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**TITLE 329 SOLID WASTE MANAGEMENT DIVISION****SECOND NOTICE OF COMMENT PERIOD**

LSA Document #17-279

**WASTE TIRE MANAGEMENT****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [329 IAC 15-1](#) through [329 IAC 15-5](#) concerning waste tire management and new rules at [329 IAC 15-6](#) for the legitimate use of waste tires. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

**HISTORY**

First Notice of Comment Period: June 7, 2017, Indiana Register (DIN: [20170607-IR-329170279FNA](#)).

**CITATIONS AFFECTED:** [329 IAC 15-1-1](#); [329 IAC 15-1-2](#); [329 IAC 15-1-3](#); [329 IAC 15-2-1](#); [329 IAC 15-2-2.1](#); [329 IAC 15-2-4.2](#); [329 IAC 15-2-4.4](#); [329 IAC 15-2-4.6](#); [329 IAC 15-2-4.8](#); [329 IAC 15-2-5](#); [329 IAC 15-2-5.5](#); [329 IAC 15-2-8.5](#); [329 IAC 15-2-9.5](#); [329 IAC 15-2-13](#); [329 IAC 15-2-13.2](#); [329 IAC 15-2-13.3](#); [329 IAC 15-2-13.4](#); [329 IAC 15-2-13.5](#); [329 IAC 15-2-14](#); [329 IAC 15-3-2](#); [329 IAC 15-3-3](#); [329 IAC 15-3-4](#); [329 IAC 15-3-5](#); [329 IAC 15-3-6](#); [329 IAC 15-3-6.5](#); [329 IAC 15-3-7](#); [329 IAC 15-3-7.5](#); [329 IAC 15-3-8](#); [329 IAC 15-3-10](#); [329 IAC 15-3-11](#); [329 IAC 15-3-12](#); [329 IAC 15-3-13](#); [329 IAC 15-3-15](#); [329 IAC 15-3-16](#); [329 IAC 15-3-17](#); [329 IAC 15-3-17.5](#); [329 IAC 15-3-18](#); [329 IAC 15-3-18.5](#); [329 IAC 15-3-20](#); [329 IAC 15-3-20.5](#); [329 IAC 15-3-21](#); [329 IAC 15-4-1](#); [329 IAC 15-4-2](#); [329 IAC 15-4-3](#); [329 IAC 15-4-4](#); [329 IAC 15-4-5](#); [329 IAC 15-4-6](#); [329 IAC 15-4-7](#); [329 IAC 15-4-8](#); [329 IAC 15-4-11](#); [329 IAC 15-4-13](#); [329 IAC 15-4-14](#); [329 IAC 15-4-15](#); [329 IAC 15-4-16](#); [329 IAC 15-5](#); [329 IAC 15-6](#).

**AUTHORITY:** [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#); [IC 13-20-14-6](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

This rulemaking proposes amendments to the waste tire management requirements at [329 IAC 15](#) and includes many of the amendments originally proposed in LSA Document #12-200, which was withdrawn on March 9, 2016. LSA Document #12-200 was withdrawn because a portion of the proposed amendments pertained to legitimate use of waste tires in lieu of disposal and required additional statutory authority to be considered for adoption. To address this situation, the Indiana General Assembly enacted Public Law 97-2016, which granted authority to the Environmental Rules Board to adopt rules for the legitimate use of waste tires. After the enactment of Public Law 97-2016, IDEM initiated this rulemaking to propose amendments to [329 IAC 15](#) that included proposed requirements for the legitimate use of waste tires.

The main purposes of this rulemaking are to incorporate statutory changes enacted in Public Laws 37-2012 and 97-2016, add requirements for the legitimate use of waste tires, update requirements to be consistent with current conditions in the waste tire management industry in Indiana, update the financial assurance requirements, amend outdated or repetitive requirements, improve accountability and safety for waste tire management, and clarify and improve the rule language.

Specific changes to the waste tire management requirements in [329 IAC 15](#) include the following:

- Addition of the term "passenger tire equivalents" (PTE) as a measurement for the amount of waste tire material, including waste tires that are whole or altered.
- Option for local government units to sponsor waste tire amnesty programs.
- Amendments to the types of facilities that are exempt from the waste tire storage and processing requirements.
- Amendments to the options for waste tire disposal by a source of waste tires.
- Amendments to general requirements for the waste tire transporters.
- Establish standards and procedures for the legitimate use, instead of disposal, of waste tires, including requirements for:
  - proper storage and handling;
  - record keeping; and
  - what constitutes the legitimate use of waste tires.
- Update financial assurance requirements to conform with current industry standards for waste tire facilities and transporters.
- Simplification and clarification of the requirements for operating as a mobile waste tire processing operation.
- Streamlined requirements for application and registration of waste tire facilities and transporters.
- Update waste tire management requirements to improve safety at waste tire facilities and eliminate

unnecessary requirements.

- Compliance alternatives for waste tire management, methods of closure, and contingency plans for mobile waste tire processing operations.
- Clarification of record keeping and reporting requirements for waste tire facilities and transporters.
- Requirements for calculating the amount of PTEs at a waste tire facility and clarification of compliance requirements for facilities that exceed certain thresholds of PTEs.
- Streamlining of closure requirements for waste tire facilities.
- Option to submit information to the department in an electronic format.
- Removal of forms in the rule language.
- Modification of requirements throughout the rules to eliminate repetitive or unnecessary requirements and improve the clarity and accuracy of rule language.

While the amendments in the draft rule for [329 IAC 15-1](#) through [329 IAC 15-5](#) are updates to existing requirements, IDEM is proposing a new rule at [329 IAC 15-6](#) for the legitimate use, instead of disposal, of waste tires. The purpose of requirements for the legitimate use of waste tires is to provide an alternative to the disposal of waste tires that allows the use or reuse of waste tires for a commercially valuable application in a manner that does not pose a threat to human health and the environment, when managed properly. IDEM has developed the legitimate use requirements to provide regulatory clarity and detail for the most common legitimate uses of waste tires and to establish a regulatory framework for other, innovative legitimate uses of waste tires while still maintaining adequate protection of human health and the environment.

The main groups that are affected by the rulemaking include waste tire transporters, processing operations, storage sites, potential applicants for legitimate use of waste tires, and local government units. IDEM does not anticipate that the rule amendments will increase annual operating or compliance costs for the affected entities, although the entities may have an initial administrative cost to initially understand and comply with the amendments. The local government waste tire amnesty program will affect local government units and solid waste management districts that choose to host a waste tire amnesty program. However, because local government units will not be required to host waste tire amnesty programs, they are not subject to additional mandatory requirements or costs.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other provisions of Title 329 that may be affected by this rulemaking, and alternative ways to achieve the purpose of the rulemaking.

#### **[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law**

The following elements of the draft rule impose either a restriction or a requirement on persons to whom the draft rule applies that is "not imposed under federal law" (NIFL element or elements):

The following information is provided with each NIFL element:

- (1) The environmental circumstance or hazard dictating the imposition of the NIFL element in order to protect human health and the environment in Indiana; and examples in which federal law is inadequate to provide this protection for Indiana.
- (2) The estimated fiscal impact and expected benefits of the NIFL element, based on the extent to which the NIFL element exceeds the requirements of federal law.
- (3) The availability for public inspection of all materials relied on by IDEM in the development of the NIFL element including, if applicable: health criteria, analytical methods, treatment technology, economic impact data, environmental assessment data, analyses of methods to effectively implement the proposed rule, and other background data.

NIFL Element: None of the amendments to the waste tire rules in [329 IAC 15](#) are imposed under federal law.

- (1) The federal government does not require Indiana to implement a waste tire management program. Individual states can use discretion to develop laws and regulations for the management and disposal of waste tires and alternatives to disposal in that state. The Indiana General Assembly initiated focused management, proper disposal, and market development of waste tires in 1991 with the creation of the Waste Tire Task Force in response to fire and disease vector hazards posed by large, unmanaged stockpiles of waste tires in Indiana. The Indiana General Assembly also enacted statutes at [IC 13-7-23](#) and [IC 13-7-23.2](#) (since recodified) for the management and disposal of waste tires. Subsequently, rule requirements for waste tire management were adopted at [329 IAC 15](#), which are proposed for amendment in this rulemaking.
- (2) The fiscal impact of the rule amendments is discussed in more detail in the Potential Fiscal Impact section of this notice.
- (3) IDEM relied on the following materials for the development of this NIFL element:
  - (a) [329 IAC 15](#).
  - (b) [IC 13-20-13](#) and [IC 13-20-14](#).
  - (c) Indiana Public Law 37-2012 and Public Law 97-2016.
  - (d) Indiana Waste Tire Task Force, Final Report, November 1992.

#### **Potential Fiscal Impact**

IDEM does not anticipate a significant fiscal impact from the rule amendments. The amendments do not

require any additional fees for waste tire processing operations, storage sites, or transporters. The rule amendments are not intended to increase normal operating costs for registered facilities that operate in compliance with the current requirements. Affected entities may have reduced administrative and compliance costs with the options for alternative waste tire management requirements in [329 IAC 15-3-17.5](#), alternative contingency plans for mobile waste tire processing operations in [329 IAC 15-3-18.5](#), allowance for an owner or operator of both a waste tire processing operation and a mobile waste tire processing operation to operate under the same registration, and the proposed legitimate use requirements at [329 IAC 15-6](#) that allow legitimate use of waste tires rather than disposal.

In order to understand and comply with the rule amendments, affected entities may need to dedicate administrative time that will vary depending upon the type of facility and the size of the facility's waste tire management operation. In addition, the proposed requirements at [329 IAC 15-3-20.5](#) for recording the daily number of PTEs at a waste tire facility may add some daily administrative burden, but only if the owner or operator is not already recording this information. IDEM estimates this calculation to take less than 0.5 hours of administrative time each day, as the information already should be available on waste tire transporter manifest forms and recorded for purposes of not exceeding the maximum number of PTEs allowed in the facility registration.

#### **Public Participation and Work Group Information**

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Dan Watts, Rules Development Branch, Office of Legal Counsel at (317) 234-5345 or (800) 451-6027 (in Indiana).

#### **SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from June 7, 2017, through July 7, 2017, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received no comments in response to the First Notice of Comment Period.

#### **REQUEST FOR PUBLIC COMMENTS**

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #17-279 Waste Tire Management  
Dan Watts  
Rules Development Branch  
Office of Legal Counsel  
Indiana Department of Environmental Management  
Indiana Government Center North  
100 North Senate Avenue  
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 232-8922.

(3) By electronic mail to [dwatts1@idem.in.gov](mailto:dwatts1@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

#### **COMMENT PERIOD DEADLINE**

All comments must be postmarked, faxed, or time stamped not later than May 10, 2019. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345 or (800) 451-6027 (in Indiana).

