit; and

(b) Unless the standby trust fund or escrow account is funded pursuant to the requirements of subparagraph (7)(B)2.D. of this rule, the following are not required by these rules:

I. Payments into the trust fund or escrow account as specified;

II. Annual valuations as required by the trust fund or escrow account agreement; and

III. Notices of nonpayment as required by the trust fund or escrow account agreement.

(IV) The letter of credit must be accompanied by a letter from the owner/operator referring to the letter of credit by number, the issuing institution and date and providing the following information: the waste tire site permit number, name and address of the waste tire site and the amount of funds assured for closure of the waste tire site by the letter of credit.

(V) The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies both the owner/operator and the department by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty (120) days will begin on the date when both the owner/operator and the department have received the notice, as evidenced by the return receipts.

(VI) If the owner/operator does not establish alternate financial assurance as

specified in subsection (7)(B) of this rule and obtain written approval of this alternate assurance from the director within ninety (90) days after receipt by both the owner/operator and the department of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the director will draw on the letter of credit. The director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last thirty (30) days of this extension, the director will draw on the letter of credit if the owner/operator has failed to provide alternate financial assurance as specified in subsection (7)(B) of this rule and obtain written approval of that assurance from the director.

(VII) Following a determination that the owner/operator has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, the director may draw on the letter of credit.

(VIII) The director will return the letter of credit to the issuing institution for termination when—

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(B) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(B) of this rule.

E. Insurance. The requirement for a financial assurance instrument may be satisfied by obtaining insurance.

(I) The insurer, at a minimum, must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one (1) or more states, and authorized to transact business in Missouri.

(II) The wording of the certificate of insurance must be identical to the wording specified in Form 6.

(III) The insurance policy must be issued for a face amount at least equal to the amount specified in paragraph (7)(A)1. of this rule. The term face amount means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(IV) The insurance policy must guarantee that funds will be available to close the waste tire site whenever final closure occurs. The policy must also guarantee that once the final closure begins, the insurer, upon the direction of the director, will be responsible for paying out funds, up to an amount equal to the face amount of the policy, to that party(ies) as the director specifies.

Release of the funds will be authorized by the director according to paragraph (7)(B)1. of this rule.

(V) The owner/operator must maintain the policy in full force and effect until the director consents to termination of the policy by the owner/operator as specified in part (7)(B)2.E.(VIII) of this rule. Failure to pay the premium, without substitution of alternate financial assurance as specified in subsection (7)(B) of this rule, will constitute a significant violation of these rules, warranting such remedy as the director deems necessary. The violation will be deemed to begin upon receipt by the department of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(VI) Each policy must contain a provision allowing assignment of the policy to a successor owner/operator. The assignment may be conditional upon consent of the insurer, provided this consent is not unreasonably refused.

(VII) The policy must provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy, at a minimum, must provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate or fail to renew the policy by sending notice by certified mail to the owner/operator and the department. Cancellation, termination or failure to renew may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by both the director and the owner/operator, as evidenced by the return receipts. Cancellation, termination or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration—

(a) The director deems the tire site abandoned;

(b) The permit is terminated or revoked or a new permit is denied;

(c) Closure is ordered by the director or a United States district court or other court of competent jurisdiction;

(d) The owner/operator is named as debtor in a voluntary or involuntary proceeding under Title II (Bankruptcy), *United States Code*; or

(e) The premium due is paid.

(VIII) The director will give written consent to the owner/operator that s/he may terminate the insurance policy when—

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(B) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(B) of this rule.

F. Financial test and corporate guarantee. The requirements for a financial assurance instrument may be satisfied by passing a financial test. A corporate guarantee submitted by the parent corporation of the owner/operator as specified in part (7)(B)2.F.(X) of this rule may also be used to satisfy the requirements for a financial assurance instrument.

(I) To pass the financial test the owner/operator must meet the criteria of either subpart (7)(B)2.F.(I)(a) or (b) of this rule.

