NEBRASKA ADMINISTRATIVE CODE

Title 132 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 14 – Waste Tires

001 Disposal of waste tires. Land disposal of recyclable waste tires in any form is prohibited.

001.01 For purposes of this Title, nonrecyclable tire means a press-on solid tire, a solid pneumatic shaped tire, or a foam pneumatic tire and may be land disposed at a permitted landfill.

001.02 No person shall accumulate more than five hundred (500) passenger tire equivalents (PTE) of waste tires for more than one (1) year; except:

001.02A Waste Tire Processor or Recycler. A waste tire processor or recycler may accumulate more than five hundred (500) PTE in a calendar year for the purpose of reusing, recycling or shipping the waste tires out of state. However, the amount of tire material reused, recycled or shipped out of state must equal at least seventy-five percent (75 %) by weight of such material accumulated by January 1st of that calendar year. Failure to reuse, recycle or ship out of state seventy-five percent (75%) of such material in one (1) calendar year shall be deemed speculative accumulation or disposal and is prohibited. Written documentation that verifies seventy-five percent (75%) of waste tire material was reused, recycled or shipped out of state within one (1) calendar year rests with the person accumulating the waste tires.

001.02B Tire Retailer. A tire retailer may accumulate more than five hundred (500) PTE of waste tires for less than one (1) year for the purpose of transporting the waste tires offsite for reuse, recycling, or shipment out of state.

001.02C Permitted Solid Waste Disposal Area. A permitted solid waste disposal area may accumulate more than five hundred (500) PTE of waste tires for less than one (1) year for the purpose of transporting the waste tires offsite for reuse, recycling, or shipment out of state.

001.02D Other Collector. Any person may accumulate more than five hundred (500) PTE of waste tires for the purpose ~~hof~~ of transporting the waste tires offsite for reuse, recycling, or shipment out of state provided the waste tire material is accumulated in no more than two (2) containers for less than one (1) year.

002 Any person storing or accumulating any number of waste tires must:

002.01 Provide measures to minimize risks to public health and welfare caused by disease-carrying insects and rodents;

002.02 Locate the waste tire accumulation outside all wetlands ~~and/or ten (10) year floodplains~~;

002.03 Comply with the State Fire Marshal regulations, Title 153, Nebraska State Fire Code Regulations, concerning waste tire management.

003 Waste tires are not considered disposed if they are:

003.01 Beneficially reused in accordance with Section 006 of this chapter;

003.02 Processed into crumb rubber form and reused or recycled in manufactured products such as, but not limited to, products used for schools, playgrounds, and residential, lawn, and garden applications; or for use as rubber modified asphalt for road construction;

003.03 Used as tire-derived fuel in accordance with a permit issued under Title 129, Nebraska Air Quality Regulations;

003.04 Retreaded;

003.05 Processed into chip or shred form and used as drainage media in landfill construction or septic drain fields;

003.06 Used as raw material in steel making;

003.07 Processed into chip or shred form and used as alternative daily cover in a landfill in accordance with Chapter 3, 004.17B2;

003.08 Processed into chip or shred form for a civil engineering project if such project is designed and constructed by an engineer registered in compliance with the Engineers and Architects Regulation Act and prior approval for such project is obtained from the Department by the waste tire processor and the end user. The use of chips and/or shreds in civil engineering projects shall conform to the Material Characterization Test Methods and Construction Practices as contained within the American Society for Testing and Materials (ASTM) Standard Practice for Use of Scrap Tires in Civil Engineering Applications, D 6270-98, as incorporated herein by reference. Departmental approval is not necessary for chipped or shredded tire projects involving three thousand five hundred (3,500) or less PTE of waste tires if the Department receives notification of the project at least thirty (30) days prior to any construction of such project. The notification shall contain the following:

003.08A Name and address of the waste tire processor and end user;

003.08B Location of the project; and

003.08C A description of the type of the project, the number of PTE of waste tires to be used, and any additional information the Department determines is necessary.

003.09 Accumulated in accordance with Section 001 of this chapter.

004 On or after September 1, 2003, placing or causing the placement or disposal of waste tires in any form into the waters of the state is prohibited except for use as specified in Section 006 of this chapter. Compliance with the provisions of Section 006 of this chapter is not an exemption from other local, state or federal requirements.

005 Any person who accumulates waste tires in violation of Section 001 of this chapter and that accumulation is the subject of abatement or cleanup, shall be liable to the State of Nebraska for the reimbursement of expenses of such abatement or cleanup paid by the Department of Environmental Quality.

006 Beneficial reuse of waste tires. Beneficial reuse shall mean waste tires used for agricultural purposes; as fish habitat; as blowout stabilization; tire mats for bank stabilization; or burned for energy recovery.

