

Document: Final Rule

Source: November 1, 2000, Indiana Register, Volume 24, Number 2

Disclaimer: These documents were created from the files used to produce the official (printed) Indiana Register, however, these documents are unofficial.

**TITLE 329 SOLID WASTE MANAGEMENT
BOARD**

LSA Document #98-96(F)

DIGEST

Adds 329 IAC 15 to establish requirements for management of waste tires, including requirements adopted in Public Law 93-1998. Repeals 329 IAC 12-5 and 329 IAC 12-6. *Note: Under IC 4-22-2-40, LSA Document #98-96, printed at 22 IR 3137, was recalled by the Solid Waste Management Board. This document was revised and readopted.* Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: May 1, 1998, Indiana Register (21 IR 3178).

Second Notice of Comment Period: January 1, 1999, Indiana Register (22 IR 1269).

Date of First Hearing: April 20, 1999.

Proposed Rule: July 1, 1999, Indiana Register (22 IR 3137).

Date of Second Hearing: August 17, 1999.

Finally Adopted: August 17, 1999.

Notice of Recall: December 1, 1999, Indiana Register (23 IR 590).

Proposed Rule Republished with Notice of Third Comment Period: March 1, 2000, Indiana Register (23 IR 1456).

Date of Readoption Hearing: May 16, 2000.

Readopted: May 16, 2000.

329 IAC 12-5

329 IAC 12-6

329 IAC 15

SECTION 1. 329 IAC 15 IS ADDED TO READ AS FOLLOWS:

ARTICLE 15. WASTE TIRE MANAGEMENT

Rule 1. General Provisions

329 IAC 15-1-1 Applicability

Authority: IC 13-19-3-1; IC 13-20-13-11; IC 13-20-14-6

Affected: IC 13-30-2; IC 36-9-30

Sec. 1. (a) This article applies to the following:

- (1) Waste tire processing operations.
- (2) Waste tire storage sites.
- (3) Waste tire transporters.

(b) This article does not apply to the following:

(1) A facility that:

(A) recycles or reuses waste tires; and

(B) operates under a valid solid waste processing facility permit issued by the department under 329 IAC 11.

(2) A site where waste tires are stored in conjunction with a recycling program approved by the department.

(3) A site that is used to retread tires at which fewer than five thousand (5,000) waste tires are present indoors within a completely enclosed structure.

(4) A vehicle or container in which waste tires are stored for less than thirty (30) days.

- (5) Storage of waste tires in a vehicle that is:
 (A) properly licensed by the bureau of motor vehicles; and
 (B) capable of legally transporting waste tires;
in which the waste tires are completely enclosed.
- (6) Transformed, new, or remanufactured tires.
- (7) Waste tires in pieces less than two (2) inches in any dimension that are stored in compliance with the rules of the fire prevention and building safety commission.
- (8) Other uses of waste tires approved by the commissioner under one (1) of the following:
 (A) 329 IAC 10-3-1(13).
 (B) 329 IAC 11-3-1(15).
 (C) 329 IAC 12-3-1(15).

(Solid Waste Management Board; 329 IAC 15-1-1; filed Oct 10, 2000, 3:10 p.m.: 24 IR 317)

329 IAC 15-1-2 Enforcement

Authority: IC 13-19-3-1; IC 13-20-13-11; IC 13-20-14-6

Affected: IC 13-14-2-6; IC 13-14-10; IC 13-20-13-5.5; IC 13-20-14; IC 13-30-2; IC 13-30-3; IC 36-9-30

Sec. 2. This article is enforced under the following:

- (1) IC 13-14-2-6.
- (2) IC 13-14-10.
- (3) IC 13-20-13-5.5.
- (4) IC 13-20-14-5.6.
- (5) IC 13-20-14-7.
- (6) IC 13-20-14-8.
- (7) IC 13-30-3.

(Solid Waste Management Board; 329 IAC 15-1-2; filed Oct 10, 2000, 3:10 p.m.: 24 IR 318)

329 IAC 15-1-3 Penalties

Authority: IC 13-19-3-1; IC 13-20-13-11; IC 13-20-14-6

Affected: IC 13-20-14-2; IC 13-30-2; IC 13-30-4; IC 13-30-5; IC 13-30-6; IC 13-30-7; IC 36-9-30

Sec. 3. (a) Penalties for violation of this article are provided for at IC 13-30-4, IC 13-30-5, IC 13-30-6, and IC 13-30-7.

(b) The penalty for a knowing violation of 329 IAC 15-6-1 is provided for at IC 13-20-14-2(c). *(Solid Waste Management Board; 329 IAC 15-1-3; filed Oct 10, 2000, 3:10 p.m.: 24 IR 318)*

329 IAC 15-1-4 Variances

Authority: IC 13-19-3-1; IC 13-20-13-11; IC 13-20-14-6

Affected: IC 13-14-8-8; IC 13-30-2; IC 36-9-30

Sec. 4. The commissioner may grant a variance from compliance with provisions of this article in accordance with IC 13-14-8-8. *(Solid Waste Management Board; 329 IAC 15-1-4; filed Oct 10, 2000, 3:10 p.m.: 24 IR 318)*

Rule 2. Definitions

329 IAC 15-2-1 Applicability

Authority: IC 13-19-3-1; IC 13-20-13-11; IC 13-20-14-6

Affected: IC 13-11-2; IC 13-30-2; IC 36-9-30

Sec. 1. The definitions in IC 13-11-2 apply to this article. In addition to the definitions in IC 13-11-2, the definitions in this rule apply throughout this article. *(Solid Waste Management Board; 329 IAC 15-2-1; filed Oct 10, 2000, 3:10 p.m.: 24 IR 318)*

329 IAC 15-2-2 "Altered waste tire" defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 2. “Altered waste tire” means a waste tire that has been modified so that the tire cannot hold water by:

- (1) shredding;**
- (2) chopping;**
- (3) drilling with holes and stacking to assure drainage; or**
- (4) slitting longitudinally and stacking so the tires will not collect water.**

(Solid Waste Management Board; 329 IAC 15-2-2; filed Oct 10, 2000, 3:10 p.m.: 24 IR 318)

329 IAC 15-2-3 “Customer” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 3. “Customer” means a person who purchases at least one (1) new tire from a dealer. *(Solid Waste Management Board; 329 IAC 15-2-3; filed Oct 10, 2000, 3:10 p.m.: 24 IR 318)*

329 IAC 15-2-4 “Disease vectors” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 4. “Disease vectors” means any rodents, flies, mosquitoes, or other animals, including insects, capable of transmitting micro-organisms and disease to humans and other animals. *(Solid Waste Management Board; 329 IAC 15-2-4; filed Oct 10, 2000, 3:10 p.m.: 24 IR 318)*

329 IAC 15-2-5 “Nuisance” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 5. “Nuisance” means one (1) or more of the following:

- (1) Fugitive dust as defined in the rules of the air pollution control board at 327 IAC 6-4-1 [sic., 326 IAC 6-4-1].**
- (2) Disease vectors.**
- (3) Uncontrolled litter.**
- (4) Odors.**
- (5) Fire.**
- (6) Fire hazard, evidenced by an order from the state fire marshal that the waste tire storage site or waste tire processing operation is not in compliance with the Indiana Fire Code as adopted by the fire prevention and building safety commission at 675 IAC 22.**

(Solid Waste Management Board; 329 IAC 15-2-5; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319)

329 IAC 15-2-6 “Operator” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 6. “Operator” means the person or persons responsible for the operation of all or part of a waste tire storage site or waste tire processing operation. *(Solid Waste Management Board; 329 IAC 15-2-6; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319)*

329 IAC 15-2-7 “Owner” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 7. “Owner” means the person who owns all or part of a waste tire storage site or waste tire processing operation. *(Solid Waste Management Board; 329 IAC 15-2-7; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319)*

329 IAC 15-2-8 “Passenger tire equivalent” or “PTE” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 8. (a) “Passenger tire equivalent” or “PTE” means one (1) tire weighing twenty-five (25) pounds with a volume of:
(1) four (4) cubic feet for whole waste tires; or
(2) one and twenty-five hundredths (1.25) cubic feet for altered waste tires.