#### **DRAFT RULE**

SECTION 1. [329 IAC 15-1-1](#) IS AMENDED TO READ AS FOLLOWS:

#### **[329 IAC 15-1-1](#) Applicability**

Authority: [IC 13-19-3-1](#); [IC 13-20-13-11](#); [IC 13-20-14-6](#)

Affected: [IC 13-11-2](#); [IC 13-20-13-1](#); [IC 13-20-14](#); [IC 13-30-2](#); [IC 36-9-30](#)

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

- (1) A waste tire processing operations **operation** as defined in [IC 13-11-2-250.5](#).
- (2) A waste tire storage sites **site** as defined in [IC 13-11-2-251](#).
- (3) A waste tire transporters **transporter** as defined in [IC 13-11-2-252](#).
- (4) Retailers as defined in ~~[IC 13-11-2-194\(a\)](#)~~ and other sources of waste tires. **A mobile waste tire processing operation as defined in [329 IAC 15-2-4.8](#).**
- (5) **A person that uses waste tires in a legitimate use, instead of disposal, in accordance with the requirements for the legitimate use of waste tires at [329 IAC 15-6](#).**
- (6) **Other sources of waste tires.**

(b) The provisions of [329 IAC 15-3](#) concerning waste tire storage site and waste tire processing operation certificates of registration do not apply to the following:

- (1) A facility operated as a recycling **solid waste processing** facility under a valid permit issued by the commissioner.
- ~~(2) A site at which waste tires are stored under a recycling program approved by the commissioner.~~
- ~~(3) The site of (2) A facility that is used to retread tires at which fewer than five thousand (5,000) waste tires are present indoors within a completely enclosed structure.~~
- (3) A facility used to store waste tires that will be sent to a retread facility for retreading if:**
  - (A) fewer than five thousand (5,000) PTEs are present;**
  - (B) all tires designated for retreading are stored indoors within a completely enclosed structure; and**
  - (C) the facility can document, through receipts or contracts, that a retread facility will take the tires.**
- (4) A vehicle or container in which waste tires are stored for fewer ~~less~~ than thirty (30) days.
- (5) A vehicle:
  - (A) that is properly licensed;
  - (B) that is capable of legally transporting waste tires; and
  - (C) in which waste tires are completely enclosed.
- (6) Other uses of waste tires approved by the commissioner under one (1) of the following:
  - (A) [329 IAC 10-3-1\(16\)](#).
  - (B) ~~[329 IAC 11-3-1\(15\)](#)~~. [329 IAC 11-3-1\(13\)](#).
  - ~~(C) [329 IAC 12-3-1\(15\)](#).~~
- (7) A waste tire amnesty program sponsored by a local government or solid waste management district (SWMD) in accordance with the following:**
  - (A) The local government or SWMD shall submit written notice to the department at least thirty (30) days in advance of each amnesty day that includes the following information:**
    - (i) Date of the amnesty day.
    - (ii) Location of the amnesty day.
    - (iii) Name of the local government or SWMD sponsoring the amnesty program.
    - (iv) Destination for processing and disposal of the waste tires.
    - (v) If clause (B) is applicable, the written consent of the property owner or the property owner's authorized representative.
  - (B) If the local government or SWMD sponsoring a waste tire amnesty day does not own the property where the waste tires are collected or processed, the local government or SWMD shall obtain the written consent of the property owner or the property owner's authorized representative to use the property.**
  - (C) Waste tires must be transported from the property by one (1) or more of the following:**
    - (i) A person designated by the local government or SWMD to transport waste tires in accordance with this subdivision.
    - (ii) A registered waste tire transporter.
  - (D) Waste tires must be collected and processed by one (1) or more of the following:**
    - (i) A person designated by the local government or SWMD to collect and process waste tires in accordance with this subdivision.
    - (ii) A registered waste tire processing operation.
    - (iii) A registered mobile waste tire processing operation.
  - (E) All waste tires must be processed or disposed within sixty (60) days after collection in accordance with the following:**
    - (i) This article.
    - (ii) [IC 13-20-14-4](#).

(iii) **[329 IAC 10.](#)**

(F) The local government or SWMD administers the waste tire amnesty program for no more than sixty (60) days in each calendar year, unless the commissioner has approved a longer period in writing.

(8) A facility that:

(A) manufactures tires; and

(B) keeps five thousand (5,000) or fewer waste tires indoors in an enclosed structure.

(9) The disposal of waste tires at mineral extraction operation in accordance with [IC 13-20-14-10.](#)

(c) A retail operation that cuts or shreds waste tires generated by the retail operation is not subject to the provisions of [329 IAC 15-3](#) concerning a certificate of registration for a waste tire processing operation.

(Solid Waste Management Division; [329 IAC 15-1-1](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 317; errata filed Sep 8, 2004, 3:30 p.m.: 28 IR 214; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 2. [329 IAC 15-1-2](#) IS AMENDED TO READ AS FOLLOWS:

**[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](#); [IC 13-20-14](#); [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 13-20-13-13.](#)

~~(4)~~ (5) [IC 13-20-14-5.6.](#)

~~(5)~~ (6) [IC 13-20-14-7.](#)

~~(6)~~ (7) [IC 13-20-14-8.](#)

~~(7)~~ (8) [IC 13-30-3.](#)

(9) [IC 36-9-30-35.](#)

(Solid Waste Management Division; [329 IAC 15-1-2](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 318; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 3. [329 IAC 15-2-1](#) IS AMENDED TO READ AS FOLLOWS:

**[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 Division; [329 IAC 15-2-1](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 318; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 4. [329 IAC 15-2-2.1](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-2-2.1](#) "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. 2.1. "Altered waste tire" means a waste tire that is modified by:**

- (1) shredding;**
- (2) chopping;**
- (3) cutting;**
- (4) drilling with holes;**
- (5) grinding; or**
- (6) any other method that changes the physical form of the waste tire.**

*(Solid Waste Management Division; [329 IAC 15-2-2.1](#))*

SECTION 5. [329 IAC 15-2-4.2](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-2-4.2](#) "Electronic format" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

**Sec. 4.2. "Electronic format" means one (1) or more of the following types of electronic media used for information or documents:**

- (1) Compact disc or digital video disc.**
- (2) Electronic mail or electronic mail attachments.**
- (3) File transfer protocol.**
- (4) Hypertext transfer protocol.**
- (5) Other electronic media approved by the department.**

*(Solid Waste Management Division; [329 IAC 15-2-4.2](#))*

SECTION 6. [329 IAC 15-2-4.4](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-2-4.4](#) "Financial assurance" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

**Sec. 4.4. "Financial assurance" means a surety bond, trust fund, letter of credit, certificate of deposit, or insurance acquired by the owner or operator of the registered facility in an amount sufficient to provide for final closure at the registered facility in accordance with [329 IAC 15-3-21](#).**

*(Solid Waste Management Division; [329 IAC 15-2-4.4](#))*

SECTION 7. [329 IAC 15-2-4.6](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-2-4.6](#) "Legitimate use" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-11-2-118.4](#); [IC 13-30-2](#); [IC 36-9-30](#)

**Sec. 4.6. "Legitimate use" has the meaning set forth in [IC 13-11-2-118.4](#).**

*(Solid Waste Management Division, [329 IAC 15-2-4.6](#))*

SECTION 8. [329 IAC 15-2-4.8](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-2-4.8](#) "Mobile waste tire processing operation" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

**Sec. 4.8. "Mobile waste tire processing operation" means an operation that processes waste tires at more than one (1) location on a temporary basis on property that is not owned, leased, or otherwise**

operated by the operation.

(Solid Waste Management Division; [329 IAC 15-2-4.8](#))

SECTION 9. [329 IAC 15-2-5](#) IS AMENDED TO READ AS FOLLOWS:

**[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 [326 IAC 6-4-1](#).
- (2) Disease vectors.
- (3) Uncontrolled litter.
- (4) Odors.
- (5) Fire.
- (6) Fire hazard, as evidenced by an order from the state fire marshal that the ~~waste tire storage site or waste tire processing operation~~ **property** 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 Division; [329 IAC 15-2-5](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 319; errata filed Oct 23, 2000, 9:50 a.m.: 24 IR 688; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 10. [329 IAC 15-2-5.5](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-2-5.5](#) "Ongoing legitimate use approval" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

**Sec. 5.5. "Ongoing legitimate use approval" means a determination by the commissioner that allows for the continuous or regular processing of waste tires for a legitimate use approved under [329 IAC 15-6](#).**

(Solid Waste Management Division; [329 IAC 15-2-5.5](#))

SECTION 11. [329 IAC 15-2-8.5](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-2-8.5](#) "Passenger tire equivalent" or "PTE" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-11-2-154.5](#); [IC 13-30-2](#); [IC 36-9-30](#)

**Sec. 8.5. "Passenger tire equivalent" or "PTE" has the meaning set forth in [IC 13-11-2-154.5](#).**

(Solid Waste Management Division; [329 IAC 15-2-8.5](#))

SECTION 12. [329 IAC 15-2-13](#) IS AMENDED TO READ AS FOLLOWS:

**[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 **at least** two thirty-seconds (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 **that:**
  - (A) is accessible for inspection; and**
  - (B) allows access for emergency equipment.**
- (3) The tire is stored out of the weather to prevent accumulation of water or precipitation in the tires.

(Solid Waste Management Division; [329 IAC 15-2-13](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 319; errata filed Oct 23, 2000, 9:50 a.m.: 24 IR 688; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 13. [329 IAC 15-2-13.2](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-2-13.2](#) "Waste tire" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)  
**Affected:** [IC 13-11-2-250](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 13.2. (a) "Waste tire" as defined in **has the meaning set forth in [IC 13-11-2-250](#)**. means a tire that is not suitable for the tire's original purpose.

(b) A used tire that meets all criteria in section 13 of this rule is not a waste tire.

(Solid Waste Management Division; [329 IAC 15-2-13.2](#); filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 14. [329 IAC 15-2-13.3](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-2-13.3](#) "Waste tire processing operation" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)  
**Affected:** [IC 13-11-2-250.5](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 13.3. "Waste tire processing operation" as defined in **has the meaning set forth in [IC 13-11-2-250.5](#)**. means an operation that processes waste tires by cutting, shredding, or grinding. The term does not include a retail operation that cuts or shreds waste tires generated by the retail operation.

(Solid Waste Management Division; [329 IAC 15-2-13.3](#); filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 15. [329 IAC 15-2-13.4](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-2-13.4](#) "Waste tire storage site" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)  
**Affected:** [IC 13-11-2-251](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 13.4. "Waste tire storage site" as defined in **has the meaning set forth in [IC 13-11-2-251](#)**. means a site at which at least:

- (1) one thousand (1,000) waste tires are accumulated outdoors or within a structure that is not completely enclosed; or
- (2) two thousand (2,000) waste tires are accumulated indoors within a completely enclosed structure.

(Solid Waste Management Division; [329 IAC 15-2-13.4](#); filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 16. [329 IAC 15-2-13.5](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-2-13.5](#) "Waste tire transporter" defined**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-11-2-252](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 13.5. "Waste tire transporter" as defined in **has the meaning set forth in [IC 13-11-2-252](#)**. means a person who engages in the business of:

- (1) accepting waste tires from retailers; and
- (2) transporting the waste tires to one (1) or more other locations.