(a) The owner/operator must have—

I. Two (2) of the following three (3) ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

II. Tangible net worth at least 2.0 times the sum of the current closure cost estimates covered by the test; and

III. Assets in the United States amounting to at least ninety percent (90%) of his/her total assets or at least 2.0 times the sum of the current closure cost estimates covered by the test.

(b) The owner/operator must have—

I. A current rating for his/her most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's;

II. Tangible net worth at least 2.0 times the sum of the current closure cost estimates covered by the test; and

III. Assets located in the United States amounting to at least ninety percent (90%) of his/her total assets or at least 2.0 times the sum of the current closure cost estimates covered by the test.

(II) The phrase current closure cost estimates as used in part (7)(B)2.F.(I) of this rule refers to the cost estimates required to be shown in paragraphs 1.–4. of the letter from the owner/operator's chief financial officer (Form 7).

(III) To demonstrate that s/he meet this test, the owner/operator must submit the following items to the department:

(a) A letter signed by the owner/operator's chief financial officer and worded as specified in Form 7;

(b) A copy of the independent certified public accountant's report on examination of the owner/operator's financial statements for the latest completed fiscal year based on generally accepted accounting principles; and

(c) A special report from the owner/operator's independent certified public accountant to the owner/operator stating that—

I. S/he has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in those financial statements; and

II. In connection with that procedure, no matters came to his/her attention which caused him/her to believe that the specified data should be adjusted.

(IV) After the initial submission of items specified in part (7)(B)2.F.(III) of this rule, the owner/operator must send updated information to the department within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three (3) items specified in part (7)(B)2.F.(III) of this rule.

(V) If the owner/operator no longer meets the requirements of part (7)(B)2.F.(I) of this rule, s/he must send notice to the department of intent to establish alternate financial assurance. The notice must be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner/operator no longer meets the requirements. The owner/operator must provide the alternate financial assurance within one hundred twenty (120) days after the end of the fiscal year.

(VI) The director, based on a reasonable belief that the owner/operator may no longer meet the requirements of part (7)(B)2.F.(I) of this rule, may require reports of financial condition at any time from the owner/operator in addition to those specified in part (7)(B)2.F.(I) of this rule. If the director finds, on the basis of the reports or other information, that the owner/operator no longer meets the requirements of part (7)(B)2.F.(I) of this rule, the owner/operator must provide alternative financial assurance as specified in subsection (7)(B) of this rule within thirty (30) days after notification of such a finding.

(VII) The department may require and evaluate additional information which relates to financial status, including present or potential environmental liabilities and may deny the use of the financial test based upon the evaluation or the failure of an applicant to provide such additional information requested

by the department within thirty (30) days from the date of that request. Pending approval of the use of the test by the director or pending appeal before any court of competent jurisdiction of the department's denial of the use of the test, the owner/operator shall comply with the financial assurance requirements through the use of an alternate financial assurance mechanism as described in subsection (7)(B) of this rule. The burden of proof shall be on the applicant in the event of any appeal of a denial. If the department rules that the firm's financial test is unacceptable, the firm shall have thirty (30) days from the date of notification of such a decision to provide alternative financial assurances.

(VIII) The department may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the report on examination of the owner/operator's financial statements. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The department will evaluate other qualifications on an individual basis. The owner/operator must provide alternate financial assurance as specified in subsection (7)(B) of this rule within thirty (30) days after notification of the disallowance.

(IX) The owner/operator is no longer required to submit the items specified in part (7)(B)2.F.(III) of this rule when—

(a) An owner/operator substitutes alternate financial assurance as specified in subsection (7)(B) of this rule; or

(b) The director releases the owner/operator from the requirements of subsection (7)(B) of this rule.