(b) If both the weight and the volume of the waste tires are known, then the weight of the tires must be used to determine the number of PTEs. *(Solid Waste Management Board; 329 IAC 15-2-8; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319)*

329 IAC 15-2-9 “Remanufactured tire” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 9. “Remanufactured tire” means a waste tire that:

- (1) has been recapped, retreaded, or regrooved; and**
- (2) has not been placed on the wheel of a motor vehicle.**

(Solid Waste Management Board; 329 IAC 15-2-9; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319)

329 IAC 15-2-10 “Run-off” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 10. “Run-off” means any water or other liquid that drains over land from any part of the waste tire storage site or waste tire processing operation. *(Solid Waste Management Board; 329 IAC 15-2-10; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319)*

329 IAC 15-2-11 “Storage” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-11-2-147; IC 13-30-2; IC 36-9-30

Sec. 11. (a) “Storage” means the accumulation of waste tires in a manner that does not constitute disposal of the waste tires.

(b) Storage of waste tires, at a site that is not registered in accordance with this article, for more than six (6) months is open dumping as defined at IC 13-11-2-147. *(Solid Waste Management Board; 329 IAC 15-2-11; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319)*

329 IAC 15-2-12 “Transformed tire” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 12. “Transformed tire” means a waste tire that has been manufactured into a usable commodity other than a tire that meets the following:

(1) The transformed tire:

(A) is not capable of holding accumulations of water; or

(B) is stacked, packaged, boxed, containerized, or enclosed to prevent accumulation of water or precipitation in the tire.

(2) A market for the commodity exists as demonstrated by contracts, orders, purchase requests, requests for bids, or similar documentation.

(Solid Waste Management Board; 329 IAC 15-2-12; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319)

329 IAC 15-2-13 “Used tire” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 13. “Used tire” means a tire that meets all of the following criteria:

(1) The tire is suitable for use on a motor vehicle as follows:

(A) The tire has two thirty-seconds ($\frac{2}{32}$) inch of remaining tread, or the tire wear bars are not exposed.

(B) The tire has no cuts, slashes, or exposed cord.

(2) The tire is stored in a rack, stack, or row.

(3) The tire is stored out of the weather to prevent accumulation of water or precipitation in the tires.
(Solid Waste Management Board; 329 IAC 15-2-13; filed Oct 10, 2000, 3:10 p.m.: 24 IR 319)

329 IAC 15-2-14 “Wholesaler” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 14. “Wholesaler” means a person who sells new tires at wholesale in Indiana. *(Solid Waste Management Board; 329 IAC 15-2-14; filed Oct 10, 2000, 3:10 p.m.: 24 IR 320)*

329 IAC 15-2-15 “Whole waste tire” defined

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 15. “Whole waste tire” means a waste tire that is not an altered waste tire or a material derived from waste tires. *(Solid Waste Management Board; 329 IAC 15-2-15; filed Oct 10, 2000, 3:10 p.m.: 24 IR 320)*

Rule 3. Waste Tire Storage Sites and Waste Tire Processing Operations

329 IAC 15-3-1 Applicability

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 1. This rule applies to owners and operators of waste tire storage sites and waste tire processing operations. *(Solid Waste Management Board; 329 IAC 15-3-1; filed Oct 10, 2000, 3:10 p.m.: 24 IR 320)*

329 IAC 15-3-2 Requirements for waste tire storage sites

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 2. The owner or operator of a waste tire storage site shall:

- (1) possess a valid certificate of registration issued under this rule;**
- (2) comply with all applicable requirements of this rule; and**
- (3) maintain financial assurance as required by 329 IAC 15-5.**

(Solid Waste Management Board; 329 IAC 15-3-2; filed Oct 10, 2000, 3:10 p.m.: 24 IR 320)

329 IAC 15-3-3 Registration of waste tire storage sites

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-21-3; IC 13-30-2; IC 36-9-30

Sec. 3. (a) An application for registration of a waste tire storage site must be submitted on a form provided by the department. The completed application form must contain all information requested on the form. The following must be submitted with the application form:

- (1) A United States Geological Survey (USGS) seven and one-half (7½) minute topographic map or equivalent that shows the boundaries of the waste tire storage site.**
- (2) A legible map of the waste tire storage site that shows:**
 - (A) property boundaries;**
 - (B) on-site buildings;**
 - (C) location, length, width, and height of each waste tire storage area; and**
 - (D) separation distances between waste tire piles.**
- (3) A description of the buildings, signs, notices, and alarms to be used for management of waste tires at the facility.**
- (4) A description of the program that will be used to manage waste tires at the facility, including the following:**
 - (A) The anticipated sources and amounts of incoming waste tires.**
 - (B) The names and locations of the anticipated destinations of the waste tires.**
 - (C) The method and schedule for draining incoming waste tires.**
 - (D) The method and schedule for preventing waste tires from accumulating water.**

- (5) The contingency plan required by section 18 of this rule.
- (6) The closure cost estimate required by 329 IAC 15-5-3.
- (7) Evidence of the financial assurance mechanism to be used to comply with the financial assurance requirements in 329 IAC 15-5.
- (8) The application fee required by IC 13-20-21-3.

(b) Before beginning storage of waste tires, the person who applies for a certificate of registration for a waste tire storage site shall submit a copy of the map of the waste tire storage site required by subsection (a)(2) to the fire department with jurisdiction over the waste tire storage site.

(c) A separate certificate of registration is required for each waste tire storage site.

(d) A new certificate of registration is required for a waste tire storage site that is relocated. *(Solid Waste Management Board; 329 IAC 15-3-3; filed Oct 10, 2000, 3:10 p.m.: 24 IR 320)*

329 IAC 15-3-4 Fees for waste tire storage sites

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-21; IC 13-30-2; IC 36-9-30

Sec. 4. The owner or operator of a waste tire storage site shall pay the fees required by IC 13-20-21. *(Solid Waste Management Board; 329 IAC 15-3-4; filed Oct 10, 2000, 3:10 p.m.: 24 IR 321)*

329 IAC 15-3-5 Requirements for waste tire processing operations

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 5. The owner or operator of a waste tire processing operation shall:

- (1) possess a valid certificate of registration issued under this rule; and
- (2) comply with all applicable requirements of this rule.