(Solid Waste Management Division; [329 IAC 15-2-13.5](#); filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 17. [329 IAC 15-3-2](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-2](#) Requirements for waste tire storage sites**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-11-2-251](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 2. (a) 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:
  - (A) all applicable requirements of this rule; and
  - (B) **the conditions in the certificate of registration; and**
- (3) maintain financial assurance as required by [329 IAC 15-5](#).

**(b) The owner or operator of a registered waste tire storage site shall comply with subsection (a) at all times, including when less than one thousand (1,000) PTEs are at the registered waste tire storage site.**

**(c) The owner or operator of a waste tire storage site may not accumulate more than the amount of PTEs specified in [IC 13-11-2-251](#) until the department issues a certificate of registration to the owner or operator.**

(Solid Waste Management Division; [329 IAC 15-3-2](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 320; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 18. [329 IAC 15-3-3](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-3](#) Registration of waste tire storage sites**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-14-13](#); [IC 13-20-21-3](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 3. (a) An application for a **certificate of registration of for** a waste tire storage site must:

- (1) be submitted on a form provided by the department; ~~The completed application form must~~
- (2) contain all information requested on the form; **and**
- (3) **include the application fee required under [IC 13-20-21-3](#).**

**(b) The following must be submitted with the application form for a certificate of registration for a waste tire storage site:**

- (1) A United States Geological Survey (USGS) seven and one-half (7 1/2) 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 all of~~ **on paper not less than eight and one-half (8 1/2) inches by eleven (11) inches in size that includes** the following:
  - (A) Property boundaries.
  - (B) On-site buildings.

- (C) Location, maximum length, maximum width, and maximum height of each waste tire storage area.
- (D) Separation distances between waste tire piles- **storage areas and the following:**
  - (i) **Buildings.**
  - (ii) **Fences.**
  - (iii) **Property boundaries.**
  - (iv) **Other waste tire storage areas.**
  - (v) **Other accumulated materials that may:**
    - (AA) **be a fire hazard; or**
    - (BB) **restrict access to the waste tires.**
  - (E) **A scale ratio.**
  - (F) **An arrow to true north.**
- (3) A description of the following:
  - (A) Buildings, signs, notices, and alarms to be used for management of waste tires at the facility.
  - (B) The program that will be used to manage waste tires at the facility, including the following:
    - (i) The anticipated sources and amounts of incoming waste tires **in PTEs.**
    - (ii) The names and locations of the anticipated destinations of the waste tires.
    - (iii) The maximum number of waste tires **in PTEs** that ~~can~~ **may** be stored at the site at any time.
    - (iv) The method and schedule for the following:
      - (AA) Draining incoming waste tires.
      - (BB) Preventing waste tires from accumulating water.
  - (4) The contingency plan required by section 18 of this rule.
  - (5) The closure cost estimate required by [329 IAC 15-5-3](#).
  - (6) Evidence of the financial assurance mechanism to be used to comply with the financial assurance requirements in [329 IAC 15-5](#).
  - (7) ~~The application fee required by [IC 13-20-21-3](#).~~ **A plan for compliance with the waste tire management requirements specified in section 17 of this rule.**

**(c) If the application is for a location not owned by the applicant, the application must include the signature of the person who owns the property on which the waste tire storage site is located.**

~~(b) Before beginning accumulation of waste tires;~~ **(d) The person who applies applicant** for a certificate of registration for a waste tire storage site shall submit **to the fire department with jurisdiction over the waste tire storage site** a copy of the:

- (1) completed application; **and**
  - (2) contingency plan required by section 18 of this rule. ~~and~~
  - ~~(3) map of the waste tire storage site required by subsection (a)(2);~~
- ~~to the fire department with jurisdiction over the waste tire storage site.~~

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

~~(d)~~ **(f)** A new certificate of registration is required for a waste tire storage site that is relocated.

**(g) An applicant may submit a copy of the application for a certificate of registration in electronic format as prescribed by the commissioner and in accordance with [IC 13-14-13](#). Any documents submitted in an electronic format also must be submitted as a paper copy unless the commissioner makes a determination that only an electronic copy is needed.**

~~(e)~~ **(h)** Registration under this rule does not guarantee that ~~the~~ **a** waste tire storage site complies with **other** applicable:

- (1) county or local ordinances; **or**
- (2) **state rules or statutes.**

*(Solid Waste Management Division; [329 IAC 15-3-3](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 320; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 19. [329 IAC 15-3-5](#) IS AMENDED TO READ AS FOLLOWS:

**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. (a) 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:

- (A) all applicable requirements of this rule; and
- (B) the conditions in the certificate of registration.

**(b) If a waste tire processing operation accumulates one thousand (1,000) or more PTEs, including all PTEs as calculated under section 20.5 of this rule, the owner or operator shall:**

- (1) register as a waste tire storage site; and
- (2) comply with all applicable requirements for a waste tire storage site under this article.

~~(b)~~ **(c)** A waste tire processing operation that is under contract to the department to ~~remove~~ **process** waste tires from a waste tire storage site is registered for the purposes of this article as long as ~~that~~ the waste tire processing operation complies with the terms of the contract.

**(d) A waste tire processing operation that also operates as a mobile waste tire processing operation may operate under a single registration by complying with the applicable requirements of section 6 of this rule.**

**(e) The owner or operator of a waste tire processing operation may not process waste tires until the department issues a certificate of registration to the owner or operator.**

*(Solid Waste Management Division; [329 IAC 15-3-5](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 321; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 20. [329 IAC 15-3-6](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-6](#) Registration of waste tire processing operations**

Authority: [IC 13-19-3-1](#); [IC 13-20-13-11](#)

Affected: [IC 13-14-13](#); [IC 13-20-21-3](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 6. (a) An application for a **certificate of registration** ~~of for~~ a waste tire processing operation must:

- (1) be completed on a form provided by the department; ~~The completed application form must~~
- (2) contain all information requested on the form; and
- (3) include the application fee required under [IC 13-20-21-3](#).

**(b) The following must be submitted with the application form for a certificate of registration for a waste tire processing operation:**

- (1) A United States Geological Survey seven and one-half (7 1/2) minute topographic map or equivalent that shows the boundaries of the waste tire processing operation.
- (2) A legible map of the waste tire processing operation ~~that shows~~ **on paper not less than eight and one-half (8 1/2) inches by eleven (11) inches in size that includes** the following:
  - (A) Property boundaries.
  - (B) On-site buildings.
  - (C) ~~The Location, and dimensions~~ **maximum length, maximum width, and maximum height** of each area to be used to hold waste tires for processing.
  - (D) Separation distances between waste tire holding areas and the following:
    - (i) Buildings.
    - (ii) Fences.
    - (iii) Property boundaries.
    - (iv) Other waste tire holding areas.
    - (v) Other accumulated materials **that may:**

- (AA) be a fire hazard; or
- (BB) restrict access to the waste tires.

(E) A scale ratio.

(F) An arrow to true north.

(3) A description of the following:

- (A) Buildings, signs, notices, and alarms to be used to manage waste tires at the facility.
- (B) The program that will be used to manage waste tires at the facility, including the following:
  - (i) The anticipated sources and amounts of incoming waste tires **in PTEs**.
  - (ii) The names and locations of the anticipated destinations of the waste tires.
  - (iii) The method and schedule for the following:
    - (AA) Draining incoming waste tires.
    - (BB) Preventing waste tires from accumulating water.

(4) The contingency plan required by section 18 of this rule.

(5) A description of the measures the owner or operator will use to ensure that the operation will not accumulate either of the following:

- (A) one thousand (1,000) or more ~~waste tires~~ **PTEs** at any time outdoors or in a structure that is not completely enclosed **unless the facility is a registered waste tire storage site**.
- (B) Two thousand (2,000) or more ~~waste tires~~ indoors within a completely enclosed structure.

(6) The application fee required by [IC 13-20-21-3](#). **A plan for compliance with the waste tire management requirements specified in section 17 of this rule.**

~~(b) Except as provided in section 6.5 of this rule:~~

- ~~(1) a separate certificate of registration is required for each waste tire processing operation; and~~
- ~~(2) a new certificate of registration is required for a waste tire processing operation that is relocated.~~

(c) Registration under this rule does not guarantee that the waste tire processing operation complies with applicable county or local ordinances. **If the application for a certificate of registration is for a location not owned by the applicant, the application must include the signature of the person who owns the property on which:**

- (1) the waste tire processing operation is located; or**
- (2) for a mobile waste tire processing operation, each location where waste tire processing occurs.**

**(d) A separate certificate of registration is required for each location at which waste tire processing occurs, unless the registration is only for a mobile waste tire processing operation.**

**(e) A new certificate of registration is required when a waste tire processing operation that is not a mobile operation relocates to a new location.**

**(f) The owner or operator of a mobile waste tire processing operation shall:**

**(1) comply with the:**

- (A) requirements of subsection (a); and**
- (B) contingency plan requirements of either section 18 or 18.5 of this rule; and**

**(2) provide notice to the department of the location at which waste tires are being processed within thirty (30) days of initiating waste tire processing at each location, including the signature of the person who owns the property.**

**(g) A waste tire processing operation that operates as both a nonmobile and a mobile waste tire processing operation may operate under a single registration by complying with:**

- (1) the notification requirements under subsection (f)(2); and**
- (2) other applicable requirements under this article for a:**
  - (A) mobile waste tire processing operation; and**
  - (B) nonmobile waste tire processing operation.**

~~(d) Before beginning processing of waste tires,~~ **(h) Unless a person is applying for a certificate of registration for only a mobile waste tire processing operation, the person who applies applicant for a certificate of registration for a waste tire processing operation shall submit to the fire department with jurisdiction over the waste tire processing operation a copy of the:**

- (1) completed application; and**

- ~~(2) contingency plan required by section 18 of this rule. and~~
- ~~(3) map of the waste tire processing operation required by subsection (a)(2) to the fire department with jurisdiction over the waste tire processing operation.~~

**(i) An applicant may submit a copy of the application for a certificate of registration in electronic format as prescribed by the commissioner and in accordance with [IC 13-14-13](#). Any documents submitted in an electronic format also must be submitted as a paper copy unless the commissioner makes a determination that only an electronic copy is needed.**

**(j) Registration under this rule does not guarantee that a waste tire processing operation complies with other applicable:**

- (1) county or local ordinances; or**
- (2) state rules or statutes.**

*(Solid Waste Management Division; [329 IAC 15-3-6](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 321; errata filed Oct 23, 2000, 9:50 a.m.: 24 IR 688; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 21. [329 IAC 15-3-8](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-8](#) Approval of application for certificate of registration**

**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 **commissioner shall issue** a certificate of registration to a person who owns or operates **the owner or operator of** a waste tire storage site that meets the following criteria: **or waste tire processing operation, if the owner or operator:**

- ~~(1) The owner or operator has submitted a completed application in accordance with section 3 of this rule. **submits a complete and accurate application, including applicable fees; and**~~
- ~~(2) The waste tire storage site complies with the **all applicable** 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 Division; [329 IAC 15-3-8](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 321; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 22. [329 IAC 15-3-10](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-10](#) Denial of certificate of registration**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#); [IC 13-20-21-7](#)