006.01 The following are standards and criteria for specific approved beneficial reuse of waste tires:

006.01A Stream bank, lake bank and culvert outlet mats using whole waste tire mats, constructed as follows:

006.01A1 The whole waste tires shall be placed in a single layer, with waste tires bonded together with a non-corrodible connector;

006.01A2 The whole waste tires shall all be drilled or punctured with at least one (1.0) inch diameter hole(s) to allow outflow of air to prevent flotation. The whole waste tires shall be oriented in the mat such that the hole(s) prevent flotation during submerged conditions;

006.01A3 The bonded whole waste tire mat shall be anchored with cable of at least 0.5 inches in diameter;

006.01A4 The cables shall then be fastened to buried anchors made of treated timbers or concrete, at least every 50 feet along the top and sides and at the rate of one (1) anchor per one thousand square feet (1,000 ft^2) of the waste tire mat face and at the rate of one (1) anchor per one hundred fifty square feet (150 ft^2) of waste tire mat resting on the bottom of the stream, lake or culvert channel;

006.01A5 The whole waste tire mat should extend four (4) to six (6) feet into the stream channel, lake bottom or culvert channel bottom and shall be vertically entrenched at least one (1) tire width in the bottoms to avoid undercutting;

006.01A6 The outermost row in the flow bottom(s) shall be filled with rocks or concrete debris sized to remain in place when subjected to the velocities of the design storm;

006.01A7 Vegetation shall be planted in and around the whole waste tire mat; rows within the waste tire mat that are too wet for vegetation establishment shall be filled with rocks or concrete debris sized to remain in place under the velocities of the design storm;

006.01A8 Each whole waste tire mat shall be shown to be stable when subjected to the velocity of the design flow(s) by standard hydraulic equations, which utilize verifiable hydraulic constants.

006.01B Stream bank, lake bank and culvert outlet mats using processed waste tire mats, which meet the following criteria:

006.01B1 Processed waste tire mats are not appropriate in flowing water with velocity greater than five (5) feet per second unless they are shown to be stable under velocities of flow greater than five (5) feet per second. All flow velocities shall be determined by applicable standard hydraulic equations utilizing verifiable hydraulic constants;

006.01B2 Processed waste tire mats shall be placed in a single layer and connected with non-corrodible connectors;

006.01B3 The processed waste tire mat shall be anchored to the bank along the top, toe and upstream and downstream ends of the waste tire mat;

006.01B4 The processed waste tire mat should extend four to six feet out into the channel bottom.

006.01C Blowout Stabilization. Waste tires used for blowout stabilization must be designed using the following criteria:

006.01C1 The stabilized area of the blowout must have one single layer of relatively uniform thickness ranging from a passenger tire to a truck tire. The waste tires must be arranged in a random pattern that does not allow wind to find a straight-line path through the tires. Waste tires shall

not be placed inside other waste tires and tires with rims, cut tires or inner tubes shall not be used;

006.01C2 Mulching and seeding is required and may be completed prior to or after the placement of waste tires. An appropriate seed mix and seed rate shall be drilled or broadcast over the site to establish vegetative growth;

006.01C3 The edges of the blowout must be sloped to a ratio of 2:1 (horizontal to vertical) or flatter;

006.01C4 The landowner must consult with the Nebraska Game and Parks Commission (NGPC) regarding possible populations of threatened or endangered species in the area and obtain consent from NGPC before the project begins.

006.01C5 As of January 1, 2011, tires may not be placed into blowouts that are larger than 1/2 (one-half) acre in area.

006.01D The use of waste tires for fish habitat must be in accordance with the requirements of the Nebraska Game and Parks Commission and the U.S. Army Corps of Engineers.

007 Waste tire hauler permit. Any person, business, or other entity engaged in the business of picking up, hauling, and transporting waste tires for accumulation, processing, or recycling shall obtain a permit from the department before engaging in such activity.

007.01 Exceptions.

007.02A A transporter of new or used tires to the manufacturer for warranty adjustments;

007.02B A tire retailer engaged in hauling their own tires;

007.02C An owner or operator of a permitted municipal solid waste disposal area who is not in the business of hauling waste tires;

007.02D A farmer or rancher or other person hauling their own waste tires they generate for uses allowed by these regulations.

008 Submittal. Applicants shall submit an original application to the Lincoln office of the Nebraska Department of Environmental Quality, Waste Management Section. Applicants shall retain a copy of the application for their records.

009 All permit applications and any supplemental application material submitted to the Department, as required in Section 008 of this chapter, shall be signed:

009.01 In the case of a corporation, by a principal executive officer of at least the level of vice-president;

009.02 In the case of a partnership or sole proprietorship, by a general partner or the sole proprietor, respectively;

009.03 In the case of a municipal, state, federal, or other public entity, by either a principal executive officer or ranking elected official.

