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RULES:

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REPEAL: 340-064-0005

RULE TITLE: Purpose

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

The purpose of these rules is to prescribe requirements, limitations and procedures for storage, collection, transportation, and disposal of waste tires; and to prescribe procedures for using the Waste Tire Recycling Account to reimburse users of waste tires, and to clean up tire piles.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.710, 459.712, 459.715, 459.720, 459.775, 459.780

REPEAL: 340-064-0010

RULE TITLE: Definitions

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

As used in these rules unless otherwise specified:

- (1) "Abatement" means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance, following a legal nuisance abatement procedure.
- (2) "Beneficial Use" means storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires, such as in using the tires for raised-bed planters.
- (3) "Buffings" means a product of mechanically scarifying a tire surface, removing all trace of the surface tread, to prepare the casing to be retreaded.
- (4) "Commission" means the Environmental Quality Commission.
- (5) "Common Carrier" means any person who transports persons or property for hire or who publicly purports to be willing to transport persons or property for hire by motor vehicle; or any person who leases, rents, or otherwise provides a motor vehicle to the public and who in connection therewith in the regular course of business provides, procures, or arranges for, directly, indirectly, or by course of dealing, a driver or operator therefor.
- (6) "Danger" or "Nuisance" includes but is not limited to the unpermitted storage of waste tires or waste tire materials, or the storage of waste tires or waste tire materials in a manner that does not comply with a condition of a permittee's waste tire storage permit.
- (7) "Department" means the Department of Environmental Quality.
- (8) "Director" means the Director of the Department of Environmental Quality.
- (9) "Dispose" means to deposit, dump, spill or place any waste tire on any land or into any water as defined by ORS 468.700.
- (10) "DMV" means Oregon Department of Motor Vehicles.
- (11) "End User":
 - (a) For energy recovery: the person who utilizes the heat content or other forms of energy from the incineration or pyrolysis of waste tires, chips or similar materials;
 - (b) For other eligible uses of waste tires: the last person who uses the tires, chips, or similar materials to make a product with economic value. If the waste is processed by more than one person in becoming a product, the "end user" is the last person to use the tire as a tire, as tire chips, or as similar materials. A person who produces tire chips or similar materials and gives or sells them to another person to use is not an end user;
 - (c) For paving projects: either the paving contractor laying the paving, or the person for whom the paving is done, depending on the agreement between the paving contractor and the person for whom the paving is done.
- (12) "Energy Recovery" means recovery in which all or a part of the waste tire is processed to utilize the heat content, or other forms of energy, of or from the waste tire.
- (13) "Financial Assurance" means a performance bond, letter of credit, cash deposit, insurance policy or other instrument acceptable to the Department.
- (14) "Land Disposal Site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.
- (15) "Negotiated Settlement" means a stipulation, agreed settlement or consent order allowing removal of waste tires.
- (16) "Nonocean Waters" means fresh waters, tidal and non-tidal bays and estuaries as defined in ORS 541.605.
- (17) "Passenger Tire" means a tire with less than an 18-inch rim diameter.
- (18) "Passenger Tire Equivalent" means a measure of mixed passenger and truck tires, where five passenger tires are considered to equal one truck tire.
- (19) "Person" means the United States, the state or a public or private corporation, local government unit, public agency,

individual, partnership, association, firm, trust, estate or any other legal entity.

(20) "Private Carrier" means any person who receives or generates waste tires and who operates a motor vehicle over the public highways of this state for the purpose of transporting persons or property when the transportation is incidental to a primary business enterprise, other than transportation, in which such person is engaged.

Notwithstanding subsection (26)(f) of this rule, "private carrier" does not include a person whose primary tire business is selling, collecting, sorting or transporting used or waste tires.

(21) "PUC" means the Public Utility Commission of Oregon.

(22) "Recycle" or "Recycling" means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.

(23) "Retreadable Casing" means a waste tire suitable for retreading.

(24) "Rick" means to horizontally stack tires securely by overlapping so that the center of a tire fits over the edge of the tire below it.

(25) "Store" or "Storage" means to accumulate waste tires above ground, or to own or control property on which there are waste tires above ground. "Storage" includes the beneficial use of waste tires as fences and other uses with similar potential for causing environmental risks. "Storage" does not include the use of waste tires as a ballast to maintain covers on agricultural materials or at a construction site or a beneficial use such as planters except when the Department determines such uses create environmental risks.

(26) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle in which a person or property is transported, or by which they may be drawn, on a highway. "Tire" does not include tires from vehicles not driven on highways, including bulldozers, mobile cranes, road graders, loaders, rotary snow plows, road rollers and road sanders. Except for the purposes of waste tire removal under OAR 340-064-0150 through 340-064-0170, and for the purposes of disposal under OAR 340-064-0052, "tire" does not include tires from the following:

(a) A device moved only by human power;

(b) A device used only upon fixed rails or tracks;

(c) A motorcycle;

(d) An all-terrain vehicle, including but not limited to, three-wheel and four-wheel ATVs, dune buggies and other similar vehicles. All-terrain vehicles do not include jeeps, pick-ups and other four-wheel drive vehicles that may be registered, licensed and driven on public roads in Oregon;

(e) A device used only for farming, except a farm truck;

(f) A retreadable casing while under the control of a tire retreader or while being delivered to a tire retreader.

(27) "Tire Carrier" means a person who picks up or transports waste tires for the purpose of storage, removal to a processor or disposal. "Tire carrier" does not include the following:

(a) Solid waste collectors operating under a license or franchise from a local government unit;

(b) Persons who transport fewer than five tires for disposal;

(c) Private individuals or private carriers who transport the person's own waste tires to a processor or for proper disposal;

(d) The United States, the State of Oregon, any county, city, town or municipality in this state, or any agency of the United States, the State of Oregon or a county, city, town or municipality of this state.

(28) "Tire Processor" means a person engaged in the processing of waste tires.

(29) "Tire Retailer" means a person actively engaged in the business of selling new replacement tires at retail, whose local business license or permit (if required) specifically allows such sale. To be "actively" engaged in selling new tires, the person must demonstrate to the Department's satisfaction that new replacement tires have been sold in the preceding calendar quarter.

(30) "Tire Retreader" means a person actively engaged in the business of retreading waste tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire for sale to the public.

(31) "Tire-Derived Products" means tire chips or other materials produced from the physical processing of a waste tire.

(32) "Truck Tire" means a tire with a rim diameter of between 18 and 24.5 inches.

(33) "Waste Tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect, and is fit only for:

(a) Remanufacture into something else, including a retreaded tire; or

(b) Some other use which differs substantially from its original use.

(34) "Waste Tires Generated in Oregon" means Oregon is the place at which the tire first becomes a waste tire. A tire casing imported into Oregon for potential retreading, but which proves unusable for that purpose, is not a waste tire generated in Oregon. Examples of waste tires generated in Oregon include but are not limited to:

(a) Tires accepted by an Oregon tire retailer in exchange for new replacement tires;

(b) Tires removed from a junked auto at an auto wrecking yard in Oregon.

(35) "Wrecking Business" means a business operating according to a certificate issued under ORS 822.110.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.775, 459.780, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.705

REPEAL: 340-064-0015

RULE TITLE: Waste Tire Storage Permit Required

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

- (1) Except as provided by section (2) of this rule, no person shall establish, operate, maintain or expand a waste tire storage site until the person owning or controlling the waste tire storage site obtains a permit or permit modification/addendum therefor from the Department.
- (2) Persons owning or controlling the following are exempted from the above requirement to obtain a waste tire storage permit, but shall comply with all other regulations regarding waste tire management and solid waste disposal:
 - (a) A person who stores fewer than 100 waste tires;
 - (b) A person who stores fewer than 200 cubic yards of tire-derived products;
 - (c) A tire retailer who stores not more than 1,500 waste tires for each retail business location;
 - (d) A tire retreader who stores not more than 3,000 waste tires for each individual retread operation so long as the waste tires are of the type the retreader is actively retreading;
 - (e) A wrecking business who stores not more than 1,500 waste tires for each retail business location;
 - (f) Storage of tire-derived products packaged in closed plastic bags.
- (3) Piles of tire-derived products are not subject to regulation as a waste tire storage site if the site actively consumes the following minimum tons of tire-derived products annually:
 - (a) For cement kilns: 1,500 tons;
 - (b) For pulp and paper mills: 1,500 tons.
- (4) Manufacturers must obtain a waste tire storage permit if they are storing the following levels of tire-derived products:
 - (a) For manufacturers actively consuming crumb rubber: 400 tons, or over 50 percent of the manufacturer's annual use of such materials;
 - (b) For manufacturers actively consuming other waste tire shreds or pieces: 100 tons or over 50 percent of the manufacturer's annual use of such materials.
- (5) The Department may exempt a site owned by a federal, state or local government unit from the requirement to obtain a waste tire storage permit for tire-derived products if the following conditions are met:
 - (a) The government unit wants to store tire-derived products for use in fulfilling an existing contract, and requests an exemption from the Department for the waste tire storage permit requirement;
 - (b) The quantity of tire-derived products to be stored does not exceed the estimated quantity specified in the contract plus ten percent to allow for changes or discrepancies;
 - (c) The length of time the tire-derived products are to be stored does not exceed six months; and
 - (d) The Department determines that such storage will not create an environmental risk.
- (6) A permitted solid waste disposal site which stores more than 100 waste tires, is required to have a permit modification addressing the storage of tires from the Department.
- (7) The Department may issue a waste tire storage permit in two stages to persons required to have such a permit by July 1, 1988. The two stages are a "first-stage" or limited duration permit, and a "second-stage" or regular permit.
- (8) A person who wants to establish a new waste tire storage site shall apply to the Department at least 90 days before the planned date of facility construction. A person applying for a waste tire storage permit on or after September 1, 1988 shall apply for a "second-stage" or regular permit.
- (9) A person who is using or wants to use over 100 waste tires for a beneficial use must request the Department to determine whether that use constitutes "storage" pursuant to OAR 340-064-0010(25), and is thus subject to the waste tire storage site permit requirement. The Department may recommend remedial actions which, if implemented, will eliminate any environmental risk which would otherwise be caused by a beneficial use of waste tires.

(10) Use of waste tires which is regulated under ORS 468B.070 or 196.800 through 196.905 and for which a permit has been acquired is not subject to additional regulation under OAR Chapter 340, Division 64.

(11) Failure to conduct storage of waste tires according to the conditions, limitations, or terms of a permit or these rules, or failure to obtain a permit is a violation of these rules and shall be subject to civil penalties as provided in OAR Chapter 340, Division 12 or to any other enforcement action provided by law. Each day that a violation occurs is a separate violation and may be the subject of separate penalties.

(12) No person shall advertise or represent himself/herself as being in the business of accepting waste tires for storage without first obtaining a waste tire storage permit from the Department.

(13) Failure to apply for or to obtain a waste tire storage permit, or failure to meet the conditions of such permit constitutes a nuisance.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.705, 459.708, 459.710, 457.715

REPEAL: 340-064-0018

RULE TITLE: "First-Stage" or Limited Duration Permit

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) An application for a "first-stage" permit shall include such information as required by the Department, including but not limited to:

(a) A management plan for the operation of the site, including:

(A) The person to be responsible for the operation of the site;

(B) The proposed method of tire disposal; and

(C) The proposed emergency measures to be provided at the site, together with the name and phone number of the appropriate fire district.