**Affected:** [IC 13-11-2-67](#); [IC 13-20-13](#); [IC 13-20-14](#); [IC 13-20-21-3](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 10. (a) The department may deny an application for a certificate of registration under this rule as provided for in ~~[IC 13-20-13-3](#)~~(d): **one (1) or more of the following reasons:**

- (1) The application for a certificate of registration is incomplete.**
- (2) The applicant has failed to comply with the applicable requirements of:**
  - (A) [IC 13-20-13](#);**
  - (B) [IC 13-20-14](#); or**
  - (C) this article.**
- (3) An enforcement action as defined under [IC 13-11-2-67](#)(a) is pending against the applicant.**

**(b) The department shall deny an application for a certificate of registration for failure to submit an application fee required under [IC 13-20-21-3](#).**

*(Solid Waste Management Division; [329 IAC 15-3-10](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 322; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 23. [329 IAC 15-3-11](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-11](#) Revocation or modification of a certificate of registration**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#); [IC 13-20-21-7](#)

**Affected:** [IC 13-20-13](#); [IC 13-20-21-4](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 11. (a) The commissioner may revoke or modify a certificate of registration as provided for at ~~[IC 13-20-13-5.5](#)~~; one (1) or more of the following reasons:

- (1) Failure to disclose all relevant facts.
- (2) Making a misrepresentation in obtaining the registration.
- (3) Within the time established by the department, failure to correct a violation of:
  - (A) a condition of the registration;
  - (B) [IC 13-20-13](#); or
  - (C) applicable requirements of this article.
- (4) Failure to obtain, maintain, or fund a financial assurance mechanism within the prescribed time limits, as required by this article.
- (5) Failure to submit an annual operation fee required under [IC 13-20-21-4](#).

(b) A registrant may submit a request for modification of the registration to the department that complies with the applicable requirements of this rule for an application for registration. The commissioner shall:

- (1) approve the request under section 8 of this rule; or
- (2) deny the request under section 10 of this rule.

(c) A person aggrieved by the revocation or modification of a certificate of registration may appeal the revocation or modification under [IC 13-20-13-5.5\(b\)](#).

*(Solid Waste Management Division; [329 IAC 15-3-11](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 322; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 24. [329 IAC 15-3-12](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-12](#) Duration of a certificate of registration**

**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 **unless a renewal application is submitted to the department in accordance with section 14 of this rule.**
- (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 Division; [329 IAC 15-3-12](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 322; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 25. [329 IAC 15-3-13](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-13](#) Transferability of a certificate of registration and new owner or operator of a facility**

**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 **specified** in the application for the certificate of registration.

**(c) A new owner or operator of a waste tire storage site or waste tire processing operation shall:**

**(1) apply for a new certificate of registration in accordance with the applicable requirements of this article; and**

**(2) obtain a valid certificate of registration issued by the commissioner before operating the facility.**

*(Solid Waste Management Division; [329 IAC 15-3-13](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 322; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.:*

*[20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 26. [329 IAC 15-3-15](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-15](#) Annual submittals 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. (a) 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](#)~~. [IC 13-20-21-4](#).

(2) The revised **updated** closure cost estimate **and financial assurance** required by ~~[329 IAC 15-5-3\(b\)](#)~~. [329 IAC 15-5-3.5](#).

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

**(b) Failure to submit an annual operation fee shall result in a delinquency charge and may result in a revocation of the certificate of registration in accordance with [IC 13-20-21-10](#).**

*(Solid Waste Management Division; [329 IAC 15-3-15](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 322; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.:*

*[20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 27. [329 IAC 15-3-16](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-16](#) Updating contact information in the registration**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 16. If the **contact** 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 **contact** information to the department no more than thirty (30) days after the **contact** information provided in the application for the certificate of registration changes.

*(Solid Waste Management Division; [329 IAC 15-3-16](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 322; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.:*

*[20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 28. [329 IAC 15-3-17](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-17](#) Waste tire operational requirements**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#); [IC 13-20-13-1.5](#)

Sec. 17. (a) **Except as provided in subsection (j) for a mobile waste tire processing operation**, the owner or operator of a waste tire storage site or a waste tire processing operation shall, **at all times**, operate that waste tire storage site or a waste tire processing operation in compliance with:

- (1) this section; ~~at all times~~; and
- (2) **Chapter 34 of the 2012 International Fire Code, First Printing\***, as amended by [675 IAC 22-2.5-27](#).

(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 **by the Indiana state department of health** in accordance with ~~the rules of the Indiana state department of health at~~ [410 IAC 6-10](#). [410 IAC 6-10.1](#).

(c) The **owner or operator of a** waste tire storage site or waste tire processing operation ~~must~~ **may** not do any of the following:

- (1) Pose a threat to human health or the environment.
- (2) Create a nuisance.
- (3) **Engage in an activity prohibited under** [IC 13-30-2-1](#).

(d) Access to the waste tire storage site or waste tire processing operation ~~must be~~ **is** 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. and must be controlled by the use of gates, fences, or other appropriate means of access.~~

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

~~(f)~~ **(e)** The **owner or operator of the** waste tire storage site or waste tire processing operation ~~must~~ **shall** maintain the following at the ~~waste tire storage site or waste tire processing operation~~:

- (1) A first aid kit.
- (2) Fire extinguishing equipment that:
  - ~~(A) complies with the Indiana Fire Code as adopted by the fire prevention and building safety commission at~~ [675 IAC 22\\*](#);
  - (B) is accessible at the waste tire storage site or waste tire processing operation; and**
  - (C) is immediately accessible on-site while processing waste tires.**
- (3) A telephone or other communication system capable of ~~contacting~~ **being used to contact** the fire department and other emergency services.

~~(g)~~ **(f)** Salvaging ~~must~~ **may** not:

- (1) interfere with the operation of the waste tire storage site or waste tire processing operation; or
- (2) create a nuisance or a health hazard.

~~(h)~~ **(g)** The owner or operator of a waste tire storage site or waste tire processing operation shall take all actions required to: ~~do the following~~:

- (1) prevent the breeding of mosquitoes **and other disease vectors**; and
- (2) control any ~~mosquito~~ population **of mosquitoes and other disease vectors**.

~~(i) The owner or operator of a waste tire storage site or a waste tire processing operation must not accept waste tires from a waste tire transporter that is not registered with the department in accordance with this article.~~

~~(j)~~ **(h)** 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 all of 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:
  - (A) altered or modified so that the tire cannot hold water; ~~by~~

- (i) shredding;
  - (ii) chopping;
  - (iii) drilling with holes and stacking to assure drainage; or
  - (iv) slitting longitudinally and stacking so the tires will not collect water;
- (B) covered; or
- (C) otherwise prevented from accumulating water.
- (3) Waste tires must not be stored in areas of standing water.

~~(k) (i) The owner or operator of a waste tire storage site shall only use a waste tire processing operation that is registered has a valid certificate of registration under this article. to process waste tires at the waste tire storage site.~~

**(j) The owner or operator of a mobile waste tire processing operation shall comply with only subsections (c), (d), and (e) at each location where:**

- (1) waste tire processing occurs; and**
- (2) waste tires are accumulated for processing.**

**(k) The owner or operator of a waste tire storage site or waste tire processing operation shall calculate the number of stored PTEs in accordance with the requirements of section 20.5 of this rule.**

~~(l) Retailers and other sources of waste tires shall only use waste tire processing operations that are registered under this article to process waste tires they generate.~~

**\*This document is incorporated by reference. Copies of the document may be obtained from the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.**

*(Solid Waste Management Division; [329 IAC 15-3-17](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 322; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 29. [329 IAC 15-3-17.5](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-3-17.5](#) Alternative design and compliance**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#); [IC 13-20-13-1.5](#)

**Affected:** [IC 13-20-14-4](#); [IC 13-30-2](#); [IC 36-9-30](#)

**Sec. 17.5. (a) The owner or operator of a waste tire storage site or waste tire processing operation may propose an alternative design, compliance approach, or innovative technology other than a requirement specified in this rule, in accordance with this section.**

**(b) A submittal for an alternative proposal must:**

- (1) include documentation that specifies how the alternative proposal meets the waste tire management requirements of this rule;**
- (2) provide at least equivalent protection of human health and the environment; and**
- (3) comply with all applicable requirements of:**
  - (A) this article; and**
  - (B) other rules and statutes.**

**(c) The commissioner shall:**

- (1) make a determination on the alternative proposal;**
- (2) provide written documentation describing the basis for the approval or denial of the proposal; and**
- (3) include the approval of the proposal in the certificate of registration.**

**(d) The commissioner may add conditions to the proposal and include the conditions in the certificate**

**of registration in accordance with section 9 of this rule.**

(Solid Waste Management Division; [329 IAC 15-3-17.5](#))

SECTION 30. [329 IAC 15-3-18](#) IS AMENDED TO READ AS FOLLOWS:

**[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 **that is not a mobile 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:~~ **to address:**

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

(b) The contingency plan must include the following:

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

**(A) in response to the hazards listed in subsection (a); and**

~~(A) fires or explosions;~~

~~(B) run-off resulting from fires or explosions; and~~ **to properly dispose of solid waste resulting from fires or explosions.**

~~(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:~~ **including the following:**

(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 Indiana department of environmental management, office of land quality, emergency response section at (317) 233-7745 for out-of-state calls, or (888) 233-7745 for in-state calls (toll-free in Indiana).**

(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).~~ **description of how the owner or operator will operate and maintain the facility to minimize hazards to human health and the environment.**

(4) A description of the methods ~~to be used to control mosquito breeding in waste tires.~~ **mosquitoes and other disease vectors.**

(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~~ **amendments** to the plan must be:

(1) maintained at:

**(A) the waste tire storage site or waste tire processing operation; or at**

**(B) an alternate location approved by the department in the certificate of registration; and**

(2) submitted to ~~all of the following~~ **department and the fire department with jurisdiction over the waste tire storage site or waste tire processing operation** within thirty (30) days ~~of~~ **after** the date the:

**(A) certificate of registration is issued; or the date the and**

**(B) 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 **owner or operator of the waste tire storage site or waste tire processing operation shall carry out 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 ~~mosquitoes or~~ **mosquitoes and 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 an 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.