(Solid Waste Management Board; 329 IAC 15-3-5; filed Oct 10, 2000, 3:10 p.m.: 24 IR 321)

329 IAC 15-3-6 Registration of waste tire processing operations

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-21-3; IC 13-30-2; IC 36-9-30

Sec. 6. (a) An application for registration of a waste tire processing operation must be completed on a form provided by the department. The completed application form must contain all information requested on the form. The following must be submitted with the application form:

- (1) A United States Geological Survey seven and one-half (7½) minute topographic map or equivalent that shows the boundaries of the waste tire storage site.
- (2) A legible map of the waste tire storage site that shows the following:
 - (A) Property boundaries.
 - (B) On-site buildings.
 - (C) Location, length, width, and height of each waste tire storage area.
 - (D) Separation distances between waste tire piles.
- (3) A description of the buildings, signs, notices, and alarms to be used to manage waste tires at the facility.
- (4) A description of the program that will be used to manage waste tires at the facility, including the following:
 - (A) The anticipated sources and amounts of incoming waste tires.
 - (B) The names and locations of the anticipated destinations of the waste tires.
 - (C) The method and schedule for draining incoming waste tires.
 - (D) The method and schedule for preventing waste tires from accumulating water.
- (5) The contingency plan required by section 18 of this rule.
- (6) The application fee required by IC 13-20-21-3.

(b) A separate certificate of registration is required for each waste tire processing operation.

(c) A new certificate of registration is required for a waste tire processing operation that is relocated. *(Solid Waste Management Board; 329 IAC 15-3-6; filed Oct 10, 2000, 3:10 p.m.: 24 IR 321)*

329 IAC 15-3-7 Fees for waste tire processing operations

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-21; IC 13-30-2; IC 36-9-30

Sec. 7. The owner or operator of a waste tire processing operation shall pay the fees required by IC 13-20-21. *(Solid Waste Management Board; 329 IAC 15-3-7; filed Oct 10, 2000, 3:10 p.m.: 24 IR 321)*

329 IAC 15-3-8 Action on application

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 8. (a) The department issues a certificate of registration to a person who owns or operates a waste tire storage site that meets the following criteria:

- (1) The owner or operator has submitted a completed application in accordance with section 3 of this rule.**
- (2) The waste tire storage site complies with the requirements of this article.**
- (3) The owner or operator has established financial assurance in compliance with 329 IAC 15-5.**

(b) The department issues a certificate of registration to a person who owns or operates a waste tire processing operation that meets the following criteria:

- (1) The owner or operator has submitted a completed application in accordance with section 6 of this rule.**
- (2) The waste tire processing operation complies with the requirements of this article.**

(Solid Waste Management Board; 329 IAC 15-3-8; filed Oct 10, 2000, 3:10 p.m.: 24 IR 321)

329 IAC 15-3-9 Conditions included in a certificate of registration

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-13; IC 13-30-2; IC 36-9-30

Sec. 9. The commissioner may include conditions in a certificate of registration that ensure compliance with IC 13-20-13 and this article, including a compliance schedule. The owner or operator of a waste tire storage site or waste tire processing operation shall comply with all conditions included in the certificate of registration. *(Solid Waste Management Board; 329 IAC 15-3-9; filed Oct 10, 2000, 3:10 p.m.: 24 IR 321)*

329 IAC 15-3-10 Denial of certificate of registration

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-13-3; IC 13-30-2; IC 36-9-30

Sec. 10. The department may deny an application for a certificate of registration under this rule as provided for in IC 13-20-13-3(d). *(Solid Waste Management Board; 329 IAC 15-3-10; filed Oct 10, 2000, 3:10 p.m.: 24 IR 322)*

329 IAC 15-3-11 Revocation or modification of certificate of registration

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-13-5.5; IC 13-30-2; IC 36-9-30

Sec. 11. The commissioner may revoke or modify a certificate of registration as provided for at IC 13-20-13-5.5. *(Solid Waste Management Board; 329 IAC 15-3-11; filed Oct 10, 2000, 3:10 p.m.: 24 IR 322)*

329 IAC 15-3-12 Duration

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 12. A certificate of registration issued under this rule expires on the earlier of the following dates:

- (1) Five (5) years after the date the certificate is issued.**

(2) The date the department notifies the owner or operator that final closure has been completed in accordance with section 21 of this rule.

(Solid Waste Management Board; 329 IAC 15-3-12; filed Oct 10, 2000, 3:10 p.m.: 24 IR 322)

329 IAC 15-3-13 Transferability

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 13. (a) A certificate of registration issued under this rule is not transferable to another person.

(b) A certificate of registration is valid only for the location described in the application for the certificate of registration.

(Solid Waste Management Board; 329 IAC 15-3-13; filed Oct 10, 2000, 3:10 p.m.: 24 IR 322)

329 IAC 15-3-14 Renewal

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 14. (a) The owner or operator of a waste tire storage site or waste tire processing operation shall submit an application for renewal of a certificate of registration at least sixty (60) days before the expiration date of the certificate.

(b) An application for renewal of a certificate of registration for a waste tire storage site must comply with section 3 of this rule.

(c) An application for renewal of a certificate of registration for a waste tire processing operation must comply with section 6 of this rule. *(Solid Waste Management Board; 329 IAC 15-3-14; filed Oct 10, 2000, 3:10 p.m.: 24 IR 322)*

329 IAC 15-3-15 Information submitted annually by a waste tire storage site

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-20-21; IC 13-30-2; IC 36-9-30

Sec. 15. The owner or operator of a waste tire storage site shall submit the following to the department no later than January 31 of each year:

(1) The annual operation fee required by IC 13-20-21.

(2) The revised closure cost estimate required by 329 IAC 15-5-3(b).

(3) The annual tire summary required by section 20 of this rule.

(Solid Waste Management Board; 329 IAC 15-3-15; filed Oct 10, 2000, 3:10 p.m.: 24 IR 322)

329 IAC 15-3-16 Updating information

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 16. If the information provided in the application for the certificate of registration changes, the owner or operator of a waste tire storage site or waste tire processing operation shall provide the current information to the department no more than thirty (30) days after the information provided in the application for the certificate of registration changes. *(Solid Waste Management Board; 329 IAC 15-3-16; filed Oct 10, 2000, 3:10 p.m.: 24 IR 322)*

329 IAC 15-3-17 Waste tire management requirements

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 17. (a) The owner or operator of a waste tire storage site or a waste tire processing operation shall operate that waste tire storage site or a waste tire processing operation in compliance with this section at all times.

(b) All wastewater from the waste tire storage site or waste tire processing operation must be discharged in accordance with the rules of the water pollution control board at 327 IAC 5 and 327 IAC 15. If wastewater is discharged to an on-site

system, the system must be approved in accordance with the rules of the Indiana state department of health at 410 IAC 6-10.

(c) The waste tire storage site or waste tire processing operation must not do any of the following:

- (1) Pose a threat to human health or the environment.
- (2) Create a nuisance.

(d) Access to the waste tire storage site or waste tire processing operation must be allowed only when operating personnel are on duty. Access by persons who are not employees must be supervised at all times by the owner, the operator, or an employee of the waste tire storage site or waste tire processing operation.

(e) Subsection (d) does not apply to persons employed or contracted by federal, state, or local government agencies.

(f) A sign must be posted at each point of access to the waste tire storage site or waste tire processing operation from a public road. Each sign must be at least sixteen (16) square feet in size. Each sign must indicate all of the following:

- (1) The name of the waste tire storage site or waste tire processing operation.
- (2) The certificate of registration number.
- (3) Whether the facility is a waste tire storage site or a waste tire processing operation.
- (4) The operating hours or schedule.
- (5) The schedule of fees charges by the waste tire storage site or waste tire processing operation.
- (6) The name and telephone number of a designated emergency contact person to be contacted in case of an emergency.