(b) A description of the facilities on the site and how many tires are to be stored;

(c) The location of the site, including legal description; and

(d) The name and address of all tire carriers that the applicant has on record who have deposited waste tires at the site during the past 12 months.

(2) A "first-stage" permit shall be valid for a period not to exceed six months, or until December 31, 1988, whichever comes first.

(3) No later than September 1, 1988, a holder of a "first-stage" permit shall either:

(a) Inform the Department in writing that the "first-stage" permit holder will remove all waste tires from the site and properly dispose of them before the expiration of the "first-stage" permit; or

(b) Apply for a "second-stage" or regular waste tire storage permit pursuant to OAR 340-064-0020.

STATUTORY/OTHER AUTHORITY: ORS 459

STATUTES/OTHER IMPLEMENTED: ORS 459.720, 459.725, 459.730

REPEAL: 340-064-0020

RULE TITLE: "Second-Stage" or Regular Permit

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) An application for a "second-stage" or regular waste tire storage permit shall:

(a) Include such information as shall be required by the Department, including but not limited to:

(A) A description of the need for the waste tire storage site;

(B) The zoning designation of the site, and a written statement of compatibility of the proposed waste tire storage site with the acknowledged local comprehensive plan and zoning requirements from the local government unit(s) having jurisdiction;

(C) A description of the land uses within a one-quarter mile radius of the facility, identifying any buildings and surface waters;

(D) A management program for operation of the site, which includes but is not limited to:

(i) Anticipated maximum number of passenger and/or truck tires and/or tire-derived products to be stored at the site for any given one year period;

(ii) Present and proposed method of disposal, and timetable;

(iii) How the facility will meet the technical tire storage standards in OAR 340-064-0035 for both tires and tire-derived products currently stored on the site, and tires and tire-derived products to be accepted;

(iv) How the applicant proposes to control mosquitoes and rodents, considering the likelihood of the site becoming a public nuisance or health hazard, proximity to residential areas, etc.

(E) A proposed contingency plan to minimize damage from fire or other accidental or intentional emergencies at the site. It shall include but not be limited to procedures to be followed by facility personnel, including measures to be taken to minimize the occurrence or spread of fires and explosions;

(F) The following maps:

(i) A site location map showing section, township, range and site boundaries;

(ii) A site layout drawing, showing size and location of all pertinent man-made and natural features of the site (including roads, fire lanes, ditches, berms, waste tire storage areas, structures, wetlands, floodways and surface waters);

(iii) A topographic map using a scale of no less than one inch equals 200 feet, with 40-foot intervals on 7.5 minute series.

(b) Submit proof that the applicant holds financial assurance acceptable to the Department in an amount determined by the Department to be necessary for removal or processing of waste tires and tire-derived products, fire suppression or other measures to protect the environment and the health, safety and welfare, pursuant to OAR 340-064-0025 and 340-064-0035;

(c) Submit an application fee of \$250 (or for applications for a waste tire storage permit to operate a site where tires will be stored as a beneficial use, an application fee of \$100), and an annual compliance fee as listed in OAR 340-064-0025. Fifty dollars (\$50) of the application fee shall be non-refundable. The rest of the application fee may be refunded in whole or in part when submitted with an application if either of the following conditions exists:

(A) The Department determines that no permit will be required;

(B) The applicant withdraws the application before the Department has granted or denied the application.

(d) Demonstrate that the applicant has long-term control of the site.

(2) A "second-stage" permit may be issued for up to five years. "Second-stage" storage permits and combined tire carrier/storage permits shall expire on January 1.

(3) The Department may waive any of the requirements in paragraph (1)(a)(C) (land use descriptions), (1)(a)(D) (management program), (1)(a)(E) (contingency plan), (1)(a)(F) (maps), subsection (1)(b) (financial assurance) or

subsection (1)(d) (long-term control) of this rule for a waste tire storage site in existence on or before January 1, 1988, if it is determined by the Department that the site is not likely to create a public nuisance, health hazard, air or water

pollution or other environmental problem, or if it is scheduled to be cleaned up within six months of issuance of the permit. This waiver shall be considered for storage sites which are no longer receiving additional tires, and are under a closure schedule approved by the Department. The site must still meet operational standards in OAR 340-064-0035.

(4) A permittee who wants to renew his/her "second-stage" storage permit or combined tire carrier/storage permit shall apply to the Department for permit renewal at least 90 days before the permit expiration date. The renewal shall include such information as required by the Department. It shall include a permit renewal fee of \$125, or \$50 in the case of a permittee storing tires as a beneficial use, and a written statement of compatibility of the beneficial use with the acknowledged local comprehensive plan and zoning requirements from the local government unit(s) having jurisdiction.

(5) A permittee may request from the Department a permit modification to modify its operations as allowed in an unexpired permit. A permit modification initiated by the permittee shall include a permit modification fee of \$25.

(6) The fee to reinstate a waste tire storage permit or combined tire carrier/storage permit which has been revoked by the Department is \$150. There is no fee to reinstate a waste tire storage permit or combined tire carrier/storage permit which has been suspended by the Department.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.720, 459.725, 459.730

REPEAL: 340-064-0022

RULE TITLE: Financial Assurance

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) The Department shall determine for each applicant the amount of financial assurance required under ORS 459.720(c) and OAR 340-064-0020(1)(b). The Department shall base the amount on the estimated cost of cleanup for the maximum number of waste passenger tire equivalents and/or tire-derived products allowed by the permit to be stored at the storage site or the estimated cost of fire suppression. The amount of financial assurance required for permittees storing waste tires as a beneficial use could be as low as \$0 if the use meets applicable operational and storage standards in OAR 340-064-0035, and the Department determines that there will be no need to remove the tires. If the tire-derived products have a positive economic value and are actively being used or sold by the permittee, the Department may reduce or eliminate financial assurance for the tire-derived products.

(2) The Department will accept as financial assurance only those instruments listed in and complying with requirements in OAR 340-095-0095.

(3) The financial assurance shall be filed with the Department.

(4) The Department shall make any claim on the financial assurance within one year of any notice of proposed cancellation of the financial assurance.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.720

REPEAL: 340-064-0025

RULE TITLE: Permittee Obligations

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) Each person who is required by ORS 459.715 and 459.725, and OAR 340-064-0015 and 340-064-0055, to obtain a permit shall:

(a) Comply with the provisions of ORS 459.705 to 459.790, these rules and any other pertinent Department requirements;

(b) Inform the Department in writing within 30 days of company changes that affect the permit, such as business name change, address change of the permittee, change from individual to partnership and change in ownership;

(c) Allow to the Department, after reasonable notice, necessary access to the site and to its records, including those required by other public agencies, in order for the monitoring, inspection and surveillance program developed by the Department to operate.

(2) Each person who is required by ORS 459.715 and OAR 340-064-0015 to obtain a permit shall submit to the Department by February 1 of each year an annual compliance fee for the coming calendar year in the amount of \$250, except that the holder of a waste tire storage permit allowing operation of the site as a beneficial use, shall submit an annual compliance fee in the amount of \$50, effective February 1, 1989. The permittee shall submit evidence of required financial assurance when the annual compliance fee is submitted. For the first year's operation, the full annual compliance fee shall apply if the waste tire storage site permit is issued on or before October 1. Any new waste tire storage site issued a permit after October 1 shall not owe an annual compliance fee until February 1 of the following year.

(3) Each waste tire storage site permittee whose site accepts waste tires after the effective date of these rules shall also do the following as a condition to holding the permit:

(a) Maintain records on approximate numbers of waste tires received and shipped, and tire carriers transporting the tires so as to be able to fulfill the reporting requirements in subsection (3)(c) of this rule. The permittee shall issue written receipts upon receiving loads of waste tires. Quantities may be measured by aggregate loads or cubic yards, if the permittee documents the approximate number of tires included in each. These records shall be maintained for a minimum of five years, and shall be available for inspection by the Department after reasonable notice;

(b) Maintain a record of the name (and the carrier permit number, if applicable) of the tire carriers not exempted by OAR 340-064-0055(3) who deliver waste tires to the site and ship waste tires from the site, together with the quantity of waste tires shipped with those carriers;

(c) Submit a report containing the following information annually by February 1 of 1990 and each year thereafter:

(A) Number of waste tires received at the site during the year covered by the report;

(B) Number of waste tires shipped from the site during the year covered by the report;

(C) A list (and tire carrier permit number, if applicable) of the tire carriers not exempted by OAR 340-064-0055(3) delivering waste tires to the site and shipping waste tires from the site;

(D) The number of waste tires and amount of tire-derived products located at the site at the time of the report.

(d) Notify the Department within one month of the vehicle license plate number and name, if possible, of any unpermitted tire carrier (who is not exempt under OAR 340-064-0055(3)) who delivers waste tires to the site after January 1, 1989;

(e) If required by the Department, prepare for approval by the Department and then implement:

(A) A plan to remove some or all of the waste tires or tire-derived products stored at the site. The plan shall follow standards for site closure pursuant to OAR 340-064-0045. The plan may be phased in, with Department approval;

(B) A plan to process some or all of the waste tires stored at the site. The plan shall comply with ORS 459.705 through 459.790 and OAR 340-064-0035.

(f) Maintain the financial assurance required under OAR 340-064-0020(1)(b) and 340-064-0022;

(g) Maintain any other plans and exhibits pertaining to the site and its operation as determined by the Department to be reasonably necessary to protect the public health, welfare or safety or the environment.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.705, 459.710, 459.720, 459.750

REPEAL: 340-064-0030

RULE TITLE: Department Review of Applications for Waste Tire Storage Sites

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

- (1) Applications for waste tire storage permits shall be processed in accordance with the Procedures for Issuance, Denial, Modification and Revocation of Permits as set forth in OAR 340, division 14, except as otherwise provided in OAR 340, division 64.
- (2) Applications for permits shall be complete only if they:
 - (a) Are submitted on forms provided by the Department, accompanied by all required exhibits, and the forms are completed in full and are signed by the applicant and the property owner or person in control of the premises;
 - (b) Include plans and specifications as required by OAR 340-064-0018 and 340-064-0020;
 - (c) Include the appropriate application fee pursuant to OAR 340-064-0020(1)(c).
- (3) An application may be accepted as complete for processing if all required materials have been received with the exception of the financial assurance required under OAR 340-064-0020(1)(b) and 340-064-0022, and the written statement of compatibility of the proposed site with the acknowledged local comprehensive plan and zoning requirements from the local government unit(s) having jurisdiction. However, the Department shall not issue a "second-stage" waste tire storage permit unless required financial assurance and land use compatibility have been received.
- (4) Following the submittal of a complete waste tire storage permit application, the director shall cause notice to be given in the county where the proposed site is located in a manner reasonably calculated to notify interested and affected persons of the permit application.
- (5) The notice shall contain information regarding the location of the site and the type and amount of waste tires or tire-derived products intended for storage at the site. In addition, the notice shall give any person substantially affected by the proposed site an opportunity to comment on the permit application.
- (6) The Department may conduct a public hearing in the county where a proposed waste tire storage site is located.
- (7) Upon receipt of a completed application, the Department may deny the permit if:
 - (a) The application contains false information;
 - (b) The application was wrongfully accepted by the Department;
 - (c) The proposed waste tire storage site would not comply with these rules or the waste tire statutes or any other applicable rules or statutes of the Department;
 - (d) There is no clearly demonstrated need for the proposed new, modified or expanded waste tire storage site; or
 - (e) The proposed waste tire storage site would in the Department's opinion cause environmental, safety or health hazards.
- (8) Based on the Department's review of the waste tire storage application, and any public comments received by the Department, the director shall issue or deny the permit. The director's decision shall be subject to appeal to the Commission and judicial review under ORS 183.310 to 183.550.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.735, 459.740, 459.745