**(f) After the discovery of one (1) or more of the conditions listed in subsection (a)(1) and (a)(2), the owner or operator of the waste tire storage site or waste tire processing operation shall notify immediately the entities listed in subsection (b)(2).**

*(Solid Waste Management Division; [329 IAC 15-3-18](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 323; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 31. [329 IAC 15-3-18.5](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-3-18.5](#) Contingency plan for mobile 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. 18.5. (a) The owner or operator of a mobile waste tire processing operation shall operate and maintain the mobile waste tire processing operation to minimize hazards to human health and the environment.**

**(b) The owner or operator of a mobile waste tire processing operation shall either develop a contingency plan in accordance with section 18 of this rule or develop an alternative contingency plan that:**

- (1) describes the actions the owner or operator shall take to protect human health and the environment in response to fires, explosions, or other emergencies that occur while processing waste tires on a property; and**
- (2) is applicable to all locations where waste tire processing occurs.**

**(c) The owner or operator of a mobile waste tire processing operation that develops an alternative contingency plan in accordance with subsection (b) shall:**

- (1) submit the plan to the department before initiating the waste tire processing on a property;**
- (2) carry out the plan when emergencies occur while processing waste tires on a property;**
- (3) maintain a copy of the plan and all revisions made to the plan at the place of business listed in the certificate of registration or at an alternate location approved by the commissioner in the certificate of registration; and**
- (4) make available to the department a copy of the plan upon request.**

**(d) The owner or operator of a mobile waste tire processing operation shall submit an amendment to the alternative contingency plan to the department for approval within thirty (30) days after the change.**

*(Solid Waste Management Division; [329 IAC 15-3-18.5](#))*

SECTION 32. [329 IAC 15-3-20](#) IS AMENDED TO READ AS FOLLOWS:

**[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 13-30-10](#); [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 **maintain** the following records:

- (1) Copies of the transporter manifest forms prepared in accordance with [329 IAC 15-4-14](#), required by [329 IAC 15-4-13](#).
- (2) A copy of The certificate of registration.
- (3) **If applicable, a financial assurance mechanism required by [329 IAC 15-5-1](#), updated with the most recent closure cost estimate.**
- (4) **A daily record of PTE inventory as required under section 20.5 of this rule.**

(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 form provided by the commissioner and must include all information requested on the form. **maintain records required by this section in accordance with the following:**

- (1) **The records must be kept on-site at the waste tire storage site or waste tire processing operation.**
- (2) **The records must be made available at the waste tire storage site or waste tire processing operation for inspection and copying by department during normal business hours.**
- (3) **Waste tire manifests must be kept for at least three (3) years from creation or receipt.**
- (4) **Certificates of registration and evidence of financial assurance mechanisms must be kept for at least one (1) year after expiration.**

(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.

(c) **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:**

- (1) **be on a form provided by the department;**
- (2) **include all the information requested on the form;**
- (3) **be based on the daily PTE inventory calculations required under section 20.5 of this rule; and**
- (4) **be signed by the owner or operator.**

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

- ~~(1) Keep a copy of all waste tire manifests received from waste tire transporters for one (1) year;~~
- ~~(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.~~

(d) **Falsification or misrepresentation of information required to be maintained under this article is a violation under [IC 13-30-10](#).**

*(Solid Waste Management Division; [329 IAC 15-3-20](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 324; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 33. [329 IAC 15-3-20.5](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-3-20.5](#) PTE inventory record**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

**Sec. 20.5. (a) Each business day, the owner or operator of a waste tire storage site or waste tire processing operation shall record the number of PTEs that:**

- (1) **arrive at the facility;**
- (2) **leave the facility; and**
- (3) **are currently stored at the facility.**

- (b) The daily calculation of PTEs on-site must include all whole and altered waste tires intended for:
- (1) disposal;
  - (2) processing;
  - (3) alternative daily cover at a landfill; or
  - (4) any other use.

(Solid Waste Management Division; [329 IAC 15-3-20.5](#))

SECTION 34. [329 IAC 15-3-21](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-3-21](#) Final closure**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#); [IC 13-20-14](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 21. (a) ~~Final closure~~ **The owner or operator** of a waste tire storage site or waste tire processing operation is completed when all of the following occur: **completing final closure of a facility shall:**

- (1) ~~cease~~ all storage and ~~or~~ processing of waste tires; ~~has stopped.~~
- (2) All equipment used in the waste tire storage site or waste tire processing operation has been removed. **remove from the facility and properly dispose of all waste tires in accordance with this article, including all PTEs calculated under section 20.5 of this rule; and**
- (3) ~~all waste tires have been:~~ **notify the department on a form provided by the department within thirty (30) days after completing the closure activities required by this subsection.**
  - (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) **Final closure is complete when** the commissioner notifies the owner or operator of the waste tire storage site ~~or waste tire processing operation~~ in writing that:

- (1) **the department has received the notification required by subsection (a)(3);**
- (2) ~~the final closure has been completed~~ **activities required by subsection (a)(1) and (a)(2) are complete;** and
- (3) **for waste tire storage sites, the financial responsibility assurance** required by [329 IAC 15-5](#) is no longer required to be maintained.

(c) **The commissioner may approve an alternative method of closure other than the requirements of this section if the alternative closure method provides equivalent protection of human health and the environment.**

(Solid Waste Management Division; [329 IAC 15-3-21](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 326; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 35. [329 IAC 15-4-1](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-4-1](#) Requirements for waste tire transporters**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-14-6](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 1. (a) A person who transports ~~engages in the business of transporting~~ waste tires shall:

- (1) ~~register with~~ **apply for a certificate of registration from** the department as a waste tire transporter;
- (2) hold a valid certificate of registration issued under this rule; **and**
- (3) comply with:

- (A) this article; and  
~~(4) comply with~~ (B) 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](#)~~ **waste tire amnesty program in accordance with [329 IAC 15-1-1\(b\)\(7\)](#).**

*(Solid Waste Management Division; [329 IAC 15-4-1](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 326; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 36. [329 IAC 15-4-2](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-4-2](#) Certificate of registration**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-14-6](#)  
**Affected:** [IC 13-14-13](#); [IC 13-20-21-3](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 2. (a) An application for a **certificate of registration** as a waste tire transporter must:

- (1) be completed **and submitted** on a form provided by the department; **and**  
(2) **contain all the information requested on the form.**

(b) The application **for a certificate of registration for a waste tire transporter** 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) (c)~~ (c) The fee required by ~~[IC 13-20-21](#)~~ [IC 13-20-21-3](#) must be submitted with the application form when the application form is submitted to the ~~commissioner~~ **department**.

(d) **An applicant may submit a copy of the application for a certificate of registration in electronic format as prescribed by the commissioner and in accordance with [IC 13-14-13](#). Any documents submitted in an electronic format also must be submitted as a paper copy unless the commissioner makes a determination that only an electronic copy is needed.**

*(Solid Waste Management Division; [329 IAC 15-4-2](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 326; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 37. [329 IAC 15-4-4](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-4-4](#) Approval of application for certificate of registration**

**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 ~~may issue~~ a certificate of registration to a waste tire transporter ~~who~~ **if the transporter:**

- (1) submits a complete **and accurate** application for a certificate of registration, **including applicable fees; and**  
~~(2) establishes and maintains financial assurance in compliance with [329 IAC 15-5](#); and~~  
~~(3) (2) complies with this rule and any conditions included in the certificate of registration.~~ **all applicable requirements of this article.**

*(Solid Waste Management Division; [329 IAC 15-4-4](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 326; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 38. [329 IAC 15-4-5](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-4-5](#) Conditions included in certificate of registration**

Authority: [IC 13-19-3-1](#); [IC 13-20-14-6](#)  
Affected: [IC 13-20-14](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 5. (a) 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.

(b) A waste tire transporter shall comply with ~~each condition~~ **all conditions** included in the certificate of registration.

*(Solid Waste Management Division; [329 IAC 15-4-5](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 327; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 39. [329 IAC 15-4-6](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-4-6](#) Denial of certificate of registration**

Authority: [IC 13-19-3-1](#); [IC 13-20-14-6](#); [IC 13-20-21-7](#)  
Affected: [IC 13-11-2-67](#); [IC 13-20-13](#); [IC 13-20-14](#); [IC 13-20-21-3](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 6. (a) The commissioner may deny an application for a certificate of registration as provided for in ~~[IC 13-20-14-5](#)~~ **one (1) or more of the following reasons:**

- (1) The application for registration is incomplete.
- (2) The applicant has failed to comply with the applicable requirements of:
  - (A) [IC 13-20-13](#);
  - (B) [IC 13-20-14](#); or
  - (C) this article.
- (3) An enforcement action as defined under [IC 13-11-2-67](#)(a) is pending against the applicant.

(b) The department shall deny an application for a certificate of registration for failure to submit an application fee required under [IC 13-20-21-3](#).

*(Solid Waste Management Division; [329 IAC 15-4-6](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 327; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 40. [329 IAC 15-4-7](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-4-7](#) Revocation or modification of certificate of registration**

Authority: [IC 13-19-3-1](#); [IC 13-20-14-6](#); [IC 13-20-21-7](#)  
Affected: [IC 13-20-14](#); [IC 13-20-21-4](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 7. (a) The commissioner may revoke or modify a certificate of registration as provided for at ~~[IC 13-20-14-5.6](#)~~ **one (1) or more of the following reasons:**

- (1) Failure to disclose all relevant facts.
- (2) Making a misrepresentation in obtaining the registration.
- (3) Within the time established by the department, failure to correct a violation of:
  - (A) a condition of the registration;
  - (B) [IC 13-20-14](#); or
  - (C) applicable requirements of this article.
- (4) Failure to obtain, maintain, or fund a financial assurance mechanism within the prescribed time limits, as required by this article.
- (5) Failure to submit an annual operation fee required under [IC 13-20-21-4](#).

**(b) A person aggrieved by the revocation or modification of the certificate of registration may appeal the revocation or modification under [IC 13-20-14-5.6](#).**

*(Solid Waste Management Division; [329 IAC 15-4-7](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 327; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 41. [329 IAC 15-4-8](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-4-8](#) Duration of certificate of registration**

**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 **unless a renewal application is submitted to the department in accordance with section 10 of this rule.**
- (2) The date the department notifies the waste tire transporter under [329 IAC 15-5-12](#) [329 IAC 15-5-12\(b\)](#) that financial assurance is no longer required to be maintained.

*(Solid Waste Management Division; [329 IAC 15-4-8](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 327; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 42. [329 IAC 15-4-11](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-4-11](#) Updating or modifying the registration**

**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): **making a change.**

(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.

**(c) The commissioner may request additional information to verify compliance with this article.**

*(Solid Waste Management Division; [329 IAC 15-4-11](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 327; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 43. [329 IAC 15-4-13](#) IS AMENDED TO READ AS FOLLOWS:

**[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 a form shown in Figure 1~~ **provided by the department** and ~~including~~ **include** all information requested on the form.



**WASTE TIRE MANIFEST**

State Form 47273 (R2/10-05)

Indiana Department of Environmental Management

**INSTRUCTIONS:**

1. Use of this form is required by 329 IAC 15-4-13 and IC 13-20-14-5.
2. The Waste Tire Transporter must complete this form for each shipment of waste tires.
3. Fill in all information. Generator, transporter, and receiving facility information may be pre-printed.
4. Give a copy of this form to the generator (source) of the waste tires.
5. Give a second copy of this form to the receiver of the waste tires as listed in IC 13-20-14-4.
6. Keep a copy of this form for your records for at least one (1) year.
7. For help with this form contact IDEM's Office of Land Quality, Solid Waste Permits Section, at (317) 232-0356.