010 General Conditions. The Department shall impose such conditions in a permit as may be necessary to accomplish the purposes of applicable laws and these regulations, and as may be necessary to ensure compliance with applicable laws, regulations, and standards. The following conditions apply to all permits:

010.01 A permittee shall fulfill all reporting requirements of the permit; and

010.02 A permittee shall comply with all other applicable local, state, and federal requirements; and

010.03 A permittee shall allow full access to existing and available records, and shall allow Department inspectors entry and access, during reasonable hours, to any building, area, or place, for inspection purposes; and

010.04 A permittee must, upon request, provide proof of operating under a valid permit issued by the Department.

011 The permit application for a waste tire hauler shall include, but not be limited to, the following information:

011.01 A description of the geographical area the waste tire hauler will serve or is currently serving;

011.02 A description of where the waste tires will be or are currently collected and delivered or deposited; and

011.03 An estimate of the quantity and type of waste tires that will be transported quarterly.

012 Annual Report: Waste Tire Hauler. A permittee shall submit for each permit an annual report containing the information required by this section. The annual report shall cover activities for a designated twelve-month (12) period that will be established as a general permit condition. Records shall be kept at the location in which waste tire business is conducted or permittee must notify the Department of an alternate location.

012.01 Annual Report Criteria . A permittee shall file an annual report including, but not limited to, the following criteria:

012.01A The permittee name, address, and permit number;

012.01B The name, address and telephone number of the owner(s) and/or operator(s); and

012.01C The name and location of the business/individual where the waste tires were collected. Specify the annual quantity or weight and type of waste tires collected at each location; and

012.01D The name and location of the business/individual where the waste tires were delivered. Specify the annual quantity or weight and type of waste tires delivered to each location.

013 Grounds for Permit Denial.

013.01 The Director may deny a permit on any of the following grounds:

013.01A The permit application does not comply or assure compliance with the applicable requirements of local, state, and federal laws and rules and regulations;

013.01B Making any false statement, representation or certification in the application, record, report, plan or any other document required by the department;

013.01C Upon a request for renewal, the permittee has not complied with all terms, conditions, requirements, and schedules of compliance of the existing permit;

013.01D The applicant, partner, officer, or majority shareholder has violated other permits, rules and regulations or other laws of the State of Nebraska.

013.02 Any person who is denied a permit may request a hearing in accordance with Neb. Rev. Stat. § 81-1507 and Title 115 – Rules of Practice and Procedure.

014 Modifying, Suspending, Revoking Permits.

014.01 Any permit issued by the Director may be modified, suspended, or revoked, in whole or in part, during its term for cause including, but not limited to:

014.01A A violation of any terms or conditions of the permit or these rules and regulations;

014.01B Obtaining a permit by misrepresentation of any relevant facts or failure to disclose fully all relevant facts;

014.01C Information indicating that the activity or operation poses a threat to human health and the environment;

014.01D A change in the standards or regulations on which the permit was based;

014.01E Upon request by the permittee.

015 Modification Required. A modification to the existing permit must be completed by the permittee and provided to the Department for approval within thirty (30) days of any changes to their permitted operations.

016 Filing for Renewal: Expiring Permit.

016.01 Permits shall expire one (1) year following the date of the issuance.

016.02 All permit renewal requests must be accompanied with an annual report of the previous year's activities in accordance with Section 012.

017 Financial Assurance Required. A permitted tire hauler shall establish financial assurance by obtaining one or more of the financial assurance mechanisms approved by the Department under Chapter 8, Sections 011, 012 and 018. The amount of financial assurance required as a condition to obtaining a permit shall be based on the following:

017.01 Waste tire hauler. A permitted waste tire hauler that does not collect, recycle or process waste tires shall establish financial assurance in an amount equal to:

017.01A Five thousand dollars ($5,000.00) for any permitted hauler that picks up, hauls, or transports one hundred thousand (100,000) PTE or less of waste tires per year; or

017.01B Ten thousand dollars ($10,000.00) for any permitted hauler that picks up, hauls, or transports more than one hundred thousand (100,000) PTE of waste tires per year.

017.02 Waste tire hauler that collects, accumulates, recycles or processes. A permitted waste tire hauler that hauls waste tires and collects, accumulates, recycles or processes waste tires shall establish financial assurance in an amount equal to one dollar and twenty-five cents ($1.25) per passenger tire equivalent for the maximum amount of passenger tire equivalents of waste tire material, except crumb rubber, accumulated on the site of collection, recycling or processing at any one time.

018 Financial Assurance. Tire haulers must establish financial assurance in accordance with Sections 018.01 and 018.02 and provide continuous coverage until released from the financial assurance requirements. The instruments shall satisfy the following criteria:

018.01 The financial assurance mechanism must ensure that funds will be available to the Department in a timely fashion when needed;

018.02 The financial assurance mechanisms must be legally valid, binding, and enforceable under State and Federal law.

019 Forfeiture. The Director shall declare all or any appropriate part of financial assurance for any permit as forfeited if he or she determines that:

019.01 The owner or operator has violated any of the terms or conditions of its permit and/or financial assurance including damages caused by improper disposal of waste tires.

020 In the event a determination to forfeit financial assurance is made, Chapter 8, 022 provisions will be in effect.

Enabling Legislation: Neb. Rev. Stat. §§ 13-2033; 13-2034; 13-2036; 13-2039; 81-1504(10), (13); 81-1505(21); 81-15, 159.02; 81.15, 160

Legal Citation: Title 132, Ch. 14, Nebraska Department of Environmental Quality

This page intentionally left blank