REPEAL: 340-064-0035

RULE TITLE: Standards for Waste Tire Storage Sites

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

- (1) All permitted waste tire storage sites must comply with the technical and operational standards in this rule.
- (2) The holder of a "first-stage" waste tire storage permit shall comply with the technical and operational standards in this part if the site receives any waste tires after the effective date of these rules.
- (3) A waste tire storage site shall not be constructed or operated in a wetland, waterway, floodway, 25-year floodplain, or any area where it may be subjected to submersion in water.
- (4) Operation. A waste tire storage site shall be operated in compliance with the following standards:
 - (a) An outdoor waste tire pile shall have no greater than the following maximum dimensions:
 - (A) Width: 50 feet;
 - (B) Area: 15,000 square feet;
 - (C) Height: 6 feet.
 - (b) A 50-foot fire lane shall be placed around the perimeter of each waste fire pile. Access to the fire lane for emergency vehicles must be unobstructed at all times;
 - (c) Waste tire piles shall be located at least 60 feet from buildings;
 - (d) Waste tires to be stored for one month or longer shall be ricked, unless the Department waives this requirement;
 - (e) The permittee shall operate and maintain the site in a manner which controls mosquitoes and rodents if the site is likely to become a public nuisance or health hazard and is close to residential areas;
 - (f) A sign shall be posted at the entrance of the storage site stating operating hours, cost of disposal and site rules if the site receives tires from persons other than the operator of the site;
 - (g) No operations involving the use of open flames or blow torches shall be conducted within 25 feet of a waste tire pile;
 - (h) An approach and access road to the waste tire storage site shall be maintained passable for any vehicle at all times. Access to the site shall be controlled through the use of fences, gates, or other means of controlling access;
 - (i) If required by the Department, the site shall be screened from public view;
 - (j) An attendant shall be present at all times the waste tire storage site is open for business, if the site receives tires from persons other than the operator of the site;
 - (k) The site shall be bermed or given other adequate protection if necessary to keep any liquid runoff from potential tire fires from entering waterways;
 - (l) If pyrolytic oil is released at the waste tire storage site, the permittee shall remove contaminated soil in accordance with applicable rules governing the removal, transportation and disposal of the material;
 - (m) In the case of tire fences, the following are also required:
 - (A) For vector control:
 - (i) Drilling a two-inch hole into each quadrant of the downside of each tire used in the fence; or
 - (ii) Filling each individual waste tire with dirt; or
 - (iii) Another treatment approved in advance by the Department.
 - (B) A 20-foot fire lane shall be maintained on land under control of the permittee along the entire length of the tire fence. Access to the fire lane for emergency vehicles must be unobstructed and clear of vegetation at all times;
 - (C) Weeds shall not be allowed to grow on or over the tire fence;
 - (D) A tire fence shall not be constructed wider than one tire width.
 - (n) In the case of waste tires stored for seasonal agricultural uses: During the annual period(s) during which the waste tires are not being used for the beneficial use, they shall be stored to meet the standards in this rule.
- (5) Operational standards for storage of tire-derived products: the following standards must be met:
 - (a) The product pile shall have no greater than the following maximum dimensions:

- (A) Width: 40 yards;
- (B) Volume: 6,400 cubic yards;
- (C) Height: 4 yards.
- (b) A maximum of four piles of product are allowed on a site;
- (c) Compliance with waste tire storage standards under section (3) and subsections (4)(b), (c), and (e) through (l) of this rule.
- (6) The Department may impose additional storage requirements for an individual site which are reasonably necessary to protect the public health or the environment.
- (7) Waste tires stored indoors shall be stored in compliance with Section 2509.1 of the 2010 Oregon Fire Code.
- (8) The Department may approve exceptions to the preceding technical and operational standards for a company processing waste tires and/or storing tire-derived products if:
 - (a) The average time of storage for a waste tire and/or tire-derived products on that site is one month or less; and
 - (b) The Department and the local fire authority are satisfied that the permittee has sufficient fire suppression equipment and/or materials on site to extinguish any potential tire and tire chip fire within an acceptable length of time.
- (9) The director may grant a variance to the technical and operational standards in this rule or the requirements of OAR 340-064-0025(3)(a) through (3)(c)(D) for a waste tire storage site in existence on or before January 1, 1988, or for a waste tire storage site using tires for a beneficial use. This may include certain requirements of these technical and operational standards when circumstances of the waste tire storage site location, operating procedures, and fire control protection indicate that the purpose and intent of these rules can be achieved without strict adherence to all of the requirements, or when the site is not receiving additional tires and is under a closure schedule approved by the Department.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.268, 459.710, 459.715, 459.720

REPEAL: 340-064-0040

RULE TITLE: Closure

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) The owner or operator of a waste tire storage site shall cease to accept waste tires and shall immediately close the site in compliance with any special closure conditions established in the permit and these rules, if:

(a) The owner or operator declares the site closed;

(b) The storage permit expires or is revoked and renewal of the permit is not applied for, or is denied;

(c) A Commission order to cease operations is issued; or

(d) A permit compliance schedule specifies closure is to begin.

(2) The owner or operator of a waste tire storage site may be required by the Department to submit to the Department a closure plan with the permit application.

(3) The closure plan shall include:

(a) When or under what circumstances the site will close, including any phase-in of the closure;

(b) How all waste tires and tire-derived products will be removed from the site or otherwise properly disposed of upon closure;

(c) A schedule for the applicable closure procedures, including the time period for completing the closure procedures;

(d) A plan for site rehabilitation, if deemed necessary by the Department.

STATUTORY/OTHER AUTHORITY: ORS 459

STATUTES/OTHER IMPLEMENTED: ORS 459.268, 459.755, 459.780

REPEAL: 340-064-0045

RULE TITLE: Closure Procedures

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) In closing the storage site, the permittee shall:

(a) Close public access to the waste tire storage site for tire storage;

(b) Post a notice indicating to the public that the site is closed and, if the site had accepted waste tires from the public, indicating the nearest site where waste tires can be deposited;

(c) Notify the Department and local government of the closing of the site;

(d) Remove all waste tires and tire-derived products to a waste tire storage site, solid waste disposal site authorized to accept waste tires, or other facility approved by the Department;

(e) Remove any solid waste to a permitted solid waste disposal site; and

(f) Notify the Department when the closure activities are completed.

(2) After receiving notification that site closure is complete, the Department may inspect the storage site. If all procedures have been correctly completed, the Department shall approve the closure in writing. Any financial assurance not needed for the closure or for other purposes under OAR 340-064-0020(1)(b) shall be released to the permittee.

STATUTORY/OTHER AUTHORITY: ORS 459

STATUTES/OTHER IMPLEMENTED: ORS 459.268, 459.710, 459.715, 459.720, 459.755, 459.780

REPEAL: 340-064-0050

RULE TITLE: Modification of Solid Waste Disposal Site Permit Required

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

- (1) After July 1, 1988, a solid waste disposal site permitted by the Department shall not store over 100 waste tires unless the permit has been modified by the Department to authorize the storage of waste tires.
- (2) A solid waste disposal site permittee who accumulates fewer than 2,000 waste tires at any given time and has a contract with a tire carrier to transport for proper disposal all such tires whenever sufficient tires have been accumulated to make up a truckload of not more than 1,800 tires from that site, is not subject to the permit modification required by section (1) of this rule or to the requirements of section (5) of this rule. However, such permittee's solid waste operating plan shall be modified to include such activity. Nevertheless, if such permittee stores over 100 tires on-site for more than six months, permit modification pursuant to section (3) of this rule shall be required to allow such storage.
- (3) A solid waste disposal site permittee currently storing over 100 waste tires at its site shall apply to the Department by June 1, 1988, for a permit modification to store over 100 waste tires. A solid waste disposal site permittee who wants to begin storing over 100 waste tires at its site shall apply to the Department for a permit modification at least 90 days before the planned date of such storage.
- (4) The permittee shall apply to store a maximum number of waste tires which shall not be exceeded in one year.
- (5) In storing waste tires, the permittee shall comply with all rules for waste tire storage sites in OAR 340-064-0015 through 340-064-0025, and 340-064-0035 through 340-064-0045, including a management plan for the waste tires, record keeping for waste tires received and sent, contingency plan for emergencies, and financial assurance requirements.
- (6) Modification of an existing solid waste permit to allow waste tire storage does not require submission of a solid waste permit filing fee or application processing fee under OAR 340-097-0110.
- (7) The solid waste permittee should consider storing the waste tires or tire-derived products in a manner that will not preclude their future recovery and use, should that become economically feasible.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.715

REPEAL: 340-064-0052

RULE TITLE: Disposal of Tires at Solid Waste Disposal Sites: Ban; Chipping

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) After July 1, 1991, no person shall dispose of tires and no operator of a land disposal site permitted by the Department shall knowingly accept tires for disposal unless:

(a) The tires are processed in accordance with the standards in section (2) of this rule; and

(b) Such disposal is not prohibited by the land disposal site's solid waste permit.

(2) To be landfilled under subsection (1)(a) of this rule, waste tires must be processed to meet the following criteria:

(a) The volume of 100 unprepared randomly selected whole tires in one continuous test period must be reduced by at least 65 percent of the original volume. No single void space greater than 125 cubic inches may remain in the randomly placed processed tires; or

(b) The tires shall be reduced to an average chip size of no greater than 64 square inches in any randomly selected sample of ten tires or more. No more than 40 percent of the chips may exceed 64 square inches.