GENERATOR (SOURCE OF WASTE TIRES)					
Name			Telephone (including area code)		
Address			Generator's Authorized Agent	Print Name	
City	State	Zip Code		Signature	
DESCRIPTION OF SHIPMENT					
Pickup Date	Tires		Tire Types and Amounts		
Pickup Location			<input type="checkbox"/> Passenger tires	<input type="checkbox"/> Truck tires	
			<input type="checkbox"/> Oversize tires	<input type="checkbox"/> Other tires	
<b>Load Type</b> (check one)	<input type="checkbox"/> Whole Tire Count	<input type="checkbox"/> Weight in Pounds	<input type="checkbox"/> Volume Cubic Yards	<input type="checkbox"/> Weight in Tons	
TRANSPORTER					
Name			Telephone (including area code)		
Address			Permit/Registration No.		State
City	State	Zip Code			
I CERTIFY, UNDER PENALTY OF PERJURY AS PROVIDED IN IC 35-44-2-1, THAT THE MATERIAL DESCRIBED ABOVE WAS PICKED UP AT THE SITE DESCRIBED ABOVE AND, TO THE BEST OF MY KNOWLEDGE, THIS INFORMATION IS TRUE AND ACCURATE.					
Driver's Name			Signature		
DESTINATION					
Name			Telephone (including area code)		
Address			Permit/Registration No.		State
City	State	Zip Code			
I CERTIFY, UNDER PENALTY OF PERJURY AS PROVIDED IN IC 35-44-2-1, THAT THE MATERIAL DESCRIBED ABOVE HAS BEEN ACCEPTED AND, TO THE BEST OF MY KNOWLEDGE, THIS INFORMATION IS TRUE AND ACCURATE, AND THAT I AM AN AUTHORIZED AGENT OF THE REGISTRANT.					
Name of Authorized Agent			Signature		Receipt Date

Figure 1.

(b) A waste tire transporter shall: ~~do all of 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) (2) provide a copy of the completed manifest to the: following:~~
  - ~~(A) The waste tire generator; and~~
  - ~~(B) The waste tire storage site, or waste tire processing operation that receives the destination facility for the waste tires; and~~
- ~~(4) (3) make a copy of the completed manifest available to the department upon request.~~

(c) A waste tire transporter may reproduce copies of the waste tire manifest form with complete information for the generator, transporter, and destination preprinted on the form as long as the:

- (1) form is substantially identical to the waste tire manifest form ~~in subsection (a);~~ **provided by the department;** and
- (2) preprinted information does not include waste tire amounts or signatures.

*(Solid Waste Management Division; [329 IAC 15-4-13](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 327; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 44. [329 IAC 15-4-14](#) IS AMENDED TO READ AS FOLLOWS:

### **[329 IAC 15-4-14](#) Record keeping and reporting**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-14-6](#)

**Affected:** [IC 13-20-21-4](#); [IC 13-30-2](#); [IC 13-30-10](#); [IC 36-9-30](#)

Sec. 14. (a) ~~A waste tire transporter shall report annually to the department the number of waste tires transported by the waste tire transporter during the previous year, using the form provided by the commissioner.~~  
**maintain the following records:**

- (1) Copies of the transporter manifest forms required by section 13 of this rule.**
- (2) Certificate of registration.**
- (3) Financial assurance mechanism required by [329 IAC 15-5-2](#).**

~~(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.~~

**(b) A waste tire transporter shall maintain records required by this section in accordance with the following:**

- (1) The records must be kept on-site at the place of business listed in the certificate of registration.**
- (2) The records must be made available at the place of business listed in the certificate of registration for inspection and copying by department during normal business hours.**
- (3) Waste tire manifests must be kept for at least three (3) years from creation or receipt.**
- (4) The certificate of registration and evidence of financial assurance must be kept for at least one (1) year after expiration.**

**(c) A waste tire transporter shall submit an annual report to the department by January 31 of each year. The annual report must:**

- (1) be on a form provided by the department;**
- (2) include all the information requested on the form;**
- (3) include the number of PTEs transported by the waste tire transporter during the previous year;**
- (4) be submitted with the annual registration fee required by [IC 13-20-21-4](#); and**
- (5) include documentation from the financial assurance issuing institution confirming that the financial assurance mechanism required by [329 IAC 15-5-2](#) is still in effect.**

**(d) Falsification or misrepresentation of information required to be maintained under this article is a violation under [IC 13-30-10](#).**

*(Solid Waste Management Division; [329 IAC 15-4-14](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 329; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#);*

SECTION 45. [329 IAC 15-4-16](#) IS ADDED TO READ AS FOLLOWS:

**[329 IAC 15-4-16](#) Termination of operation by a waste tire transporter**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-14-6](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

**Sec. 16.** When a registered waste tire transporter terminates operation, the waste tire transporter shall notify the department within thirty (30) days after termination on a form provided by the department.

(Solid Waste Management Division; [329 IAC 15-4-16](#))

SECTION 46. [329 IAC 15-5-1](#) IS AMENDED TO READ AS FOLLOWS:

**[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) Submit the financial assurance information on forms provided by the department.**

~~(1) (2)~~ Prepare and submit to the department a closure cost estimate in accordance with ~~section~~ **sections 3 and 3.5** of this rule.

**(3) Fund the financial assurance mechanism before the initial operation of the waste tire storage site.**

**(4) Submit proof that the financial assurance mechanism designates the department as the beneficiary.**

~~(2)~~ **(5)** Maintain financial assurance for removal of waste tires and final closure of the site, 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)~~ **(6)** Maintain financial assurance for removal of waste tires and final closure of the site 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](#)~~; **commissioner releases the owner or operator of the waste tire storage site from financial assurance in accordance with section 12(a) of this rule.**

(Solid Waste Management Division; [329 IAC 15-5-1](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 329; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 47. [329 IAC 15-5-2](#) IS AMENDED TO READ AS FOLLOWS:

**[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)** A waste tire transporter shall maintain financial assurance in the amount of at least ten thousand dollars (\$10,000). The financial assurance **information** must be:

**(1) submitted on forms provided by the department;**

**(2) in the form of a:**

~~(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)~~ **(B)** negotiable certificate of deposit in accordance with section 10 of this rule; or

~~(3)~~ **(C)** negotiable letter of credit in accordance with section 11 of this rule; **and**

**(3) payable to the department and conditional upon faithful compliance with:**

**(A) [IC 13-20-14](#); and**

(B) this article.

**(b) The waste tire transporter shall:**

- (1) fund the financial assurance mechanism before the initial transport of waste tires; and**
- (2) maintain the financial assurance mechanism until the department releases the waste tire transporter from financial assurance in accordance with section 12(b) of this rule.**

*(Solid Waste Management Division; [329 IAC 15-5-2](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 329; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 48. [329 IAC 15-5-3](#) IS AMENDED TO READ AS FOLLOWS:

**[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](#).

- (1) [329 IAC 15-3-21\(a\)](#); or**
- (2) an alternative method of closure approved by the commissioner.**

**(b) The owner or operator of a waste tire storage site shall submit** 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](#).
  - (A) [329 IAC 15-3-21\(a\)](#); or**
  - (B) an alternative method of closure approved by the commissioner.**

~~(c)~~ **(c)** The closure cost estimate must be based on the cost of removing a third party to:

- (1) remove** the maximum allowable number of waste tires that can be accumulated at the site at any time; PTEs that is specified in the certificate of registration and calculated in accordance with [329 IAC 15-3-20.5](#);
- (2) send the maximum number of allowable PTEs to a final destination; and**
- (3) complete any other tasks necessary for final closure of the site as required by:**
  - (A) [329 IAC 15-3-21\(a\)](#); or**
  - (B) an alternative method of closure approved by the commissioner.**

~~(c)~~ 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](#).

**(d) A closure cost estimate that is based on any removal method other than landfill disposal must be supported by documentation showing all costs for the removal method.**

~~(d)~~ **(e)** Once the owner or operator of a waste tire storage site has completed an activity **all closure activities** required in [329 IAC 15-3-21](#), the owner or operator may **revise**:

- (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 Division; [329 IAC 15-5-3](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 329; filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 49. [329 IAC 15-5-3.5](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-5-3.5](#) Annual update of closure cost estimate**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 3.5. **(a)** The owner or operator of a waste tire storage site shall submit to the department ~~a revised an~~ **updated** written closure cost estimate:

- (1) annually, not later than January 31 of each year; ~~and~~
- (2) ~~whenever not more than thirty (30) days after~~ a change in the ~~removal~~ **closure** plan that increases the closure cost estimate;
- (3) that includes documentation from the financial assurance issuing institution confirming that the financial assurance mechanism required by section 1 of this rule is still in effect; and**
- (4) that is on a form provided by the department.**

**(b)** The ~~revised~~ **updated** closure cost estimate must meet the requirements of section 3 of this rule.

**(c)** After submitting an updated closure cost estimate to the department in accordance with this section, the owner or operator of a waste tire storage site shall update the financial assurance mechanism not more than thirty (30) days after the submittal.

*(Solid Waste Management Division; [329 IAC 15-5-3.5](#); filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 50. [329 IAC 15-5-4](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-5-4](#) Use of financial assurance mechanism for multiple waste tire storage sites and waste tire transporters**

**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~~ **assurance** mechanism to meet the **financial assurance** requirements for:

- (1) more than one (1) ~~facility~~, waste tire storage site; and**
- (2) any waste tire transporters also registered by the owner or operator.**

**(b)** Evidence of financial ~~responsibility~~ **assurance** submitted to the department **to comply with this section** must: ~~include a list showing, for each facility:~~

- ~~(1) the registration number of the waste tire storage site; **be on a form provided by the department; and**~~
- ~~(2) name and address of the waste tire storage site; and **contain all information requested on the form.**~~
- ~~(3) the amount of funds available in the financial mechanism.~~

~~(b)~~ **(c)** 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 **or waste tire transporter.**

*(Solid Waste Management Division; [329 IAC 15-5-4](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 330; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 51. [329 IAC 15-5-5](#) IS AMENDED TO READ AS FOLLOWS:

**[329 IAC 15-5-5](#) Trust fund**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

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 **fund** 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:
  - (A) authorized to act as a trustee; and is
  - (B) 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~~ **after** each anniversary of the initial payment.

(c) **The owner or operator of the waste tire storage site shall make** payments into the trust ~~must be made~~ **fund** 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:
  - (A) 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, and~~
  - (B) 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 **had been** made as provided in subdivision (3).

(d) The trustee shall evaluate the trust fund annually, as of the day the trust **fund** was created or on ~~such an~~ earlier date ~~as may be~~ if 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~~: **of the trust fund**.

(e) **The owner or operator of the waste tire storage site may request** 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 the~~ funds as **that** the department specifies in writing to be in excess of the current cost estimate.

(f) **The owner or operator of the waste tire storage site may request** 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 **that** 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 Division; [329 IAC 15-5-5](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 330; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 52. [329 IAC 15-5-6](#) IS AMENDED TO READ AS FOLLOWS:

### **[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 **company** 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 **company** 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 **surety** 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:
- (1) 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;~~ **and**
  - (2) in accordance with section 5 of this rule.