(X) An owner/operator may meet the requirements of subsection (7)(B) of this rule by obtaining a written guarantee, referred to in this rule as corporate guarantee. The guarantor must be the parent corporation of the owner/operator. The guarantor must meet the requirements for owner/operators in parts (7)(B)2.F.(I)–(VIII) of this rule and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in Form 8. The corporate guarantee must accompany the items sent to the department as specified in part (7)(B)2.F.(III) of this rule. The terms of the corporate guarantee must provide that—

(a) If the owner/operator fails to perform final closure of a waste tire site covered by the corporate guarantee in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund

as specified in subparagraph (7)(B)2.A. of this rule in the name of the owner/operator;

(b) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner/operator and to the department. Cancellation may not occur, however, during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by both the owner/operator and the department, as evidenced by the return receipts; and

(c) If the owner/operator fails to provide alternate financial assurance as specified in subsection (7)(B) of this rule and obtain the written approval of the alternate assurance from the director within ninety (90) days after receipt by both the owner/operator and the department of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide the alternative financial assurance in the name of the owner/operator.

G. Contract of obligation. Municipalities or counties may satisfy the requirements for a financial assurance instrument by entering into a contract of obligation. This contract of obligation shall be a binding agreement on the municipality or county, allowing the department to collect the required amount from any funds being disbursed or to be disbursed by Missouri to the municipality or county. A municipality or county which uses the contract of obligation annually shall submit a letter to the department from the governing body reaffirming the amount of their financial obligation. The wording of the contract of obligation shall be identical to the wording specified in Form 9.

H. Use of multiple financial assurance instruments. An owner/operator may satisfy the requirements of subsection (7)(B) of this rule for financial assurance instruments by establishing more than one (1) financial instrument per waste tire site for closure. These instruments are limited to trust funds, escrow accounts, financial guarantee bonds, and letters of credit. The instrument must be as specified in paragraph (7)(B)2. of this rule except that it is the combination of instruments, rather than the single instrument which must provide financial assurance for an amount at least equal to an amount based upon the current costs of similar cleanups using data from actual waste tire clean-up project bids received by the department to remediate waste tire sites of similar size. If an owner/operator uses a trust fund or escrow account in combination with a surety bond or a letter of credit, s/he may use the trust fund or escrow account as the standby

trust fund or escrow account for the other instruments. A single standby trust fund or escrow account may be established for two (2) or more instruments. The director may use any or all of the instruments to provide for closure of the waste tire site.

AUTHORITY: sections 260.225 and 260.270, RSMo Supp. 1996. Original rule filed Jan. 3, 1991, effective July 8, 1991. Amended: Filed March 17, 1992.** Emergency rescission of the 1992 amendment filed March 19, 1997, effective April 1, 1997, expired Sept. 27, 1997. Rescission of the 1992 amendment filed April 3, 1997, effective Aug. 30, 1997. Amended: Filed April 16, 1997, effective December 30, 1997.*

**Original authority: 260.225, RSMo 1972, amended 1975, 1986, 1988, 1990, 1993, 1995 and 260.270, RSMo 1990, amended 1995.*

***The Missouri Supreme Court in Missouri Coalition for the Environment, et al., v. Joint Committee on Administrative Rules, et al., Case No. 78628, dated February 25, 1997, ordered the secretary of state to publish this amendment. The Missouri Department of Natural Resources subsequently filed an emergency rescission of this amendment as well as a proposed rescission of this amendment which became effective August 30, 1997. See the above authority section for filing dates.*



MISSOURI DEPARTMENT OF NATURAL RESOURCES
SOLID WASTE MANAGEMENT PROGRAM
P.O. BOX 176, JEFFERSON CITY, MISSOURI 65102, or
205 JEFFERSON STREET, JEFFERSON CITY, MISSOURI 65101

APPLICATION FOR WASTE TIRE SITE PERMIT

THE PERMIT WILL BE ISSUED TO THE "PERSON(S)" DESIGNATED BELOW AS THE OWNER AND "OPERATOR." "Person" is defined by 260.200.26, RSMo to mean: individual, partnership, corporation, association, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution.

Form with sections: FACILITY NAME, OPERATOR, OWNER, OPERATIONAL INFORMATION, and signature lines for Operator and Owner.

MO 780-1279 (7-97)