(3) The test to comply with subsection (2)(a) of this rule shall be as follows:

(a) Unprocessed whole tire volume shall be calculated by randomly placing the 100 unprepared randomly selected whole tires in a rectangular container and multiplying the depth of unprocessed tires by the bottom area of the container;

(b) Processed tire volume shall be determined by randomly placing the processed tire test quantity in a rectangular container and leveling the surface. It shall be calculated by multiplying the depth of processed tires by the bottom area of the container.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.710

REPEAL: 340-064-0055

RULE TITLE: Waste Tire Carrier Permit Required

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

- (1) After January 1, 1989, any person engaged in picking up, collecting or transporting waste tires for the purpose of storage, processing or disposal is required to obtain a waste tire carrier permit from the Department.
- (2) After January 1, 1989, no person shall collect or haul waste tires or advertise or represent himself/herself as being in the business of a waste tire carrier without first obtaining a waste tire carrier permit from the Department.
- (3) The following persons are exempt from the requirement to obtain a waste tire carrier permit:
 - (a) Solid waste collectors operating under a license or franchise from any local government unit;
 - (b) A private individual transporting the individuals own waste tires to a processor or for proper disposal;
 - (c) A private carrier transporting the carriers own waste tires to a processor or for proper disposal;
 - (d) A person transporting fewer than five tires to a processor or for proper disposal;
 - (e) Persons transporting tire-derived products to a market;
 - (f) Persons transporting tire chips that meet the chipping standards in OAR 340-064-0052;
 - (g) The United States, the State of Oregon, any county, city, town or municipality in this state or any agency of the United States, the State of Oregon or a county, city, town or municipality of this state.
- (4) A combined tire carrier/storage permit may be applied for by tire carriers:
 - (a) Who are subject to the carrier permit requirement; and
 - (b) Whose business includes or wants to establish a site which is subject to the waste tire storage permit requirement.
- (5) The Department shall supply a combined tire carrier/storage permit application to such persons. Persons applying for the combined tire carrier/storage permit shall comply with all other regulations concerning storage sites and tire carriers established in these rules.
- (6) Persons who want to transport waste tires for the purpose of storage, processing or disposal must apply to the Department for a waste tire carrier permit at least 90 days before beginning to transport the tires.
- (7) Large trucking companies with 15 or more trucks in their fleet, whether leased or owned, may apply for a common carrier class waste tire carrier permit to haul waste tires.
 - (a) All waste tire carrier permit rules will apply, except for Sections (8)(a), (17), and (18) of this rule.
 - (b) Large trucking companies who apply for this permit must pay all application and compliance fees required in OAR 340-064-0063(9)(a) and in section (10) of this rule in addition to an annual permit fee of \$375 applicable to companies operating 15 or more trucks.
 - (c) Cab decals are not required on trucks covered under this permit, however the common carrier class waste tire carrier permit must remain on file and must be available for review by the Department at the permittee's principal Oregon office.
 - (d) Any truck in the company's fleet may be used to haul waste tires as long as the company is in compliance with the common carrier class waste tire carrier permit.
- (8) Applications shall be made on a form provided by the Department. The application shall include such information as required by the Department. It shall include but not be limited to:
 - (a) A description, license number and registered vehicle owner for each truck used for transporting waste tires;
 - (b) The PUC authority number under which each truck is registered;
 - (c) Where the waste tires will be stored, processed or disposed of;
 - (d) Any additional information required by the Department.
- (9) A corporation which has more than one separate business location may submit one waste tire carrier permit application which includes all the locations. All the information required in section (8) of this rule shall be supplied by location for each individual location. The corporation shall be responsible for amending the corporate application

whenever any of the required information changes at any of the covered locations.

(10) An application for a tire carrier permit shall include a \$25 nonrefundable application fee and an annual compliance fee as listed in OAR 340-064-0063 or subsection (7)(b) of this rule, as applicable.

(11) An application for a combined tire carrier/storage permit shall include a \$250 application fee, \$50 of which shall be non-refundable, and an annual compliance fee as listed in OAR 340-064-0063. The rest of the application fee may be refunded in whole or in part when submitted with an application if either of the following conditions exists:

(a) The Department determines that no permit will be required;

(b) The applicant withdraws the application before the Department has granted or denied the application.

(12) The application for a waste tire carrier permit shall also include a bond in the sum of \$5,000 in favor of the State of Oregon. In lieu of the bond, the applicant may submit financial assurance acceptable to the Department. The Department will accept as financial assurance only those instruments listed in and complying with requirements in OAR 340-095-0095.

(13) The bond or other financial assurance shall be filed with the Department and shall provide that:

(a) In performing services as a waste tire carrier, the applicant shall comply with the provisions of ORS 459.705 through 459.790 and of this rule; and

(b) Any person injured by the failure of the applicant to comply with the provisions of ORS 459.705 through 459.790 or this rule shall have a right of action on the bond or other financial assurance in the name of the person. Such right of action shall be made to the principal or the surety company within two years after the injury.

(14) Any deposit of cash, certificate of deposit, letter of credit, or negotiable securities submitted under sections (12) and (13) of this rule shall remain in effect for not less than two years following termination of the waste tire carrier permit.

(15) A waste tire carrier permit or combined tire carrier/ storage permit shall be valid for up to three years.

(16) Waste tire carrier permits shall expire on March 1. Waste tire carrier permittees who want to renew their permit must apply to the Department for permit renewal by January 1 of the year the permit expires. The application for renewal shall include all information required by the Department, and a permit renewal fee.

(17) A waste tire carrier permittee may add another vehicle to its permitted waste tire carrier fleet if it does the following before using the vehicle to transport waste tires:

(a) Submits to the Department:

(A) The information required in section (8) of this rule; and

(B) A fee of \$25 for each vehicle added.

(b) Displays on each additional vehicle decals from the Department pursuant to OAR 340-064-0063(1)(b).

(18) A waste tire carrier permittee may lease additional vehicles to use under its waste tire carrier permit without adding that vehicle to its fleet pursuant to section (17) of this rule, under the following conditions:

(a) The vehicle may not transport waste tires when under lease for a period of time exceeding 30 days (short-term leased vehicles). If the lease is for a longer period of time, the vehicle must be added to the permittee's permanent fleet pursuant to section (17) of this rule;

(b) The permittee must give previous written notice to the Department that it will use short-term leased vehicles;

(c) The permittee shall pay a \$25 annual compliance fee in advance to allow use of short-term leased vehicles, in addition to any other fees required by sections (10), (11) and (17) of this rule, and OAR 340-064-0063(9) and (10);

(d) Every permittee shall keep a daily record of all vehicles leased on short term, with beginning and ending dates used, license numbers, PUC authority, PUC temporary pass or PUC plate/marker, and person from whom the vehicles were leased. The daily record must be kept current at all times, subject to verification by the Department. The daily record shall be maintained at the principal Oregon office of the permittee. The daily record shall be submitted to the Department each year as part of the permittee's annual report required by OAR 340-064-0063(8);

(e) The permittee's bond or other financial assurance required under section (12) of this rule must provide that, in performing services as a waste tire carrier, the operator of a vehicle leased by the permittee shall comply with the provisions of ORS 459.705 through 459.790 and of this rule;

(f) Each vehicle being used on a short-term lease basis by a permittee must carry a properly filled out cab card provided by the Department in the power vehicle at all times when hauling waste tires. Information on the cab card shall include the starting and ending dates of the short-term lease;

(g) The permittee is responsible for ensuring that a leased vehicle complies with OAR 340-064-0055 through 340-064-0063, except that the leased vehicle does not have to obtain a separate waste tire carrier permit pursuant to section (1) of this rule while operating under lease to the permittee.

(19) A holder of a combined tire carrier/storage permit may purchase special block passes from the Department. A person located outside of Oregon who is a holder of a waste tire carrier permit issued by the Department may also purchase special block passes from the Department if he or she also holds a valid permit allowing storage of waste tires issued by the responsible state or local agency of that state, and if such permit is deemed acceptable by the Department. The block passes will allow the permittee to use a common carrier which does not have a waste tire carrier permit. Use of a block pass will allow the unpermitted common carrier to haul waste tires under the permittee's waste tire carrier permit:

(a) Special block passes shall be available in sets of at least five, for a fee of \$5 per block pass. Only a holder of a combined tire carrier/storage permit may purchase block passes. Any unused block passes shall be returned to the Department when the permittee's waste tire permit expires or is revoked;

(b) The permittee is responsible for ensuring that a common carrier operating under a block pass from the permittee complies with OAR 340-064-0055 through 340-064-0063, except that the common carrier does not have to obtain a separate waste tire carrier permit pursuant to section (1) of this rule while operating under the permittee's block pass;

(c) A block pass may be valid for a maximum of ten days and may only be used to haul waste tires between the origin(s) and destination(s) listed on the block pass;

(d) A separate block pass shall be used for each trip hauling waste tires made by the unpermitted common carrier under the permittee's waste tire permit. (A trip begins when waste tires are picked up at an origin, and ends when they are delivered to a proper disposal site(s) pursuant to OAR 340-064-0063(4));

(e) The permittee shall fill in all information required on the block pass, including name of the common carrier, license number, PUC authority if applicable, PUC temporary pass or PUC plate/marker if applicable, beginning and ending dates of the trip, address(es) of where the waste tires are to be picked up and where they are to be delivered, and approximate numbers of waste tires to be transported;

(f) Each block pass shall be in triplicate. The permittee shall send the original to the Department within five days of the pass's beginning date, one copy to the common carrier which shall keep it in the cab during the trip, and shall keep one copy;

(g) The permittee shall be responsible for ensuring that any common carrier hauling waste tires under the permittee's waste tire permit has a properly completed block pass;

(h) While transporting waste tires, the common carrier shall keep a block pass properly filled out for the current trip in the cab of the vehicle;

(i) An unpermitted common carrier may operate as a waste tire carrier using a block pass no more than three times in any calendar quarter. Before a common carrier may operate as a waste tire carrier more than three times a quarter, he or she must first apply for and obtain a waste tire carrier permit from the Department.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 459.045, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.708

REPEAL: 340-064-0063

RULE TITLE: Waste Tire Carrier Permittee Obligations

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) Each person required to obtain a waste tire carrier permit shall:

(a) Comply with OAR 340-064-0025(1);

(b) Display current decals with his or her waste tire carrier identification number issued by the Department when transporting waste tires. The decals shall be displayed on the sides of the front doors of each truck used to transport tires;

(c) Maintain the financial assurance required under ORS 459.730(2)(d).

(2) When a waste tire carrier permit expires or is revoked or suspended, the former permittee shall immediately remove all waste tire permit decals from its vehicles and remove the permit from display. The permittee shall surrender a revoked or suspended permit, and certify in writing to the Department within fourteen days of revocation or suspension that all Department decals have been removed from all vehicles.

(3) Leasing, loaning or renting of permits or decals is prohibited. No permit holder shall engage in any conduct which falsely tends to create the appearance that services are being furnished by the holder when in fact they are not.

(4) A waste tire carrier shall leave waste tires for storage or disposal only in a permitted waste tire storage site, at a land disposal site permitted by the Department to store waste tires or with an operating plan allowing the storage of waste tires, or at another site approved by the Department, such as a site authorized to accept waste tires under the laws or regulations of another state.

(5) The Department may allow a permittee to use up to two covered containers to collect waste tires. A maximum of 2,000 tires may be so collected at any one time, and for no longer than 90 days in each container, beginning with the date when a waste tire is first placed in a container. The containers must be located at the permittee's main place of business.

(6) A waste tire carrier permittee shall inform the Department within two weeks of any change in license plate number or ownership (sale) of any vehicle under his or her waste tire carrier permit.

(7) Waste tire carrier permittees shall record and maintain for a minimum of three years, except as otherwise specified in this section, the following information regarding their activities for each month of operation:

(a) The approximate quantity of waste tires collected. Quantities may be measured by aggregate loads or cubic yards, if the carrier documents the approximate number included in each load;

(b) Where or from whom the waste tires were collected, and whether the waste tires are from the cleanup of a waste tire pile;

(c) Where the waste tires were deposited. The waste tire carrier shall keep receipts or other written materials documenting where all tires were stored or disposed of. This information shall be maintained for five years.

(8) Waste tire carrier permittees shall submit to the Department an annual report that summarizes the information collected under section (7) of this rule. The information shall be broken down by quarters. This report shall be submitted to the Department annually as a condition of holding a permit together with the annual compliance fee or permit renewal application.