- (d) The surety company issuing the bond must be:
- (1) among those listed as acceptable sureties for federal bonds in the most recent Circular 570\* of the United States Department of the Treasury; **and**
  - (2) **authorized to do business in Indiana.**

(e) The surety ~~will~~ **company is** 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.

**\*This document is available for viewing at [https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm) and may be obtained from the United States Department of the Treasury, Bureau of the Fiscal Service, Surety Bond Program, 3700 East West Highway, Room 6D22, Hyattsville, MD 20782.**

*(Solid Waste Management Division; [329 IAC 15-5-6](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 331; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 53. [329 IAC 15-5-7](#) IS AMENDED TO READ AS FOLLOWS:

**[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) **other** 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) **shall** deposit funds equal to the amount of credit into a trust fund to be used to ensure closure obligations of the owner or operator **of the waste tire storage site** are fulfilled, **if notified in writing by the commissioner that the obligations of the owner or operator have not been fulfilled.**

- (c) The owner or operator of the waste tire storage site shall establish a standby trust fund to be:
- (1) 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;~~ **and**
  - (2) in accordance with section 5 of this rule.

- (d) The issuing institution must be an entity:
- (1) that has the authority to issue letters of credit; and
  - (2) whose letters of credit operations are regulated and examined by a federal or state of Indiana agency.

*(Solid Waste Management Division; [329 IAC 15-5-7](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 332; readopted filed Nov*

SECTION 54. [329 IAC 15-5-8](#) IS AMENDED TO READ AS FOLLOWS:

**[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:

- (A) cancel;
- (B) terminate; or
- (C) 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~~ **through certified mail** at least one hundred twenty (120) days before ~~such~~ **the** event.

(c) **In Indiana**, the insurer shall either be:

- (1) licensed to transact the business of insurance; or ~~be~~
- (2) eligible to provide insurance as an excess or surplus lines insurer. ~~in one (1) or more states.~~

(Solid Waste Management Division; [329 IAC 15-5-8](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 332; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.:  
[20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))

SECTION 55. [329 IAC 15-5-9](#) IS AMENDED TO READ AS FOLLOWS:

**[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~~ **company shall** 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 **company** 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~~ **company shall** 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)~~ **(c)** 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)~~ **(d)** The surety ~~will~~ **company is** 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.

**\*This document is available for viewing at [https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm) and may be obtained from the United States Department of the Treasury, Bureau of the Fiscal Service, Surety Bond Program, 3700 East West Highway, Room 6D22, Hyattsville, MD 20782.**

*(Solid Waste Management Division; [329 IAC 15-5-9](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 332; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 56. [329 IAC 15-5-10](#) IS AMENDED TO READ AS FOLLOWS:

**[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 **state of Indiana** agency. ~~or department of the state.~~

*(Solid Waste Management Division; [329 IAC 15-5-10](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 333; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 57. [329 IAC 15-5-11](#) IS AMENDED TO READ AS FOLLOWS:

**[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) **other** 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 **issuing** institution ~~will~~ **shall** 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)~~ **(c)** 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 **state of Indiana** agency. ~~or department of the state.~~

*(Solid Waste Management Division; [329 IAC 15-5-11](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 333; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 58. [329 IAC 15-5-12](#) IS AMENDED TO READ AS FOLLOWS:

### **[329 IAC 15-5-12](#) Release of financial assurance obligations**

**Authority:** [IC 13-19-3-1](#); [IC 13-20-13-11](#)

**Affected:** [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 12. (a) **The owner or operator of a waste tire storage site is released from the obligation to maintain financial assurance** when:

(1) 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; [329 IAC 15-3-21\(a\)](#) or an alternative method of closure approved by the commissioner are complete; and

(2) the commissioner has notified the trustee or issuing institution of the financial assurance mechanism that the owner or operator may be released from financial assurance.

(b) ~~When~~ A waste tire transporter has: **is released from the obligation to maintain financial assurance** when:

(1) ~~stopped transporting waste tires for a period of one hundred eighty (180) days;~~ **the waste tire transporter has:**

**(A) notified the department of the termination of operations in accordance with [329 IAC 15-4-16](#);** and

~~(2) (B) 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. and~~

**(2) the commissioner has notified the trustee or issuing institution of the financial assurance mechanism that the waste tire transporter may be released from financial assurance.**

*(Solid Waste Management Division; [329 IAC 15-5-12](#); filed Oct 10, 2000, 3:10 p.m.: 24 IR 333; readopted filed Nov 30, 2006, 4:16 p.m.: [20061227-IR-329050168FRA](#); readopted filed Jul 18, 2012, 2:26 p.m.: [20120815-IR-329120206BFA](#); readopted filed Jun 6, 2018, 1:57 p.m.: [20180704-IR-329180170BFA](#))*

SECTION 59. [329 IAC 15-6](#) IS ADDED TO READ AS FOLLOWS:

**Rule 6. Legitimate Use of Waste Tires**

**[329 IAC 15-6-1](#) General provisions for the legitimate use of waste tires**

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-11-2-57](#); [IC 13-11-2-118.4](#); [IC 13-19-3](#); [IC 13-20-13-11](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 1. (a) This rule applies to the legitimate use, instead of disposal, of waste tires in accordance with:

- (1) the definition of legitimate use at [IC 13-11-2-118.4](#);
- (2) the requirements for legitimate use at [IC 13-19-3-1.3](#) and [IC 13-20-13-11\(c\)](#); and
- (3) this article.

(b) A person may use waste tires in a legitimate use if the:

- (1) legitimate use is specified in section 3 of this rule; or
- (2) commissioner issues an approval for a legitimate use under section 4 of this rule.

(c) A person that uses waste tires in a legitimate use shall comply with the applicable requirements of this article.

(d) A person may not use waste tires in a way that creates a threat to human health or the environment, including the following:

- (1) A fire hazard.
- (2) A vector attraction.
- (3) A nuisance.
- (4) Discharge to waters.
- (5) Violation of environmental management laws or rules.
- (6) Other uses that are not considered to be legitimate uses, including the following:
  - (A) A fill application constituting disposal as defined at [IC 13-11-2-57](#).
  - (B) Closure of an open dump under [329 IAC 10-4-4\(a\)\(1\)\(B\)](#).
  - (C) A use that is primarily to avoid the costs and requirements associated with the processing and disposal of waste tires.

(e) Unless otherwise noted, the requirements of this rule for the legitimate use of waste tires do not apply to the following:

- (1) Approvals issued by the commissioner under [329 IAC 10-3-1\(16\)](#) and [329 IAC 11-3-1\(13\)](#) for the legitimate use of waste tires before the effective date of this rule.
- (2) Use of waste tires in the construction or operation of a solid waste land disposal facility in accordance with a solid waste land disposal facility permit issued under [329 IAC 10](#).

*(Solid Waste Management Division; [329 IAC 15-6-1](#))*

**[329 IAC 15-6-2](#) Management of waste tires in a legitimate use as solid waste**

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-11-2-146](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 2. (a) A person is not subject to the applicable solid waste management requirements for waste tires under [329 IAC 10](#), [329 IAC 11](#), and this article, if the person:

- (1) uses waste tires in a legitimate use as specified in section 3 of this rule or receives an approval from the commissioner under section 4 of this rule for the legitimate use of waste tires; and
- (2) complies with the requirements of this rule for the legitimate use of waste tires.

(b) The commissioner may determine a legitimate use of waste tires to be an open dump, in accordance with [IC 13-11-2-146](#), [IC 13-30-2-1\(4\)](#), and [IC 13-30-2-1\(5\)](#), for any of the following reasons:

- (1) The legitimate use is no longer serving the purpose specified in section 3 of this rule or the approval issued under section 5 of this rule.
- (2) The legitimate use is modified without the approval required under section 6(a)(2) of this rule.
- (3) The legitimate use violates conditions of the legitimate use approval issued under section 5 of this rule.
- (4) The legitimate use poses an unreasonable threat to human health or the environment, as specified in section 1(d) of this rule.

(c) If the commissioner determines that a legitimate use of waste tires is an open dump under subsection (b), the person using waste tires in the open dump shall remove and dispose of the waste tires in accordance with section 10 of this rule, unless the commissioner approves a modification under section 5(a)(2) of this rule.

(Solid Waste Management Division; [329 IAC 15-6-2](#))

### [329 IAC 15-6-3](#) Preapproved legitimate uses of waste tires

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 3. (a) A person using waste tires in a legitimate use specified in subsection (b) shall comply with:

- (1) the applicable requirements in sections 6 through 10 of this rule; and
- (2) other applicable federal, state, and local laws, regulations, and ordinances pertaining to the specific activity.

(b) A person may use waste tires for the following legitimate uses without submitting an application to the department:

- (1) The use of tire chips as an aggregate in soil absorption systems for on-site sewage systems, in accordance with the following:
  - (A) The on-site sewage system is approved by:
    - (i) the Indiana state department of health; or
    - (ii) a local health department that is authorized by the Indiana state department of health.
  - (B) Any layer of tire chips may not be thicker than ten (10) feet.
- (2) The use of tire chips as playground mulch that meets ASTM F3012-14\*, Standard Specification for Loose-Fill Rubber for Use as a Playground Safety Surface under and around Playground Equipment.
- (3) The use of tire-derived crumb rubber as a playing or recreational surface that meets ASTM 1292-17a\*, Standard Specification for Impact Attenuation of Surfacing Materials Within the Use Zone of Playground Equipment.
- (4) The use of tire-derived crumb rubber for athletic fields that are:
  - (A) size No. 6 through No. 200 mesh for crumb rubber; and
  - (B) wire free.
- (5) The use of tire chips for landscaping mulch that are:
  - (A) less than two (2) inches in size for any dimension; and
  - (B) wire free.
- (6) Rubber molded or extruded products.
- (7) Precision-cut, precision-punched, or precision-stamped rubber products that qualify for sale as consumer goods.
- (8) Weights to restrain a tarp or other cover material that are altered to prevent the accumulation of water.
- (9) The use of waste tire sidewalls as a base for traffic barrels or cones.
- (10) Alternative fuel at a facility that is registered to accept waste tires as alternative fuel under [329 IAC 11.7](#).
- (11) Race track barriers that are altered to prevent the accumulation of water.
- (12) Base or bedding in dairy freestall barns that are altered to prevent the accumulation of water.

\*These documents are incorporated by reference. Copies may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 or are available for review at

the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Solid Waste Management Division; [329 IAC 15-6-3](#))

**[329 IAC 15-6-4](#) Application for legitimate use of waste tires**

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-11-2-193.5](#); [IC 13-14-13](#); [IC 13-20-13-11](#); [IC 13-20-14-6](#); [IC 13-30-2](#); [IC 25-31](#); [IC 36-9-30](#)

Sec. 4. (a) For a proposed legitimate use of waste tires that is not specified in section 3 of this rule, a person shall obtain an approval from the commissioner in accordance with this section before the person may use waste tires in the legitimate use.