(g) The designated emergency contact person required by subsection (f)(6) must be the following:

- (1) Authorized to respond to a reported emergency or be capable of contacting a person authorized to respond to a reported emergency; and
- (2) One (1) of the following:
 - (A) The owner or operator, or an employee or contractor of the owner or operator, of the waste tire storage site or waste tire processing operation.
 - (B) The emergency response coordinator required by section 19 of this rule.
 - (C) An answering service that can contact the emergency response coordinator required by subsection (f)(6).
 - (D) For a municipally owned facility, a local emergency agency and telephone number may be used.

(h) The waste tire storage site or waste tire processing operation must maintain the following at the waste tire storage site or waste tire processing operation:

- (1) A first aid kit.
- (2) Fire extinguishing equipment that complies with the Indiana Fire Code as adopted by the fire prevention and building safety commission at 675 IAC 22.
- (3) A telephone or other communication system capable of contacting the fire department and other emergency services.

(i) Salvaging must not interfere with the operation of the waste tire storage site or waste tire processing operation or create a nuisance or a health hazard.

(j) The owner or operator of a waste tire storage site or waste tire processing operation shall take all actions required to:

- (1) prevent the breeding of mosquitoes; and
- (2) control any mosquito population.

(k) Waste tires must not be accepted from a waste tire transporter that is not registered with the department in accordance with this article.

(l) The owner or operator of a waste tire storage site or waste tire processing operation shall prevent water from accumulating in waste tires by doing the following:

- (1) Waste tires must be drained:
 - (A) on the day of receipt; and
 - (B) as necessary thereafter to prevent accumulation of water in the waste tires.
- (2) Within seven (7) days after receipt, whole waste tires must be altered, covered, or otherwise prevented from accumulating water.

(3) Waste tires must not be stored in areas of standing water.

(Solid Waste Management Board; 329 IAC 15-3-17; filed Oct 10, 2000, 3:10 p.m.: 24 IR 322)

329 IAC 15-3-18 Contingency plan

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 18. (a) The owner or operator of a waste tire storage site or a waste tire processing operation shall develop a contingency plan that complies with this section and is designed to minimize the hazards to human health and the environment from:

- (1) fires or explosions;**
- (2) run-off resulting from fires or explosions; and**
- (3) mosquitoes that may breed in water accumulations in waste tires.**

(b) The contingency plan must include the following:

(1) A description of the specific actions that site personnel must take in response to:

- (A) fires or explosions;**
- (B) run-off resulting from fires or explosions; and**
- (C) mosquito breeding in waste tires.**

(2) A list of the agencies to be notified in case of fire, explosion, or other emergency, with the telephone number of each agency. This list must include:

- (A) the fire department with jurisdiction for the site;**
- (B) the county and municipal law enforcement agencies that have jurisdiction over the site;**
- (C) the department; and**
- (D) the office of the state fire marshal.**

(3) A statement that the entities listed in subdivision (2) will be notified immediately after discovery of one (1) of the conditions listed in subdivision (1).

(4) A description of the methods to be used to control mosquito breeding in waste tires.

(5) The name and title of the emergency response coordinator.

(6) The telephone numbers used to contact the emergency response coordinator, and any other methods, such as alternate telephone numbers and pager numbers, to be used to contact the emergency response coordinator.

(7) The duties of the emergency response coordinator.

(c) A copy of the contingency plan and all revisions to the plan must be:

(1) maintained at the waste tire storage site or waste tire processing operation, or at an alternate location approved by the department in the certificate of registration; and

(2) submitted to all of the following within thirty (30) days of the date the certificate of registration is issued or the date the contingency plan is amended under subsection (e):

- (A) The department.**
- (B) The fire department with jurisdiction over the waste tire storage site or waste tire processing operation.**

(d) The contingency plan must be carried out immediately whenever there is:

- (1) a fire, explosion, or run-off resulting from a fire or explosion; or**
- (2) evidence of mosquitos or other disease vectors breeding in waste tires.**

(e) The owner or operator of the waste tire storage site or waste tire processing operation shall review and amend the contingency plan within thirty (30) days if any of the following occurs:

(1) A change in the operation of the waste tire storage site or waste tire processing operation requires a change in the actions required to control the hazards listed in subsection (a).

(2) The actions described in the plan fail to control the emergency situation when implemented.

(3) All or part of the contingency plan must be implemented in a manner different than described in the plan in an emergency.

(4) The list of emergency response coordinators changes.

(5) The department identifies deficiencies in the contingency plan and directs the owner or operator in writing to revise the contingency plan.

(Solid Waste Management Board; 329 IAC 15-3-18; filed Oct 10, 2000, 3:10 p.m.: 24 IR 323)

329 IAC 15-3-19 Emergency response coordinator

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 19. (a) The owner or operator of the waste tire storage site or waste tire processing operation shall ensure that at all times there is one (1) person responsible for coordinating all emergency response measures at the waste tire storage site or waste tire processing operation. If the owner or operator designates more than one (1) person to carry out this responsibility, each person designated must meet the requirements of this section.

(b) An emergency response coordinator must:

- (1) be at the waste tire storage site or waste tire processing operation or on call at all times;
- (2) coordinate all emergency response measures carried out by the waste tire storage site or waste tire processing operation;
- (3) be familiar with:
 - (A) all aspects of the contingency plan;
 - (B) the identity and telephone numbers of the fire department and other emergency services that have jurisdiction over the site;
 - (C) all operations and activities at the site;
 - (D) the layout of the waste tire storage site or waste tire processing operation; and
 - (E) the location of all records required by section 20 of this rule; and
- (4) have authority to commit resources needed to implement the contingency plan.

(Solid Waste Management Board; 329 IAC 15-3-19; filed Oct 10, 2000, 3:10 p.m.: 24 IR 324)

329 IAC 15-3-20 Record keeping and reporting

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 20. (a) The owner or operator of a waste tire storage site or a waste tire processing operation shall keep the following records:

- (1) Copies of the transporter manifest forms prepared in accordance with 329 IAC 15-4-14.
- (2) A copy of the certificate of registration.

(b) The owner or operator of a waste tire storage site or waste tire processing operation shall submit an annual tire summary to the department by January 31 of each year. The annual tire summary must cover the preceding calendar year. The annual tire summary must be submitted on the following form and must include all information requested on the form:

ANNUAL TIRE SUMMARY				
Indiana Department of Environmental Management				
Use of this form is required by 329 IAC 15-3-20(b) and IC 13-20-13-5.				
Section A. Facility Information				
Name:		Registration Number:		
Mailing Address:	Street	City	State	Zip Code
Facility Contact Person:			Telephone Number (include area code):	
Section B. Reporting Time Period				
January 1 through December 31, 20__				
Section C. Tire Summary Information for the Calendar Year				

Number of Waste Tires Received at this Facility: _____ (Check unit of measure used) <input type="checkbox"/> whole waste tires <input type="checkbox"/> cubic yards <input type="checkbox"/> cubic feet <input type="checkbox"/> pounds <input type="checkbox"/> PTEs			
Number of Waste Tires Disposed of by this Facility: _____ (Use these units: whole waste tires, cubic yards, cubic feet, pounds, PTEs)			
Number	Unit	Destination	Disposal Method
Number of Whole Waste Tires Remaining in Storage Passenger Tire Equivalents (PTEs) _____		Number of Waste Tire Pieces Remaining in Storage Passenger Tire Equivalents (PTEs) _____	
Section D. Conversion Factors			
		Tire Pieces	Whole Tires
<u>multiply</u>	<u>by</u>	<u>to obtain</u>	<u>multiply</u>
pounds	0.04	PTE	cubic feet
PTE	25	pounds	cubic yards
		PTE	0.8
		PTE	21.6
		PTE	1.25
		PTE	0.046
		cubic feet	0.25
		cubic yards	6.75
		PTE	4
		PTE	0.15
		cubic feet	
		cubic yards	
Section E. Certification			
I certify that the information in this summary is true, accurate, and complete to the best of my knowledge.			
_____ Authorized Signature		_____ Title	_____ Date

(c) The annual tire summary must be signed by:

- (1) the owner or operator; or
- (2) a person designated by the owner or operator who is responsible for preparing and reviewing those documents as part of the person's duties in the regular course of business.