(9) A holder of a waste tire carrier permit shall pay to the Department a nonrefundable annual fee in the following amount:

(a) Annual compliance fee (per company or corporation) — \$175;

(b) Plus annual fee per vehicle used for hauling waste tires — \$25.

(10) A holder of a combined tire carrier/storage permit shall pay to the Department by February 1 of each year a nonrefundable annual compliance fee for the coming calendar year in the following amount:

(a) Annual compliance fee (per company or corporation) — \$250;

(b) Plus annual fee per vehicle used for hauling waste tires — \$25.

(11) A holder of a waste tire carrier permit shall pay to the Department by February 15 of each year an annual compliance fee for the coming year (March 1 through February 28) as required by sections (9)–(10) of this rule. The permittee shall provide evidence of required financial assurance when the annual compliance fee is submitted. For the first year's operation, the full fee(s) shall apply if the carrier permit is issued on or before December 1. Any new waste tire carrier permit issued after December 1 shall not owe an annual compliance fee(s) until March 1.

(12) The fee is \$10 for a decal to replace one that was lost or destroyed.

(13) The fee for a waste tire carrier permit renewal is \$25.

(14) The fee for a permit modification of an unexpired waste tire carrier permit, initiated by the permittee, is \$15. Adding a vehicle to the permittee's fleet pursuant to OAR 340-064-0055(16), dropping a vehicle from the permitted fleet, or updating a changed license plate number of a vehicle in the permitted fleet does not constitute a permit modification. However, adding a vehicle is subject to a separate fee pursuant to OAR 340-064-0055(16).

(15) The fee to reinstate a waste tire carrier permit which has been revoked by the Department is \$100. No fee is required to reinstate a waste tire carrier permit which has been suspended by the Department.

(16) A waste tire carrier permittee should check with the PUC and DMV to ensure that he or she complies with all PUC and DMV regulations.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.775, 459.780, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.705, 459.712, 459.730, 459.750

REPEAL: 340-064-0070

RULE TITLE: Department Review of Waste Tire Carrier Permit Applications

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) Applications for waste tire carrier permits shall be processed in accordance with the Procedures for Issuance, Denial, Modification and Revocation of Permits as set forth in OAR 340, division 14, except as otherwise provided in this division.

(2) Applications for waste tire carrier permits shall be complete only if they:

(a) Are submitted on forms provided by the Department, accompanied by all required exhibits, and the forms are completed in full and are signed by the applicant(s);

(b) Include the appropriate application fee pursuant to OAR 340-064-0055 and 340-064-0063; and

(c) Include acceptable financial assurance pursuant to OAR 340-064-0055.

(3) Upon receipt of a complete application, the Department may deny the permit if:

(a) The application contains a material misrepresentation or false information or fails to disclose fully all relevant facts;

or

(b) The application was wrongfully accepted by the Department; or

(c) The applicant has not complied with these rules or other applicable rules of the Department or rules of other governmental agencies which relate to waste tires.

(4) Based on the Department's review of the waste tire carrier application, the director shall issue or deny the permit.

The director's decision shall be subject to appeal to the Commission and judicial review under ORS 183.310 to 183.550.

STATUTORY/OTHER AUTHORITY: ORS 459

STATUTES/OTHER IMPLEMENTED: ORS 459.745, 459.750, 459.755

REPEAL: 340-064-0075

RULE TITLE: Permit Suspension or Revocation

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) The Department may suspend, revoke or refuse to renew any permit issued under OAR 340-064-0005 through 340-064-0070 if it finds:

(a) Failure to comply with any conditions of the permit, provisions of ORS 459.710 through 459.780, the rules of the Commission or an order of the Commission or Department; or

(b) Failure to maintain in effect at all times the required bond or other approved equivalent financial assurance in the amount specified in ORS 459.720 and 459.730 or in the permit; or

(c) The permit was obtained by misrepresentation or failure to disclose fully all relevant facts; or

(d) A significant change in the quantity or character of waste tires received or in the method of waste tire storage site operation; or

(e) Failure to timely remit the annual compliance fee, or nonpayment by drawee of any instrument tendered by applicant as payment of the permit fee.

(2) Suspension or revocation of a permit shall be processed in accordance with the Procedures for Issuance, Denial, Modification and Revocation of Permits as set forth in OAR 340-014-0045, except as otherwise provided in this division.

(3) Within 45 days of the date when the Department receives a notice of prospective cancellation of the financial assurance required of a permittee under OAR 340-064-0055(11) or 340-064-0020, the Department may initiate procedures to suspend or revoke the permit unless notice of reinstatement is received.

(4) If an annual compliance fee as required under OAR 340-064-0025 or 340-064-0063 is not received by the Department within 45 days of the due date, the Department may initiate procedures to suspend or revoke the permit.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.755

REPEAL: 340-064-0080

RULE TITLE: Proper Disposition of Waste Tires and Documentation Required of Generators of Waste Tires

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) After the effective date of these rules, any person who generates or handles more than 100 waste tires a year shall keep a log of the amount of waste tires he or she generated or handled.

(2) After the effective date of these rules, any person who generates waste tires shall either:

(a) Have the waste tires transported by a waste tire carrier operating under a permit issued by the Department under ORS 459.705 to 459.790; or

(b) Transport the waste tires generated by the person to a waste tire storage site operating under a permit issued by the Department or to another site authorized by the Department;

(c) Transport any waste tires which are also retreadable casings to a tire retreader for the purposes of retreading.

(3) After the effective date of these rules, any person who generates and transports five or more waste tires at a time shall maintain for two years a written record, including receipts, bills of lading or other similar documents to establish the disposition of the waste tires. This shall include:

(a) For persons having their waste tires transported by a permitted waste tire carrier: receipts signed by the waste tire carrier showing the name and permit number of the waste tire carrier, the date and number or volume of waste tires hauled. A person using a waste tire carrier must verify that the carrier has a Department-issued waste tire carrier permit; such verification may include noting possession by the waste tire carrier of a valid Department decal, a valid properly filled out cab card, or a valid properly filled out block pass; or the person may call the Department for verification;

(b) For persons hauling their own waste tires: receipts with the date, number or volume of waste tires hauled and place where the waste tires were taken. The receipts shall be signed by an official representative of the location to which the waste tires were taken for storage, processing or disposal.

(4) The written record in section (3) of this rule shall reflect the approximate amount of waste tires generated by the person or under that person's control as reflected in the log, when required, kept under section (1) of this rule.

(5) For purposes of this rule, "generation" of waste tires shall include the accumulation of waste tires on property owned or controlled by the person, the presence of which has been documented by a public official.

(6) The information maintained under sections (1), (2) and (3) of this rule shall be made available to the Department upon request of the Department.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.708

REPEAL: 340-064-0090

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Policy on Use of Waste Tire Recycling Account Funds

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

Waste tires have a resource value to society that is lost if they are landfilled. One goal of the Waste Tire Program is to control the transportation and storage of waste tires so that illegal dumping is eliminated, and the tires do not cause environmental hazards. The major tools for this are the permitting requirements for tire sites and tire carriers, and civil penalties for illegal tire storage/disposal. Another program goal is to enhance the market for reuse of waste tires so that their value is recovered, and the market helps divert the stream of waste tires from being landfilled. The 1987 Legislature determined that it was appropriate to offer an incentive to enhance this market in the form of a reimbursement to users of waste tires from the Waste Tire Recycling Account. The 1991 Legislature determined that such a reimbursement will no longer be needed to support the waste tire market after June 30, 1992. However, the Legislature directed that funds should continue to be available to assist with tire pile cleanups. Accordingly, the Department shall recommend or determine use of available funds in the Waste Tire Recycling Account based on the following priority order:

- (1) Cleanup of permitted or non-permitted waste tire storage sites, following criteria established in OAR 340-064-0155. Priority shall be given to abating a danger or nuisance created by waste tires, pursuant to OAR 340-064-0155.
- (2) Reimbursement to persons who use waste tires in Oregon.
- (3) Reimbursement to persons who use waste tires outside of Oregon.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.775, 459.780

REPEAL: 340-064-0100

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Reimbursement for Use of Waste Tires

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) Funds in the Waste Tire Recycling Account may be used to reimburse persons for the costs of using waste tires or chips or similar materials.

(2) A person may apply to the Department for partial reimbursement from the Account for using waste tires. To be eligible for the reimbursement, the tires must:

(a) Be waste tires generated in Oregon;

(b) Be tire chips or similar materials from waste tires generated in Oregon;

(c) Be used for energy recovery or other appropriate uses as specified in OAR 340-064-0110; and

(d) Be purchased no later than the calendar quarter immediately preceding July 1, 1992.

(3) Notwithstanding any other provision of ORS 459.015, for purposes of encouraging the use of waste tires under ORS 459.705 to 459.790, the use of processed, source-separated waste tires having a positive market value as a new product to recover energy shall be considered recycling under ORS 459.015(2)(a)(C).

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.775, 459.780

REPEAL: 340-064-0110

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Uses of Waste Tires Eligible for Reimbursement

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) Uses of waste tires which may be eligible for the reimbursement include:

(a) Energy recovery. Energy recovery shall include:

(A) Burning of whole or chipped tires as tire-derived fuel. The tire-derived fuel shall be burned only in boilers which have submitted test burn data to the Department and whose air quality permits are not violated by burning tire-derived fuel in the quantities for which reimbursement is requested. If the fuel is burned out-of-state, such burning shall be eligible for the reimbursement only if it does not cause an air quality permit issued by the competent out-of-state authority to be violated;

(B) Incineration or pyrolysis of whole tires or tire chips to produce electricity or process heat or steam, either for use on-site, or for sale.

(b) Other eligible uses. Other eligible uses shall include:

(A) Pyrolysis of tires to produce combustible hydrocarbons and other salable products;

(B) Use of tire chips as road bed base and the like;

(C) Recycling of waste tire strips, chips, shreds, or crumbs to manufacture a new product. The new product may be produced by physical or chemical processes such as:

(i) Weaving from strips of waste tires;

(ii) Stamping out products from the tire casing;

(iii) Physically blending tire chips with another material such as asphalt;

(iv) Physically or chemically bonding tire chips or crumbs with another material to form a new product such as tire chocks.

(D) Use of whole tires:

(i) In artificial fishing reefs in nonocean waters of this state, pursuant to OAR 340-046, and subject to review by the Oregon Department of Fish and Wildlife;

(ii) For the manufacture of new products which have a market value such as buoys.

(2) If a proposed use of waste tires would in the Department's opinion cause environmental, safety or health hazards, the Department may disallow the partial reimbursement. An example of a health hazard would be use of tire chips for playground cover without removing the steel shreds.

(3) The following uses are not considered appropriate for use of the reimbursement, and shall not be eligible for the reimbursement:

(a) Reuse as a vehicle tire;

(b) Retreading;

(c) Use of tires as riprap;

(d) Use of whole or split tires for erosion control or retaining walls;

(e) Use of whole or split tires for tire fences, barriers, dock and racetrack bumpers, ornamental planters, agricultural uses such as raised beds, or other uses in which the user incurs little or no cost, the use is of limited economic value, and the use does not take place within a market;

(f) Use of tire buffings.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.710, 459.772, 459.775, 459.780

REPEAL: 340-064-0115

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Who May Apply for a Reimbursement

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) A person who uses waste tires generated in Oregon may apply to the Department for a partial reimbursement.