(b) A person that intends to use waste tires for a legitimate use that is not specified in section 3 of this rule must submit an application to the department for a legitimate use of waste tires on a form provided by the department that includes the following information:

- (1) The name, address, and contact information of the applicant.
- (2) The location and address of the property where the legitimate use is proposed.
- (3) If the owner of the property where the legitimate use is proposed is not the person submitting the application, the following information:
  - (A) Name, address, and contact information of the property owner.
  - (B) Written consent and signature from the property owner.
- (4) The amount of waste tires in PTEs expected to be used for the legitimate use.
- (5) The sources of the waste tires expected to be used for the legitimate use.
- (6) The locations of waste tire storage areas expected to be used for the legitimate use, if the locations are not at a registered waste tire processing operation or waste tire storage site.
- (7) A detailed description of the following:
  - (A) The legitimate use.
  - (B) A justification for the legitimate use of waste tires, including how the legitimate use:
    - (i) is a comparable substitute for an analogous material normally used for the specified purpose;
    - (ii) achieves the specified purpose; and
    - (iii) is commercially valuable for an established or emerging market.
  - (C) How the person using waste tires in a legitimate use will prevent nuisances during the legitimate use.
- (8) Engineering diagrams, testing, plans, or specifications for the legitimate use, if applicable for the specified purpose.
- (9) Plans for the legitimate use as a structure or structural fill, including certification from a professional engineer registered under [IC 25-31](#), if applicable for the specified purpose.
- (10) Other supporting documentation for the information required in this subsection.
- (11) Other information that the commissioner deems necessary to comply with the requirements of this rule.

(c) The commissioner shall consider the following to make a determination on an application:

- (1) The person has submitted a complete and accurate application, in accordance with this section.
- (2) The person complies with all applicable requirements of this rule for the legitimate use of waste tires.
- (3) Any additional information that the commissioner deems necessary to make a determination on the application.

(d) After review of the application, the commissioner shall provide written notification to the applicant with one (1) of the following determinations:

- (1) Approval of the application that may include specific conditions applicable to the approved legitimate use.
- (2) Request for additional information for the application before making a determination. Within thirty (30) days after the request for additional information, the applicant shall do one (1) of the following:
  - (A) Withdraw the application with a written notification to the commissioner.
  - (B) Submit the requested information or agree to the requested changes.
  - (C) Submit a written request and receive approval from the commissioner for an extension of time to

comply with the commissioner's request for additional information.

(3) Denial of the application, for one (1) or more of the following reasons:

(A) The application is incomplete.

(B) The applicant has failed to comply with the requirements of this article.

(C) An enforcement action is pending against the applicant.

(D) The applicant does not submit the additional information that the commissioner requested under subdivision (2) within thirty (30) days after the request.

(e) An applicant may submit a copy of the application for a legitimate use of waste tires in electronic format as prescribed by the commissioner and in accordance with [IC 13-14-13](#). Any documents submitted in an electronic format also must be submitted as a paper copy unless the commissioner makes a determination that only an electronic copy is needed.

(f) The commissioner may require one (1) or more of the following conditions for an approved legitimate use of waste tires:

(1) Notice of completion from the person that uses waste tires in a legitimate use.

(2) Restrictive covenant as defined at [IC 13-11-2-193.5](#).

(3) Any other conditions as determined by the commissioner.

(g) A legitimate use approved under this section is valid for no more than five (5) years from the date of approval.

*(Solid Waste Management Division; [329 IAC 15-6-4](#))*

### [329 IAC 15-6-5](#) Requirements for an approved legitimate use of waste tires

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 5. (a) During the term of a valid approval for a legitimate use of waste tires, the following requirements apply:

(1) If the contact information provided in the application changes, the person using waste tires in a legitimate use shall provide the updated information to the department no more than thirty (30) days after the information changes.

(2) A person using waste tires in an approved legitimate use that intends to modify the legitimate use shall do the following before implementing the modification:

(A) Submit an updated application to the department for approval with the information required in section 4(b) of this rule that describes the modification.

(B) Receive approval for the updated application from the commissioner.

(b) An approval for the legitimate use of waste tires issued under section 4 of this rule is not transferable to a different person.

(c) A person may renew an ongoing legitimate use approval of waste tires in accordance with the following:

(1) The person shall submit an updated application to the department for the ongoing legitimate use approval with the information required in section 4(b) of this rule no less than sixty (60) days before the expiration of the existing valid approval.

(2) The person shall not continue the legitimate use of waste tires until approval for the renewal has been received from the commissioner.

(d) A person that does not renew an ongoing legitimate use approval of waste tires in accordance with this section before the expiration date of the approval shall cease any activity pertaining to the legitimate use until the legitimate use approval is reissued.

*(Solid Waste Management Division; [329 IAC 15-6-5](#))*

### [329 IAC 15-6-6](#) Storage of waste tires for legitimate use

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-11-2-251](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 6. (a) A person may store waste tires for a legitimate use at the following locations:

- (1) A registered waste tire processing operation or waste tire storage site, in accordance with this article.
- (2) A location other than a registered waste tire processing operation or waste tire storage site, in accordance with subsection (b).

(b) A person storing waste tires for a legitimate use at a location other than a registered waste tire processing operation or waste tire storage site shall comply with the following requirements:

- (1) All wastewater from the waste tires stored for a legitimate use must be discharged in accordance with the requirements at [327 IAC 5](#) and [327 IAC 15](#).
- (2) A person storing waste tires for a legitimate use may not do any of the following:
  - (A) Pose an unreasonable threat to human health or the environment.
  - (B) Create a nuisance.
  - (C) Allow or perform an act prohibited under [IC 13-30-2-1](#).
  - (D) Store waste tires in areas of standing water.
- (3) A person storing waste tires for a legitimate use shall take actions required to:
  - (A) prevent the breeding of mosquitoes and other disease vectors; and
  - (B) control any population of mosquitoes and other disease vectors.
- (4) A person storing waste tires for a legitimate use shall prevent water from accumulating in the waste tires by doing the following:
  - (A) Drain the waste tires:
    - (i) on the day of receipt; and
    - (ii) as necessary thereafter to prevent accumulation of water in the waste tires.
  - (B) Store the waste tires in a manner that prevents accumulation of water in the waste tires.
- (5) A person may not store waste tires for a legitimate use for more than forty-five (45) days prior to use, except for one (1) or more of the following situations:
  - (A) An extension is approved in writing by the commissioner.
  - (B) An alternative timeframe is included in the legitimate use approval.
  - (C) The person storing waste tires for legitimate use is issued a certificate of registration for a waste tire storage site under [329 IAC 15-3-8](#) and complies with the applicable requirements of this article for a registered waste tire storage site.

(c) If a person storing waste tires for a legitimate use in accordance with subsection (b) accumulates more than the amount of PTEs specified in [IC 13-11-2-251](#), the person shall:

- (1) apply for a certificate of registration for a waste tire storage site; and
- (2) cease accumulation of additional waste tires until the commissioner issues a certificate of registration to the person storing waste tires for a legitimate use.

(Solid Waste Management Division; [329 IAC 15-6-6](#))

### [329 IAC 15-6-7](#) Processing and transportation of waste tires for legitimate use

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 7. (a) A person only may use a registered waste tire processing operation that complies with the applicable waste tire processing requirements of this article to process waste tires for a legitimate use.

(b) A person only may use a registered waste tire transporter that complies with the applicable waste tire transporter requirements of this article to transport waste tires to and from the location of a legitimate use.

(Solid Waste Management Division; [329 IAC 15-6-7](#))

### [329 IAC 15-6-8](#) Reporting and record keeping for legitimate use of waste tires

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-11-2-154.5](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 8. (a) A person using waste tires in a legitimate use approved under section 4 of this rule shall do the following:

(1) Keep the information required in subsection (b) in writing during the legitimate use and for at least three (3) years after the earliest of the following dates:

(A) Completion of the legitimate use.

(B) Expiration of the legitimate use approval.

(2) Calculate in PTEs the amount of waste tires required to be recorded in subsection (b).

(3) Make available to the department upon request the information required by this section.

(b) A person using waste tires in a legitimate use approved under section 4 of this rule shall keep the following information in writing:

(1) Amount of waste tires received for the legitimate use, including the following:

(A) The name and address of the sources of the waste tires.

(B) Waste tire manifests for the waste tires transported on-site.

(2) Amount of waste tires used in the legitimate use.

(3) Location and placement of waste tires remaining after the legitimate use is completed, including the following:

(A) Description of the location and placement of waste tires.

(B) The amount of waste tires sent for disposal.

(C) Waste tire manifests for the waste tires transported off-site.

(4) Any written communication with the commissioner regarding changes or modifications to the legitimate use approval.

(Solid Waste Management Division; [329 IAC 15-6-8](#))

#### [329 IAC 15-6-9](#) Revocation of an approved legitimate use of waste tires

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-15-7-1](#); [IC 13-20-13-5.5](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 9. The commissioner may revoke an approval for the legitimate use of waste tires for any of the following reasons:

(1) Cause for revocation exists under [IC 13-15-7-1](#).

(2) The legitimate use is no longer serving the purpose specified in section 3 of this rule or the approval issued under section 4 of this rule.

(3) The conditions of the legitimate use pose an unreasonable threat to human health or the environment, as specified in section 1(d) of this rule.

(4) The legitimate use is modified without the approval required under section 5(a)(2) of this rule.

(5) The legitimate use violates conditions of the legitimate use approval issued under section 3 of this rule.

(6) The legitimate use is determined to be an open dump in accordance with section 2 of this rule.

(Solid Waste Management Division; [329 IAC 15-6-9](#))

#### [329 IAC 15-6-10](#) Disposal of waste tires used in a legitimate use

Authority: [IC 13-19-1-2](#); [IC 13-19-3-1](#); [IC 13-19-3-1.3](#); [IC 13-20-13-11](#)

Affected: [IC 13-20-14-4](#); [IC 13-30-2](#); [IC 36-9-30](#)

Sec. 10. A person using waste tires for a legitimate use shall remove and dispose of the waste tires under [IC 13-20-14-4](#) for any of the following reasons:

(1) The approval is revoked under section 9 of this rule.

(2) Waste tires transported on-site are not used for the legitimate use.

(3) The commissioner determines that the legitimate use is no longer serving the purpose specified in section 3 of this rule or the approval issued under section 4 of this rule.

(4) The commissioner determines that the conditions of the legitimate use pose an unreasonable threat to human health or the environment, as specified in section 1(d) of this rule.

(Solid Waste Management Division; [329 IAC 15-6-10](#))

SECTION 60. THE FOLLOWING ARE REPEALED: [329 IAC 15-1-3](#); [329 IAC 15-2-9.5](#); [329 IAC 15-2-14](#); [329 IAC 15-3-4](#); [329 IAC 15-3-6.5](#); [329 IAC 15-3-7](#); [329 IAC 15-3-7.5](#); [329 IAC 15-4-3](#); [329 IAC 15-4-15](#).

[Notice of Public Hearing](#)

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