(d) The owner or operator of the waste tire storage site or waste tire processing operation shall:

- (1) keep a copy of all waste tire manifests received from waste tire transporters for one (1) year; and
- (2) make the waste tire manifests available at the waste tire storage site or waste tire processing operation during normal business hours for inspection and photocopying by the department.

(Solid Waste Management Board; 329 IAC 15-3-20; filed Oct 10, 2000, 3:10 p.m.: 24 IR 324)

329 IAC 15-3-21 Final closure

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 21. (a) Final closure of a waste tire storage site or waste tire processing operation is completed when all of the following occur:

- (1) All storage and processing of waste tires has stopped.
- (2) All equipment used in the waste tire storage site or waste tire processing operation has been removed.
- (3) All waste tires have been:
 - (A) collected;
 - (B) removed from the site; and
 - (C) disposed of properly in accordance with this article.
- (4) All solid waste resulting from:
 - (A) operation of the waste tire storage site or waste tire processing operation; and
 - (B) any fire or explosion at the waste tire storage site or waste tire processing operation;has been disposed of properly.

(b) The commissioner notifies the owner or operator of the waste tire storage site in writing that final closure has been completed and financial responsibility required by 329 IAC 15-5 is no longer required to be maintained. (*Solid Waste Management Board; 329 IAC 15-3-21; filed Oct 10, 2000, 3:10 p.m.: 24 IR 326*)

Rule 4. Waste Tire Transporters

329 IAC 15-4-1 Requirements for waste tire transporters

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-4; IC 13-30-2; IC 36-9-30

Sec. 1. (a) A person who transports waste tires shall:

- (1) register with the department as a waste tire transporter;
- (2) hold a valid certificate of registration issued under this rule;
- (3) comply with this article; and
- (4) comply with any conditions in the certificate of registration.

(b) The requirements for registration of waste tire transporters in this rule do not apply to a person who operates a municipal waste collection and transportation vehicle licensed under IC 13-20-4. (*Solid Waste Management Board; 329 IAC 15-4-1; filed Oct 10, 2000, 3:10 p.m.: 24 IR 326*)

329 IAC 15-4-2 Registration

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-21; IC 13-30-2; IC 36-9-30

Sec. 2. (a) An application for registration as a waste tire transporter must be completed on a form provided by the department. The application must include the following information:

- (1) The name of the person applying for registration as a waste tire transporter.
- (2) The address of the applicant's principal office.
- (3) The address of any offices maintained by the applicant in Indiana.
- (4) Evidence of financial assurance that complies with 329 IAC 15-5.

(b) The fee required by IC 13-20-21 must be submitted with the application form when the application form is submitted to the commissioner. (*Solid Waste Management Board; 329 IAC 15-4-2; filed Oct 10, 2000, 3:10 p.m.: 24 IR 326*)

329 IAC 15-4-3 Fees

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-21; IC 13-30-2; IC 36-9-30

Sec. 3. A waste tire transporter shall pay the fee required by IC 13-20-21. (*Solid Waste Management Board; 329 IAC 15-4-3; filed Oct 10, 2000, 3:10 p.m.: 24 IR 326*)

329 IAC 15-4-4 Action on application

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-30-2; IC 36-9-30

Sec. 4. The commissioner issues a certificate of registration to a waste tire transporter who:

- (1) submits a complete application for a certificate of registration;**
- (2) establishes and maintains financial assurance in compliance with 329 IAC 15-5; and**
- (3) complies with this rule and any conditions included in the certificate of registration.**

(Solid Waste Management Board; 329 IAC 15-4-4; filed Oct 10, 2000, 3:10 p.m.: 24 IR 326)

329 IAC 15-4-5 Conditions included in certificate of registration

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-30-2; IC 36-9-30

Sec. 5. The commissioner may include, in a certificate of registration, conditions that ensure compliance with IC 13-20-14 and this article, including a compliance schedule. A waste tire transporter shall comply with each condition included in the certificate of registration. *(Solid Waste Management Board; 329 IAC 15-4-5; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)*

329 IAC 15-4-6 Denial of certificate of registration

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-14-5; IC 13-30-2; IC 36-9-30

Sec. 6. The commissioner may deny an application for a certificate of registration as provided for in IC 13-20-14-5(h). *(Solid Waste Management Board; 329 IAC 15-4-6; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)*

329 IAC 15-4-7 Revocation or modification of certificate of registration

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-14-5.6; IC 13-30-2; IC 36-9-30

Sec. 7. The commissioner may revoke or modify a certificate of registration as provided for at IC 13-20-14-5.6. *(Solid Waste Management Board; 329 IAC 15-4-7; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)*

329 IAC 15-4-8 Duration

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-30-2; IC 36-9-30

Sec. 8. A certificate of registration issued to a waste tire transporter under this rule expires on the earlier of the following dates:

- (1) Five (5) years after the date the certificate is issued.**
- (2) The date the department notifies the waste tire transporter under 329 IAC 15-5-12 that financial assurance is no longer required to be maintained.**

(Solid Waste Management Board; 329 IAC 15-4-8; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)

329 IAC 15-4-9 Transferability

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-30-2; IC 36-9-30

Sec. 9. A certificate of registration issued under this rule is not transferable to another waste tire transporter. *(Solid Waste Management Board; 329 IAC 15-4-9; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)*

329 IAC 15-4-10 Renewal

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-30-2; IC 36-9-30

Sec. 10. An application for renewal of a certificate of registration must be submitted sixty (60) days before the expiration date of the certificate. An application for renewal of a certificate of registration must comply with section 2 of this rule. *(Solid Waste Management Board; 329 IAC 15-4-10; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)*

329 IAC 15-4-11 Change of information

Authority: IC 13-19-3-1; IC 13-20-14-6
 Affected: IC 13-30-2; IC 36-9-30

Sec. 11. (a) A waste tire transporter shall:

(1) notify the department in writing at least thirty (30) days before changing:

- (A) the business location of the waste tire transporter; or
- (B) the destination facility for waste tires; and

(2) obtain approval from the department before changing subdivision (1)(A) or (1)(B).

(b) If any information provided in the application for the certificate of registration changes, other than the information listed in subsection (a), the waste tire transporter shall provide the current information to the department no more than thirty (30) days after the information changes. *(Solid Waste Management Board; 329 IAC 15-4-11; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)*

329 IAC 15-4-12 Disposal of waste tires by waste tire transporters

Authority: IC 13-19-3-1; IC 13-20-14-6
 Affected: IC 13-20-14-4; IC 13-30-2; IC 36-9-30

Sec. 12. A waste tire transporter may dispose of waste tires only as provided for in IC 13-20-14-4. *(Solid Waste Management Board; 329 IAC 15-4-12; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)*

329 IAC 15-4-13 Manifest forms

Authority: IC 13-19-3-1; IC 13-20-14-6
 Affected: IC 13-30-2; IC 36-9-30

Sec. 13. (a) A waste tire transporter shall prepare a manifest for each load of waste tires using the following form:

[See following page for Waste Tire Manifest.]