(2) To be eligible for the reimbursement, the user of a waste tire shall be the end user of the waste tire, chips or similar material for energy recovery or other appropriate uses pursuant to OAR 340-064-0110. The end user need not be located in Oregon.

(3) For purposes of the reimbursement, the end user shall document the number of pounds of waste tires, chips or similar materials used by proof of purchase or sale, as appropriate, of the waste tires, chips or similar materials to or from another person. In order to qualify as a purchase or sale, the transaction cannot take place between two persons (including a firm or corporation) if:

(a) One of the persons has a financial interest in the other;

(b) One of the persons is a subsidiary of the other;

(c) The family of one of the persons has an interest in the other firm or corporation;

(d) The two firms or corporations have common officers or common directors.

STATUTORY/OTHER AUTHORITY: ORS 459

STATUTES/OTHER IMPLEMENTED: ORS 459.780

REPEAL: 340-064-0120

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Application for Reimbursement

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) Application for reimbursement for use of waste tires shall be made on a form provided by the Department.

(2) An applicant may apply in advance for certification ("advance certification") from the Department that his or her proposed use of waste tires shall be eligible for reimbursement:

(a) Such advance certification may be issued by the Department if the applicant proves to the Department's satisfaction that:

(A) The use being proposed is an eligible use under OAR 340-064-0110;

(B) The applicant is an eligible end user under OAR 340-064-0010(11);

(C) The applicant will be able to document that the waste tire used were generated in Oregon; and

(D) The applicant will be able to document the number of net pounds of waste tires used.

(b) The applicant must still apply to the Department for reimbursement for waste tires actually used, and document the amount of that use, pursuant to sections (3) and (4) of this rule;

(c) Advance certification issued by the Department to an applicant shall not guarantee that the applicant shall receive any reimbursement funds. The burden of proof shall be on the applicant to document that the use for which reimbursement is requested actually took place, and corresponds to the use described in the advance certification.

(3) An applicant may apply to the Department directly for the reimbursement each quarter without applying for advance certification. The application shall be on a form provided by the Department.

(4) To apply for reimbursement for the use of waste tires an applicant shall:

(a) Apply to the Department no later than 30 days after the end of the quarter in which the waste tires were used;

(b) Unless the applicant holds an advance certification for the use of waste tires for which they are applying, prove to the Department's satisfaction that:

(A) The use being proposed is an eligible use under OAR 340-064-0110; and

(B) The applicant is an eligible end user under OAR 340-064-0010(11) and 340-064-0115.

(c) Provide documentation acceptable to the Department, such as bills of lading, that the tires, chips or similar materials used were from waste tires generated in Oregon;

(d) Provide documentation acceptable to the Department of the net amount of pounds of waste tires used (including embedded energy from waste tires) in the quantity of product sold, purchased or used. Examples of acceptable documentation are:

(A) For tire-derived fuel: receipts showing tons of tire-derived fuel purchased;

(B) For incineration of whole tires producing process heat, steam or electricity: Records showing net tons of rubber burned;

(C) For pyrolysis plants producing electricity or process heat or steam: Billings showing sales of kilowatt hours or tons of steam produced by the tire pyrolysis, calculations certified by a professional engineer showing how many net pounds of tires were required to generate that amount of energy, receipts or bills of lading for the number of waste tires actually used to produce the energy, and gross pounds of rubber from waste tires fed into the processing machine;

(D) For pyrolysis technologies producing combustible hydrocarbons and other salable products: Billings to customers showing amounts of pyrolysis-derived products sold (gallons, pounds, etc.) with calculations certified by a professional engineer showing the number of net pounds of waste tires, including embedded energy, used to produce those products; and gross pounds of rubber from waste tires fed into the processing machine;

(E) For end users of tire strips, chunks, rubber chips, crumbs and the like in the manufacture of another product: Billings to purchasers for the product sold, showing net pounds of rubber used to manufacture the amount of product sold;

(F) For end users of tire chips in rubberized asphalt, or as road bed material and the like: billings or receipts showing the net pounds of rubber used;

(G) For end users of whole tires: Documentation of the weight of the tires used, exclusive of any added material such as ballast or ties.

(e) Submit a notarized affidavit warranting that the information provided in claiming the reimbursement is true and correct to the best of the applicant's knowledge.

(5) The Department may require any other information necessary to determine whether the proposed use is in accordance with Department statutes and rules.

(6) An applicant for a reimbursement for use of waste tires, and the person supplying the waste tires, tire chips or similar materials to the applicant, for which the reimbursement is requested, are subject to audit by the Department (or Secretary of State) and shall allow the Department access to all records during normal business hours for the purpose of determining compliance with this rule.

(7) In order to apply for a reimbursement, an applicant must have used an equivalent of at least 10,000 pounds of waste tires or 500 passenger tires after the effective date of this rule. Waste tires may be used in more than one quarter to reach this threshold amount.

(8) In addition to any other penalty imposed by law, any person who knowingly or intentionally provides false information to the Department in claiming a reimbursement shall be ineligible to receive any reimbursement under OAR 340-064-0100 through 340-064-0135.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.775, 459.780, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.775, 459.780

REPEAL: 340-064-0130

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Basis of Reimbursement

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) In order to be eligible for reimbursement, the use of waste tires must occur after November 8, 1988 and the waste tires must be purchased no later than the calendar quarter immediately preceding July 1, 1992.

(2) Any one waste tire shall be subject to only one request for reimbursement.

(3) The amount of the reimbursement shall be based on \$.01 per pound for rubber derived from waste tires which is used by an applicant.

(4) Before June 30, 1991, the Department may authorize reimbursement funds for demonstration projects at a rate exceeding the above per pound amount if:

(a) The project does not use the waste tires for energy recovery;

(b) There is no established market in Oregon for the use which is to be demonstrated;

(c) The total funds spent on any given project do not exceed \$100,000 per project;

(d) The project is located in Oregon;

(e) Advance certification for the project is obtained from the Department; and

(f) The project is completed before June 30, 1992.

(5) The amount of rubber used shall be based on sales of product containing the rubber; or if the applicant is an end user who consumes and does not further sell the tires, chips or similar materials, the reimbursement shall be based on net pounds of materials purchased or used.

(6) Notwithstanding section (3) of this rule, the amount of reimbursement to an end user for an eligible use of tires shall not exceed the out-of-pocket cost to the end user of using the tires.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.775, 459.780

REPEAL: 340-064-0135

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Processing and Approval of Applications

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

- (1) An applicant shall submit a complete application for a reimbursement to the Department within 30 days of the end of the quarter in which the waste tires were used. The Department shall act on an application only if it is complete.
- (2) If an application is late or incomplete, the Department shall not act on the application.
- (3) The applicant may submit additional information required by the Department to complete the application. However, the Department may choose not to act on such an application until the end of the following quarter.
- (4) The Department shall review a complete reimbursement application form for overall eligibility. The Department shall then determine the eligible number of pounds of rubber used.
- (5) When the Department has received and reviewed pursuant to section (4) of this rule all completed applications for reimbursement for a quarter, the Department shall calculate the total dollar amount of eligible reimbursements requested at \$.01 per pound of rubber used.
- (6) The Department shall determine the amount of available funds in the Waste Tire Recycling Account.
- (7) If the amount of eligible reimbursements requested exceeds the amount of funds available for reimbursement, the Commission shall prorate the amount of all reimbursements for eligible uses received for that quarter. The time period for reimbursement as specified by the Commission shall be a calendar quarter. The proration shall be done as follows:
 - (a) First, in-state users shall receive 100 percent of the eligible amount requested up to the amount of funds available. Available funds in the Waste Tire Recycling Amount shall be reduced by that amount;
 - (b) Remaining available funds in the Waste Tire Recycling Account shall then be prorated among all eligible out-of-state users. This proration shall be based on an equal reduction per pound of rubber used by all remaining eligible applicants;
 - (c) If insufficient funds are available to reimburse eligible in-state users, the Commission shall prorate the amount of available funds among the eligible in-state users and not reimburse eligible out-of-state users for waste tires used in that quarter.
- (8) When the final amount of reimbursement for all applicants under subsections (7)(a), (b) and (c) of this rule has been determined, the Department shall make payment in that amount to each applicant.
- (9) Both in-state and out-of-state users may reapply again in the next quarter for reimbursement for the waste tires, chips or similar materials used but not reimbursed during the previous quarter.
- (10) Within 30 days of the filing of an application for advance certification, the Department shall request any additional information needed to complete the application. The application is not complete until such additional information requested by the Department has been received.
- (11) If the Department determines that an application for advance certification is eligible, it shall within 60 days of receipt of a completed application issue an advance certification.
- (12) The Department shall process applications for reimbursement which have "advance certification" before acting on other applications.
- (13) To ensure that a use continues to be eligible for the reimbursement, the Department may review the eligibility of an approved advance certification form:
 - (a) Annually;
 - (b) After any revision of this rule; or
 - (c) After a finding of the Commission that a reimbursement is not necessary to promote the use of waste tires.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.780

REPEAL: 340-064-0150

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Use of Waste Tire Site Cleanup Funds

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) The Department may use cleanup funds in the Waste Tire Recycling Account, subject to the priorities set in OAR 340-064-0090, to:

(a) Pay to remove or process waste tires from a permitted waste tire storage site, if the Commission or director finds that such use is appropriate pursuant to ORS 459.780(2) and OAR 340-064-0160;

(b) Pay to remove or process waste tires or waste tire materials from a site pursuant to a signed negotiated settlement entered into by the Department and the applicable persons, pursuant to OAR 340-064-0155;

(c) Pay for abating a danger or nuisance created by waste tires or other waste tire materials, subject to cost recovery by the Attorney General pursuant to OAR 340-064-0165;

(d) Partially reimburse a local, state or federal government unit for the cost it incurred in abating a waste tire danger or nuisance. The Department may reimburse from 90 to 99 percent of the cleanup cost based on the degree of environmental risk posed by the site, as determined by OAR 340-064-0155;

(e) Cleanup funds may also be used under this rule to pay for removal of tires exempt by definition from Department regulation, if such tires are comingled with other waste tires.

(2) The Commission authorizes the Director to make a finding of whether use of cleanup funds is appropriate to assist a permittee, pursuant to ORS 459.780(2), provided that the Director's finding is based on criteria in this rule, OAR 340-064-0155 and 340-064-0160.

(3) Priority in use of cleanup funds shall go to sites ranking higher than other potentially eligible sites in criteria making them an environmental risk, pursuant to OAR 340-064-0155.

(4) For the Department to reimbursement a local, state or federal government unit for waste tire danger or nuisance abatement, the following must happen:

(a) The Department must determine that the site ranks high in priority criteria among remaining waste tire piles for use of cleanup funds, OAR 340-064-0155;

(b) The local, state or federal government unit and the Department must have an agreement on how the waste tires shall be properly disposed of;

(c) The agreement may require the local, state or federal government unit to assist the Department with recovery of costs from the responsible party if the cost of the abatement is \$50,000 or more, or if the local, state or federal government unit wishes to pursue cost recovery from an abatement regardless of the cost.

(5) The Department may condition use of Waste Tire Recycling Account funds on use of a contractor who has a performance record free of significant violations of waste tire storage and carrier rules and statutes for the three years prior to a subject cleanup.

STATUTORY/OTHER AUTHORITY: ORS 459.775, 459.780, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.775, 459.780

REPEAL: 340-064-0155

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Criteria for Use of Funds to Clean Up Permitted Waste Tire Sites or Conclude Negotiated Settlements for Cleanups

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) The Department shall establish an environmental ranking for waste tire piles of permittees requesting cleanup funds or of applicable parties requesting a negotiated settlement for cleanup, based on potential degree of environmental risk created by the tire pile. Sites with a higher ranking will in general be cleaned up before lower ranked sites. The following special circumstances shall serve as criteria in determining the degree of environmental risk. The criteria, listed in priority order, include but are not limited to:

(a) Susceptibility of the tire pile to fire. In this, the Department shall consider:

(A) The characteristics of the pile that might make it susceptible to fire, such as how the tires are stored (height and bulk of piles), the absence of fire lanes, lack of emergency equipment, presence of easily combustible materials, and lack of site access control;

(B) How a fire would impact the local air quality; and

(C) How close the pile is to natural resources or property owned by third persons that would be affected by a fire at the tire pile.

(b) Other characteristics of the site contributing to environmental risk, including susceptibility to mosquito infestation;

(c) Other special conditions which justify immediate cleanup of the site;

(d) A local fire district or a local government deems the site to be a danger or nuisance, or an environmental concern that warrants immediate removal of all waste tires.

(2) In determining the degree of environmental risk involved in the two criteria above, the Department shall consider:

(a) Size of the tire pile (number of waste tires);

(b) How close the tire pile is to population centers. The Department shall especially consider the population density within five miles of the pile, and location of any particularly susceptible populations such as hospitals.

(3) In the case of a waste tire storage permittee which is also a local government:

(a) The following special circumstances may also be considered by the Department in determining whether financial assistance to remove waste tires is appropriate:

(A) The tire pile was in existence before January 1, 1988;

(B) The waste tires were collected from the public, and the local government did not charge a fee to collect the tires for disposal;

(C) The pile consists of at least 1,000 waste tires.

(b) If all the above conditions are present, the Department may assist the local government with up to 80 percent of the net cost of tire removal, based on an index. The index will be determined by dividing the local government's population by the number of waste tires at the site. The percentage of cleanup cost which could be covered by financial assistance is as follows:

Table 1

FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS

Index % Financial Assistance

Less than 1.0 80%

1.0–9.9 70%

10.0–99.9 60%

100.0–499.9 50%

Greater than 500 25%

(c) If a local government is out of compliance with its waste tire storage permit, the percentage of financial assistance

from Table 1 may be reduced by ten percentage points.

(4) For waste tire pile cleanups initiated after the effective date of this rule, in determining the amount of financial assistance to a permittee who is not a local government, or the share of the applicable parties' costs under a negotiated settlement, the Department may use the following criteria:

(a) If the waste tire pile contains fewer than 1,000 passenger tire equivalents: The Department may pay 100 percent of the cost;

(b) If the waste tire pile contains from 1,000 to 100,000 passenger tire equivalents: The Department may pay 90 percent of the cost if the permittee or applicable party is a private individual or partnership; the Department may pay 80 percent of the cost for a corporation;

(c) If the waste tire pile contains more than 100,000 passenger tire equivalents: The Department will perform an analysis of the financial situation of the person. The person will be subject to a "spend-down" contribution to the cost of the cleanup based on the following:

(A) For individuals and partnerships:

(i) Income spend-down: The amount of the person's average gross income for the three preceding years less \$32,000 must be contributed to the cost of the cleanup; and

(ii) Asset spend-down: The amount of the person's net assets (excluding one automobile and homestead, and, for businesses, excluding building, equipment and inventory) less \$20,000 must be contributed to the cost of the cleanup;

(iii) However, the total spend-down requirement shall not exceed half of the person's average gross annual income for the preceding three years.

(B) For corporations:

(i) Income spend-down: The average gross household income for the three preceding years of each of the corporate officers who are also corporate stockholders, less \$32,000 for each officer, must be contributed to the cost of the cleanup;

(ii) Asset spend-down: The amount of the corporation's net assets (excluding building, equipment and inventory) less \$20,000 must be contributed to the cost of the cleanup; and

(iii) The Department's contribution to the cost of a cleanup for a corporation shall not exceed 80 percent.

(d) If a permittee or applicable party (other than a corporation) believes that the contribution required by the criteria in subsection (4)(b) of this rule would cause him or her financial hardship, he or she may request that the Department perform a financial analysis. After the analysis, the Department may reduce the required contribution as follows:

(A) The person's contribution may be limited to 50 percent of his or her average gross annual income for the preceding three years; or

(B) If the person's combined average income for the preceding three years and current net assets (excluding one automobile and homestead, and, for businesses, excluding building, equipment and inventory) are less than \$32,000, the person's cost share may be reduced to \$0.

(e) In order for the Department to complete any financial analysis under subsection (c) or (d) of this section, the person must submit state and federal tax returns for the past three years, a business statement of net worth, and similar materials. If the person is a business, the income and net worth of other business enterprises in which the principals of the person's business have a legal interest must also be submitted.

(5) The criteria in section (4) of this rule may not be applied retroactively to waste tire pile cleanups completed before the effective date of the rule.

(6) The criteria in section (4) of this rule may be applied to the cleanup of only those waste tire piles that existed before January 1, 1988, unless the Department determines that special circumstances exist which justify an exception.

(7) The director retains the discretion to depart from the criteria in subsections (4)(b) and (c) of this rule in extraordinary circumstances.

(8) A permittee or applicable party may receive financial assistance or conclude a negotiated settlement with the Department for no more than one complete waste tire removal or processing job.

(9) The Department may advance funds for up to 100 percent of the cost of the removal of processing of waste tires or

waste tire materials from a permitted waste tire site, if:

(a) The permittee demonstrates that it cannot pay its share of the cleanup cost, as calculated according to section (4) of this rule, at the time the cleanup is completed; and

(b) The permittee signs an agreement to repay the Department its share of the cleanup costs within a schedule agreeable to the Department, and with such guarantees as the Department deems appropriate.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.775, 459.780, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.775, 459.780

REPEAL: 340-064-0160

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Procedure for Use of Cleanup Funds for a Permitted Waste Tire Storage Site

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) The Department may recommend to the Commission or the director may find that cleanup funds should be made available to pay for cleanup of a permitted waste tire storage site, if all of the following are met:

(a) The site ranks relatively high in the criteria making it an environmental risk, pursuant to OAR 340-064-0155;

(b) The permittee submits to the Department a compliance plan to remove or process the waste tires. The plan shall include:

(A) A detailed description of the permittee's proposed actions, including how the waste tires will be processed or recycled;

(B) A time schedule for the removal and or processing, including interim dates by when part of the tires will be removed or processed;

(C) An estimate of the net cost of removing or processing the waste tires using the most cost-effective alternative. This estimate must be documented;

(D) Three bids competitively obtained from responsible contractors. The plan shall also show that the permittee selected the lowest responsible contractor. The contractor shall either be a waste tire carrier permitted by the Department, or be capable of processing the waste tires on site, or otherwise demonstrate why no such permit is required for the cleanup.

(c) The plan receives approval from the Department.

(2) As an alternative to subsections (1)(b) and (c) of this rule, the Department may obtain competitive bids to have the waste tires removed or processed. In such case the permittee shall be responsible for paying its share of the costs as determined by the criteria in OAR 340-064-0155 to the Department after the waste tires have been removed.

(3) If the Commission or the director finds that use of cleanup funds is appropriate, the Department shall agree to pay Department-approved costs in an amount determined by the criteria in OAR 340-064-0155 incurred by the permittee to remove or process the waste tires. Final payment shall be withheld until the Department's final inspection and confirmation that the tires have been removed or processed pursuant to the compliance plan and until the Department receives written documentation satisfactory to the Department that the permittee's share of the costs have been paid.

STATUTORY/OTHER AUTHORITY: ORS 459.770, 459.775, 459.780, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.775, 459.780

REPEAL: 340-064-0165

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Use of Cleanup Funds for Abatement by the Department

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) The Department may use funds in the Account to contract for the abatement of:

(a) A waste tire pile or other waste tire materials for which a person has failed to apply for or obtain a waste tire storage site permit;

(b) A permitted waste tire storage site if the permittee fails to meet the conditions of such permit;

(c) A waste tire pile or other waste tire materials which an owner of real property has failed to remove as required by the Department.

(2) The Department may abate any danger or nuisance created by waste tires or other waste tire materials by removing or processing the tires or waste tire materials. The Department shall follow environmental risk criteria in OAR 340-064-0155 in determining which sites shall be subject to abatement.

(3) Before taking any action to abate the danger or nuisance, the Department shall give any persons having the care, custody or control of the waste tires or waste tire materials, or owning the property upon which the tires are located, notice of the Department's intentions and order the person to abate the danger or nuisance in a manner approved by the Department.

(4) The Department may bring an action or proceeding against the property owner or the person having possession, care, custody or control of the waste tires or other waste tire materials to enforce the abatement order issued under ORS 459.780.

(5) If a person fails to take action as required under section (3) of this rule within the time specified, the Director may contract to abate the danger or nuisance.

(6) The order issued under section (3) of this rule may include entering the property where the danger or nuisance is located, taking the tires and waste tire materials into public custody and providing for their processing or removal.

(7) After the abatement, the Department, upon request, may conduct a hearing according to the provisions of ORS 183.310 to 183.550 applicable to contested case hearings to determine the financial responsibility of any party involved. Any person requesting a hearing shall present his or her reasons why he or she should not be considered financially responsible for the costs of the abatement. If a hearing is not requested, the Department may proceed to recover the costs incurred in abating the waste tires or other waste tire materials. This shall include providing an invoice to the responsible party with the Department's costs incurred in the abatement.

(8) The Department may bring an action or proceeding to recover any reasonable and necessary expenses incurred by the Department for abatement costs, including administrative and legal expenses. The Department's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary. In general, the Department will consider a person or persons who were the subject of an abatement conducted by the Department under this rule to be responsible for repaying the Department for the full costs of the abatement.

STATUTORY/OTHER AUTHORITY: ORS 459.775, 459.780, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.775, 459.780

REPEAL: 340-064-0170

RULE TITLE: Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Procedure for Use of Cleanup Funds by Negotiated Settlement

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Repealing rule.

RULE TEXT:

(1) Instead of entering an order, the Department may enter into a negotiated settlement with any or all of the applicable parties, allowing the Department to enter and remove the waste tires or other waste tire materials on the property, if the following criteria are met:

(a) The site ranks high among other remaining sites in the criteria making it an environmental risk, pursuant to OAR 340-064-0155;

(b) The applicable parties agree to allow the Department or its contractors to enter the property and remove the waste tires or other waste tire materials;

(c) The applicable parties agree to pay to the Department, if so required by the Department pursuant to criteria in OAR 340-064-0155, either of the following:

(A) A specified sum of money representing the Department's costs in removing the waste tires or other waste tire materials from the property; or

(B) If the exact amount of the costs is unknown at the time of the agreement, a percentage of the Department's final costs incurred in removing the waste tires or other waste tire materials from the property.