GENERATOR					
Generator Name _____			Shipment Origin _____		
Mailing Address _____			Location Address _____		
City _____	State _____	Zip Code _____	City _____	State _____	Zip Code _____
Telephone Number (including area code) _____			Telephone Number (including area code) _____		
Description of Shipment:					
Material: _____ (Whole tires, Shredded tires, etc.)					
If whole tires, how many of each type: Passenger car tires _____ Truck tires _____ Other tires _____					
If shredded tires, approximate weight (in tons) _____ or volume (in cubic yards) _____					
Generator's Authorized Agent _____		Signature _____		Date of Shipment _____	
TRANSPORTER					

Registration No. _____	Telephone: (____) _____
Transporter Name: _____	Driver's Name: _____
Address: _____	THE TRANSPORTER MUST GIVE A COMPLETED COPY OF THIS FORM TO THE GENERATOR.
City _____ State _____ Zip Code _____	
I CERTIFY THAT THE MATERIAL DESCRIBED ABOVE WAS PICKED UP AT THE SITE DESCRIBED ABOVE.	
Driver's Signature _____	Date of Pickup _____
DESTINATION	
Site Name: _____	Telephone: (____) _____
Address: _____	Permit/Registration No. _____
City _____ State _____ Zip Code _____	State: _____
I CERTIFY THAT THE MATERIAL DESCRIBED ABOVE HAS BEEN ACCEPTED AND, TO THE BEST OF MY KNOWLEDGE, THIS INFORMATION IS TRUE AND ACCURATE.	
Name of Authorized Agent _____	Signature _____
	Receipt Date _____
THE WASTE TIRE TRANSPORTER MUST COMPLETE THIS FORM FOR EACH SHIPMENT OF WASTE TIRES.	

(b) A waste tire transporter shall do the following:

- (1) Carry the manifest in the vehicle while transporting the waste tires described on the manifest.
- (2) Retain a copy of the manifest for one (1) year.
- (3) Provide a copy of the manifest to:
 - (A) the waste tire generator; and
 - (B) the waste tire storage site or waste tire processing operation that receives the waste tires.
- (4) Make a copy of the manifest available to the department upon request.

(Solid Waste Management Board; 329 IAC 15-4-13; filed Oct 10, 2000, 3:10 p.m.: 24 IR 327)

329 IAC 15-4-14 Reports

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-30-2; IC 36-9-30

Sec. 14. (a) A waste tire transporter shall report annually to the department the number of waste tires, in passenger tire equivalents, transported by the waste tire transporter during the previous year.

(b) The annual report:

- (1) is due on January 31;
- (2) must cover the previous calendar year; and
- (3) must be submitted with the annual registration fee required by section 3 of this rule.

(Solid Waste Management Board; 329 IAC 15-4-14; filed Oct 10, 2000, 3:10 p.m.: 24 IR 329)

329 IAC 15-4-15 Records

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-30-2; IC 36-9-30

Sec. 15. A waste tire transporter shall keep the following at the place of business described in the certificate of registration:

- (1) Copies of manifest forms required to be maintained by section 13(b) of this rule.
- (2) The certificate of registration.

(Solid Waste Management Board; 329 IAC 15-4-15; filed Oct 10, 2000, 3:10 p.m.: 24 IR 329)

Rule 5. Financial Assurance

329 IAC 15-5-1 Financial assurance for waste tire storage sites

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 1. The owner or operator of a waste tire storage site shall do the following:

(1) Prepare and submit to the department a closure cost estimate in accordance with section 3 of this rule.
(2) Maintain financial assurance for removal of waste tires, in an amount equal to or greater than the closure cost estimate, using one (1) of the following mechanisms:

(A) A trust fund in accordance with section 5 of this rule.

(B) A surety bond in accordance with section 6 of this rule.

(C) A letter of credit in accordance with section 7 of this rule.

(D) Insurance in accordance with section 8 of this rule.

(3) Maintain financial assurance for removal of waste tires as required by this rule until the department notifies the owner or operator of the waste tire storage site that final closure has been completed in accordance with 329 IAC 15-3-21.

(Solid Waste Management Board; 329 IAC 15-5-1; filed Oct 10, 2000, 3:10 p.m.: 24 IR 329)

329 IAC 15-5-2 Financial assurance for waste tire transporters

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-14; IC 13-30-2; IC 36-9-30

Sec. 2. A waste tire transporter shall maintain financial assurance in the amount of at least ten thousand dollars (\$10,000).

The financial assurance must be in the form of:

(1) a bond for performance, executed by a corporate surety licensed to do business in Indiana, in accordance with section 9 of this rule;

(2) a negotiable certificate of deposit in accordance with section 10 of this rule; or

(3) a negotiable letter of credit in accordance with section 11 of this rule;

payable to the department and conditional upon faithful compliance with IC 13-20-14 and this article. *(Solid Waste Management Board; 329 IAC 15-5-2; filed Oct 10, 2000, 3:10 p.m.: 24 IR 329)*

329 IAC 15-5-3 Closure cost estimate

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 3. (a) The owner or operator of a waste tire storage site shall submit to the department a written estimate of the cost of completing final closure of the site in accordance with 329 IAC 15-3-21. The original closure cost estimate must be submitted, on a form provided by the department, with the application for a certificate of registration. The closure cost estimate must include the following:

(1) The methods that will be used to remove and properly dispose of all waste tires stored at the site.

(2) The final destination of all waste tires removed from the site.

(3) The name and address of the contractor or contractors to be used to remove the waste tires and complete final closure of the site.

(4) The estimated cost of completing all activities required by 329 IAC 15-3-21.

(b) The owner or operator of a waste tire storage site shall submit to the department a revised written closure cost estimate:

(1) annually, no later than January 31 of each year; and

(2) whenever a change in the removal plan increases the closure cost estimate.

The revised closure cost estimate must meet the requirements of subsection (a).

(c) The closure cost estimate must be based on the larger of the following:

(1) The cost of removing all waste tires, calculated in passenger tire equivalents, accumulated at the site.

(2) The cost of removing the maximum number of waste tires, calculated in passenger tire equivalents, that the owner or operator anticipates will be accumulated at the site at any time.

(d) The closure cost estimate must be based on the projected costs of contracting a third party to complete final closure of the site. The closure cost estimate must include all costs for all activities required by 329 IAC 15-3-21.

(e) Once the owner or operator of a waste tire storage site has completed an activity required in 329 IAC 15-3-21, the owner or operator may:

- (1) revise the closure cost estimate indicating that the activity has been completed; and
- (2) revise that element of the closure cost estimate to zero (0).

(Solid Waste Management Board; 329 IAC 15-5-3; filed Oct 10, 2000, 3:10 p.m.: 24 IR 329)

329 IAC 15-5-4 Use of financial mechanism for multiple sites

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 4. (a) The owner or operator of a waste tire storage site may use a single financial responsibility mechanism to meet the requirements for more than one (1) facility. Evidence of financial responsibility submitted to the department must include a list showing, for each facility:

- (1) the registration number of the waste tire storage site;
- (2) name and address of the waste tire storage site; and
- (3) the amount of funds available in the financial mechanism.

(b) The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each waste tire storage site. *(Solid Waste Management Board; 329 IAC 15-5-4; filed Oct 10, 2000, 3:10 p.m.: 24 IR 330)*

329 IAC 15-5-5 Trust fund

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 5. (a) The owner or operator of a waste tire storage site may comply with this section by establishing a trust agreement on:

- (1) forms provided by the department; or
- (2) other forms approved by the department.

(b) Each trust agreement must do the following:

- (1) Identify facilities and corresponding closure cost estimates covered by the trust agreement.
- (2) Establish a trust fund, in an amount determined by section 3 of this rule, that guarantees that payments from that fund either:

- (A) reimburse the owner or operator of the waste tire storage site for department-approved closure work done; or
- (B) pay the department for doing required closure work.

- (3) Require that annual valuations of the trust be submitted to the department.
- (4) Require successor trustees to notify the department, in writing, of their appointment at least ten (10) days before the effective date of the appointment.
- (5) Require the trustee to notify the department, in writing, of the failure of the owner or operator of the waste tire storage site to make a required payment into the fund.
- (6) Establish that the trust is irrevocable unless terminated, in writing, with the approval of the:
 - (A) owner or operator of the waste tire storage site;
 - (B) trustee; and
 - (C) department.
- (7) Certify that the signer of the trust agreement for the owner or operator of the waste tire storage site was duly authorized to bind the owner or operator of the waste tire storage site.
- (8) All signatures must be notarized by a notary public commissioned to be a notary public in Indiana at the time of the notarization.

(9) Establish that the trustee is authorized to act as a trustee and is an entity whose operations are regulated and examined by a federal or state of Indiana agency.

(10) Require that annual payments into the fund be made within thirty (30) days of each anniversary of the initial payment.

(c) Payments into the trust must be made as follows:

- (1) The owner or operator of the waste tire storage site shall make a payment into the trust fund each year during the pay-in period.
- (2) The maximum pay-in period is five (5) years. The pay-in period commences on the date the site first receives waste tires.
- (3) Annual payments are determined by the following formula:

$$\text{Annual Payment} = \frac{\text{CE} - \text{CV}}{\text{Y}}$$

Where:

- CE = Current cost estimate.
CV = Current value of the trust fund.
Y = Number of years remaining in the pay-in period.

- (4) The owner or operator of the waste tire storage site shall make the initial payment before the beginning of the pay-in period. The owner or operator of the waste tire storage site shall also, before the beginning of the pay-in period, submit to the department a receipt from the trustee for this first annual payment.
- (5) Subsequent payments must be made no later than thirty (30) days after each anniversary of the first payment.
- (6) The owner or operator of the waste tire storage site may accelerate payments into the trust fund or may deposit the full amount of the current cost estimate at the time the fund is established.
- (7) The owner or operator of the waste tire storage site shall maintain the value of the fund at no less than the value would have been if annual payments were made as specified in subdivision (3).
- (8) If the owner or operator of the waste tire storage site establishes a trust fund after having used one (1) or more alternative mechanisms, the first payment must be in at least the amount the fund would contain if the trust fund were established initially and payments made as provided in subdivision (3).

(d) The trustee shall evaluate the trust fund annually, as of the day the trust was created or on such earlier date as may be provided in the agreement. The trustee shall notify the owner or operator of the waste tire storage site and the department within thirty (30) days after the evaluation date.

(e) Release of excess funds may be requested as follows:

- (1) If the value of the financial assurance is greater than the total amount of the current cost estimate, the owner or operator of the waste tire storage site may submit a written request to the department for release of the amount in excess of the current cost estimate.
- (2) Within sixty (60) days after receiving a request from the owner or operator of the waste tire storage site for a release of funds, the department shall instruct the trustee to release to the owner or operator of the waste tire storage site such funds as the department specifies in writing to be in excess of the current cost estimate.

(f) Reimbursement for removal expenses may be requested as follows:

- (1) After initiating removal, the owner or operator of the waste tire storage site, or any other person authorized to perform removal, may request reimbursement for removal expenditures by submitting itemized bills to the department.
- (2) Within sixty (60) days after receiving the itemized bills for removal activities, the department shall determine whether the expenditures are in accordance with the removal plan. The department shall instruct the trustee to make reimbursement in such amounts as the department specifies in writing in accordance with the removal plan.
- (3) If the department determines, based on available information, that the cost of removal will be greater than the value of the trust fund, the department shall withhold reimbursement of such amounts necessary to accomplish removal until it is determined that the owner or operator of the waste tire storage site is no longer required to maintain financial assurance for removal. In the event the fund is inadequate to pay all claims, the department shall pay claims according to the following priority:
 - (A) A person with whom the department has contracted to perform removal activities.
 - (B) A person who has completed removal authorized by the department.
 - (C) A person who has completed work that furthered the removal.
 - (D) The owner or operator of the waste tire storage site and related business entities.

(Solid Waste Management Board; 329 IAC 15-5-5; filed Oct 10, 2000, 3:10 p.m.: 24 IR 330)

329 IAC 15-5-6 Surety bond

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 6. (a) The owner or operator of a waste tire storage site may comply with this rule by establishing a surety bond on:

- (1) forms provided by the department; or**
- (2) other forms approved by the department.**

(b) All surety bonds must contain the following:

- (1) The establishment of penal sums in the amount determined by section 3 of this rule.**
- (2) Provision that the surety will be liable to fulfill the closure obligations upon notice from the department that the owner or operator of the waste tire storage site has failed to do so.**
- (3) Provision that the surety may not cancel the bond without first sending notice of cancellation by certified mail to the owner or operator of the waste tire storage site and the department at least one hundred twenty (120) days before the effective date of the cancellation.**
- (4) Provision that the owner or operator of the waste tire storage site may not terminate the bond without prior written authorization by the department.**

(c) The owner or operator of the waste tire storage site shall establish a standby trust fund to be utilized in the event the owner or operator of the waste tire storage site fails to fulfill closure obligations and the bond guarantee is exercised. Such a trust fund must be established in accordance with section 5 of this rule.

(d) The surety company issuing the bond must be among those listed as acceptable sureties for federal bonds in the most recent Circular 570 of the United States Department of the Treasury.

(e) The surety will not be liable for deficiencies in the performance of closure by the owner or operator of the waste tire storage site after the department releases the owner or operator in accordance with section 12 of this rule. (*Solid Waste Management Board; 329 IAC 15-5-6; filed Oct 10, 2000, 3:10 p.m.: 24 IR 331*)

329 IAC 15-5-7 Letter of credit

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 7. (a) The owner or operator of a waste tire storage site may comply with this rule by establishing a letter of credit on:

- (1) forms provided by the department; or**
- (2) forms approved by the department.**

(b) All letters of credit must contain the following:

- (1) The establishment of credit in the amount determined by section 3 of this rule.**
- (2) Irrevocability.**
- (3) An effective period of at least one (1) year and automatic extensions for periods of at least one (1) year unless the issuing institution provides written notification of cancellation by certified mail to both the owner or operator and the department at least one hundred twenty (120) days before the effective date of cancellation.**
- (4) Provision that, upon written notice from the commissioner, the institution issuing the letter of credit will:**
 - (A) state that the obligations of the owner or operator of the waste tire storage site have not been fulfilled; and**
 - (B) deposit funds equal to the amount of credit into a trust fund to be used to ensure closure obligations of the owner or operator are fulfilled.**

(c) The owner or operator of the waste tire storage site shall establish a standby trust fund to be utilized in the event the owner or operator of the waste tire storage site fails to fulfill closure obligations and the letter of credit is utilized. Such a trust fund must be established in accordance with section 5 of this rule.

(d) The issuing institution must be an entity that has the authority to issue letters of credit and whose letters of credit operations are regulated and examined by a federal or state of Indiana agency. (*Solid Waste Management Board; 329 IAC 15-5-7; filed Oct 10, 2000, 3:10 p.m.: 24 IR 332*)

329 IAC 15-5-8 Insurance

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 8. (a) The owner or operator of a waste tire storage site may comply with this rule by providing evidence of insurance on:

- (1) forms provided by the department; or**
- (2) other forms approved by the department.**

(b) All insurance must include the following requirements:

- (1) The establishment of credit in the amount determined by section 3 of this rule.**
- (2) Provision that the insurer shall make payments:**
 - (A) in any amount, not to exceed the amount insured; and**
 - (B) to any person authorized by the department;**

if the department notifies the insurer in writing that the owner or operator of the waste tire storage site has failed to perform final closure.

- (3) Provision that the owner or operator of the waste tire storage site shall maintain the policy in full force and effect unless the department consents in writing to termination of the policy.**
- (4) Provision that the insurer may not cancel, terminate, or fail to renew the policy unless the owner or operator of the waste tire storage site fails to pay the premium. No cancellation, termination, or failure to renew may occur unless the department and the owner or operator of the waste tire storage site are notified by the insurer in writing at least one hundred twenty (120) days before such event.**

(c) The insurer shall either be licensed to transact the business of insurance or be eligible to provide insurance as an excess or surplus lines insurer in one (1) or more states. (Solid Waste Management Board; 329 IAC 15-5-8; filed Oct 10, 2000, 3:10 p.m.: 24 IR 332)

329 IAC 15-5-9 Bond for performance

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-13-8; IC 13-30-2; IC 36-9-30

Sec. 9. (a) A waste tire transporter may comply with this rule by establishing a performance bond on:

- (1) forms provided by the department; or**
- (2) other forms approved by the department.**

(b) All performance bonds must contain the following:

- (1) The establishment of penal sums in the amount of at least ten thousand dollars (\$10,000).**
- (2) Provision that the surety will be liable to fulfill the obligations of the waste tire transporter upon notice from the department that the waste tire transporter has failed to fulfill all obligations of this article.**
- (3) Provision that the surety may not cancel the bond without first sending notice of cancellation by certified mail to the waste tire transporter and the department at least one hundred twenty (120) days before the effective date of the cancellation.**
- (4) Provision that the waste tire transporter may not terminate the bond without prior written authorization by the department.**
- (5) Provision that the surety will pay to the department, for deposit in the waste tire management fund established by IC 13-20-13-8, the entire amount of the penal sum described in subdivision (1) in the event the waste tire transporter fails to fulfill all obligations under this article.**

(c) The waste tire transporter shall establish a standby trust fund to be utilized in the event the waste tire transporter fails to fulfill all obligations under this article and the bond guarantee is exercised. Such a trust fund must be established in accordance with section 5 of this rule.

(d) The surety company issuing the bond must be among those listed as acceptable sureties for federal bonds in the most recent Circular 570 of the United States Department of the Treasury.

(e) The surety will not be liable for deficiencies in the performance of the waste tire transporter after the department releases the waste tire transporter in accordance with section 12 of this rule. (Solid Waste Management Board; 329 IAC 15-5-9; filed Oct 10, 2000, 3:10 p.m.: 24 IR 332)

329 IAC 15-5-10 Negotiable certificate of deposit

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-13-8; IC 13-30-2; IC 36-9-30

Sec. 10. (a) A waste tire transporter may comply with this rule by establishing a negotiable certificate of deposit that meets the requirements of this section.

(b) A negotiable certificate of deposit must contain the following:

(1) A principal amount of not less than ten thousand dollars (\$10,000).

(2) Provision that the certificate of deposit may not be withdrawn by the waste tire transporter unless released in writing by the department under section 12 of this rule.

(3) The principal must be deposited for a period of at least one (1) year, with automatic redeposit thereafter for periods of at least one (1) year unless the issuing institution provides written notification of cancellation by certified mail to both the waste tire transporter and the department at least one hundred twenty (120) days before the date on which the certificate of deposit matures.

(4) Provision that the certificate of deposit must be payable to the department, for deposit in the waste tire management fund established by IC 13-20-13-8, upon written notice from the commissioner, stating that obligations of the waste tire transporter under this article have not been fulfilled.

(c) The issuing institution must be an entity that has the authority to issue certificates of deposit and whose operations are regulated and examined by a federal agency or an agency or department of the state. (*Solid Waste Management Board; 329 IAC 15-5-10; filed Oct 10, 2000, 3:10 p.m.: 24 IR 333*)

329 IAC 15-5-11 Negotiable letter of credit

Authority: IC 13-19-3-1; IC 13-20-14-6

Affected: IC 13-20-13-8; IC 13-30-2; IC 36-9-30

Sec. 11. (a) A waste tire transporter may comply with this rule by establishing a negotiable letter of credit on:

(1) forms provided by the department; or

(2) forms approved by the department.

(b) All negotiable letters of credit must contain the following:

(1) The establishment of credit in the amount of not less than ten thousand dollars (\$10,000).

(2) Irrevocability.

(3) An effective period of at least one (1) year and automatic extensions thereafter for periods of at least one (1) year unless the issuing institution provides written notification of cancellation by certified mail to both the waste tire transporter and the department at least one hundred twenty (120) days before the effective date of cancellation.

(4) Provision that the institution will deposit funds equal to the amount of credit into the waste tire management fund established by IC 13-20-13-8 to be used to ensure that all obligations of the waste tire transporter under this article are fulfilled, if notified in writing by the commissioner that the obligations of the waste tire transporter have not been fulfilled.

(c) The waste tire transporter shall establish a standby trust fund to be utilized in the event the waste tire transporter fails to fulfill all obligations under this article and the letter of credit is utilized. Such a trust fund must be established in accordance with the requirements of section 5 of this rule.

(d) The issuing institution must be an entity that has the authority to issue letters of credit and whose letters of credit operations are regulated and examined by a federal agency or an agency or department of the state. (*Solid Waste Management Board; 329 IAC 15-5-11; filed Oct 10, 2000, 3:10 p.m.: 24 IR 333*)

329 IAC 15-5-12 Release of financial responsibility obligations

Authority: IC 13-19-3-1; IC 13-20-13-11

Affected: IC 13-30-2; IC 36-9-30

Sec. 12. (a) When the requirements for final closure in 329 IAC 15-3-21 have been completed, the department will notify the owner or operator of the waste tire storage site in writing that financial responsibility is no longer required to be

maintained.

(b) When a waste tire transporter has:

(1) stopped transporting waste tires for a period of one hundred eighty (180) days; and

(2) completed all activities required by the department under this article;

the department will notify the waste tire transporter in writing that financial responsibility is no longer required to be maintained. *(Solid Waste Management Board; 329 IAC 15-5-12; filed Oct 10, 2000, 3:10 p.m.: 24 IR 333)*

SECTION 2. THE FOLLOWING ARE REPEALED: 329 IAC 12-5; 329 IAC 12-6.

LSA Document #98-96(F)

Proposed Rule Published: July 1, 1999; March 1, 2000; 23 IR 1456

Hearing Held: April 18, 2000

Approved by Attorney General: September 20, 2000

Approved by Governor: October 5, 2000

Filed with Secretary of State: October 10, 2000, 3:10 p.m.

Incorporated Documents Filed with Secretary of State: None