(2) Upon completion of the waste tire removal, the Department shall send to the applicable parties a certified statement indicating the total cost of removal and the percentage of the total costs the parties are required to pay to the Department, if any.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.780

AMEND: 340-093-0030

RULE TITLE: Definitions

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Moving content and definitions from 064-0010.

RULE TEXT:

As used in OAR chapter 340, divisions 93, 94, 95, 96 and 97 unless otherwise specified:

- (1) "Acceptable Risk Level" has the meaning as defined in OAR 340-122-0115 of the Hazardous Substance Remedial Action Rules.
- (2) "Access Road" means any road owned or controlled by the disposal site or waste tire storage site owner that terminates at the disposal site or waste tire storage site and that provides access for users between the disposal site or waste tire storage site entrance and a public road.
- (3) "Agricultural Waste" means waste on farms resulting from the raising or growing of plants and animals including but not limited to crop residue, manure, animal bedding, and carcasses of dead animals.
- (4) "Agricultural Composting" means composting conducted by an agricultural operation (as defined in ORS 467.120(2)(a) on lands used for farming (as defined in ORS 215.203).
- (5) "Agronomic Application Rate" means land application of no more than the optimum quantity per acre of compost, sludge or other materials. In no case may such application adversely impact the waters of the state. Such application must be designed to:
 - (a) Provide the amount of nutrient, usually nitrogen, needed by crops or other plantings, to prevent controllable loss of nutrients to the environment;
 - (b) Condition and improve the soil comparable to that attained by commonly used soil amendments; or
 - (c) Adjust soil pH to desired levels.
- (6) "Airport" means any area recognized by the Oregon Department of Transportation, Aeronautics Division, for the landing and taking-off of aircraft which is normally open to the public for such use without prior permission.
- (7) "Anaerobic Digestion" means the controlled biological breakdown of biodegradable organic material in the absence of oxygen.
- (8) "Aquifer" means a geologic formation, group of formations or portion of a formation capable of yielding usable quantities of groundwater to wells or springs.
- (9) "Asphalt paving" means asphalt which has been applied to the land to form a street, road, path, parking lot, highway, or similar paved surface and that is weathered, consolidated, and does not contain visual evidence of fresh oil.
- (10) "Assets" means all existing and probable future economic benefits obtained or controlled by a particular entity.
- (11) "Baling" means a volume reduction technique whereby solid waste is compressed into bales for final disposal.
- (12) "Base Flood" means a flood that has a one percent or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on the average of a significantly long period.
- (13) "Beneficial Use" means the productive use of solid waste in a manner that will not create an adverse impact to public health, safety, welfare, or the environment.
- (14) "Beneficial Use Determination" means the approval of a beneficial use of a solid waste pursuant to OAR 340-093-0260 through 340-093-0290 either as a standing beneficial use or as a case-specific authorization.
- (15) "Biogas" is a gas produced through anaerobic digestion and is primarily composed of methane and carbon dioxide, but also may contain impurities such as hydrogen sulfide.
- (16) "Biological Waste" means blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that cannot be directly discarded into a municipal sewer system, and waste materials saturated with blood or body fluids, but does not include diapers soiled with urine or feces.
- (17) "Biosolids" means solids derived from primary, secondary or advanced treatment of domestic wastewater which have been treated through one or more controlled processes that significantly reduce pathogens and reduce volatile solids or chemically stabilize solids to the extent that they do not attract vectors.

- (18) "Clean Fill" means material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving, which do not contain contaminants which could adversely impact the waters of the State or public health. This term does not include putrescible wastes, construction and demolition wastes and industrial solid wastes.
- (19) "Cleanup Materials Contaminated by Hazardous Substances" means contaminated materials from the cleanup of releases of hazardous substances into the environment, and which are not hazardous wastes as defined by ORS 466.005.
- (20) "Closure Permit" means a document issued by the department bearing the signature of the Director or his/her authorized representative which by its conditions authorizes the permittee to complete active operations and requires the permittee to properly close a land disposal site and maintain and monitor the site after closure for a period of time specified by the department.
- (21) "Commercial Solid Waste" means solid waste generated by stores, offices, including manufacturing and industry offices, restaurants, warehouses, schools, colleges, universities, hospitals, and other non-manufacturing entities, but does not include solid waste from manufacturing activities. Solid waste from business, manufacturing or processing activities in residential dwellings is also not included.
- (22) "Commission" means the Environmental Quality Commission or the Commission's authorized designee.
- (23) "Composted material" or "Compost" is the solid material resulting from the composting process. It includes both the material produced from aerobic composting and the solid digestate produced by anaerobic digestion, although the solid digestate may require additional composting in order to be suitable for certain applications.
- (24) "Composting" means the managed process of controlled biological decomposition of feedstocks. A managed process includes, but is not limited to, reducing feedstock particle size, adding moisture, mixing feedstocks, manipulating composting piles, and performing procedures to achieve human pathogen reduction. "Composting" includes both aerobic composting and anaerobic digestion. Other examples of composting include bokashi, fermentation, and vermiculture.
- (25) "Composting Facility" means a site or facility composting feedstocks to produce a useful product through a managed process of controlled biological decomposition. Examples of composting facilities include sites used for composting windrows and piles, anaerobic digestion, vermiculture, vermicomposting and agricultural composting.
- (26) "Construction and Demolition Waste" means solid waste resulting from the construction, repair, or demolition of buildings, roads and other structures, and debris from the clearing of land, but does not include clean fill when separated from other construction and demolition wastes and used as fill materials or otherwise land disposed. Such waste typically consists of materials including concrete, bricks, bituminous concrete, asphalt paving, untreated or chemically treated wood, glass, masonry, roofing, siding, plaster; and soils, rock, stumps, boulders, brush and other similar material. This term does not include industrial solid waste and municipal solid waste generated in residential or commercial activities associated with construction and demolition activities.
- (27) "Construction and Demolition Landfill" means a landfill that receives only construction and demolition waste.
- (28) "Conversion Technology Facility" means a facility that uses primarily chemical or thermal processes other than melting (changing from solid to liquid through heating without changing chemical composition) to produce fuels, chemicals, or other useful products from solid waste. These chemical or thermal processes include, but are not limited to, distillation, gasification, hydrolysis, pyrolysis, thermal depolymerization, transesterification and animal rendering, but do not include direct combustion, composting, anaerobic digestion, melting, or mechanical recycling. Mills that primarily use mechanical recycling or melting to recycle materials back into similar materials are not considered to be conversion technology facilities, even if they use some chemical or thermal processes in the recycling process.
- (29) "Corrective Action" means action required by the department to remediate a release of constituents above the levels specified in 40 CFR § 258.56 or OAR chapter 340 division 40, whichever is more stringent.
- (30) "Cover Material" means soil or other suitable material approved by the department that is placed over the top and side slopes of solid wastes in a landfill.
- (31) "Cultures and Stocks" means etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and

discarded live and attenuated vaccines. "Culture" does not include throat and urine cultures.

(32) "Current Assets" means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(33) "Current Liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(34) "Department" means the Department of Environmental Quality.

(35) "Digestate" means both solid and liquid substances that remain following anaerobic digestion of organic material in a composting facility. "Solid digestate" means the solids resulting from anaerobic digestion, and "liquid digestate" means the liquids resulting from anaerobic digestion.

(36) "Digested Sewage Sludge" means the concentrated sewage sludge that has decomposed under controlled conditions of pH, temperature and mixing in a digester tank.

(37) "Director" means the Director of the Department of Environmental Quality or the Director's authorized designee.

(38) "Disposal Site" means land and facilities used for the disposal, handling, treatment or transfer of or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, land application units (except as exempted within the definition of solid waste in this rule), transfer stations, conversion technology facilities, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting facilities and land and facilities previously used for solid waste disposal at a land disposal site. The term "disposal site" does not include a facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste; a facility subject to the permit requirements of ORS 468B.050; a site that is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable clean fill material, unless the site is used by the public either directly or through a collection service; or a site operated by an automobile dismantler issued a certificate under ORS 822.110.

(39) "Domestic Solid Waste" includes, but is not limited to, residential (including single and multiple residences), commercial and institutional wastes, as defined in ORS 459A.100; but the term does not include:

(a) Sewage sludge or septic tank and cesspool pumpings;

(b) Building demolition or construction wastes and land clearing debris, if delivered to a disposal site that is limited to those purposes and does not receive other domestic solid wastes;

(c) Source separated recyclable materials, or material recovered at a disposal site or waste tire storage site for recycling;

(d) Industrial waste going to an industrial waste facility; or

(e) Waste received at an ash monofill from an energy recovery facility.

(40) "Endangered or Threatened Species" means any species listed as such pursuant to Section 4 of the federal Endangered Species Act and any other species so listed by the Oregon Department of Fish and Wildlife.

(41) "Energy Recovery" means recovery in which all or a part of the solid waste materials are processed to use the heat content, or other forms of energy, of or from the material. Energy recovery includes the direct combustion of solid waste in an energy recovery facility and the production of fuels intended to be burned as an energy source, such as the pyrolysis of plastics to produce fuel oils or the grinding of wood waste to produce combustion fuel.

(42) "Energy Recovery Facility" means a facility that directly combusts solid waste and uses the heat energy generated for some useful purpose such as to produce electricity or to produce steam to be used in an industrial process.

(43) "Feedstock" means organic and other solid wastes used in a composting process to produce composted material, or used in a conversion technology facility to produce other products. For composting, four types of feedstocks are defined:

(a) Type 1 feedstocks include source-separated yard and garden wastes, wood wastes, agricultural crop residues, wax-coated cardboard, vegetative food wastes including department approved industrially produced vegetative food waste, and other materials the department determines pose a low level of risk from hazardous substances, physical contaminants and human pathogens. Type 1 feedstocks also include digestate derived only from type 1 feedstocks.

(b) Type 2 feedstocks include manure and bedding and other materials the department determines pose a low level of

risk from hazardous substances and physical contaminants and a higher level of risk from human pathogens compared to type 1 feedstock. Type 2 feedstocks also include digestate derived from feedstocks that include Type 2 feedstocks but does not include any type 3 or type X feedstock.

(c) Type 3 feedstocks include dead animals, meat and source-separated mixed food waste and industrially produced non-vegetative food waste. They also include other materials the department determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens compared to type 1 and 2 feedstocks. Type 3 feedstocks also include digestate derived from feedstocks that include Type 3 feedstocks but does not include any type X feedstock.

(d) Type X feedstocks include specified risk material (SRM) from bovine animal mortality and animal by-products from slaughter that pose a risk to the environment and public health from exposure to prions that can cause Bovine Spongiform Encephalitis (BSE). This includes the brain, skull, eyes, trigeminal ganglia, spinal cord, vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum), and dorsal root ganglia from cattle 30 months of age and older and the distal ileum of the small intestine and the tonsils from all cattle. It also includes whole cattle from which the SRM has not been removed, cattle that are not able to walk, and cattle with symptoms that might indicate BSE disease. Type X feedstocks also include digestate that was derived from any quantity of type X feedstocks.

(44) "Financial Assurance" means a plan for:

(a) Disposal sites and waste tire storage sites setting aside financial resources or otherwise assuring that adequate funds are available to properly close and to maintain and monitor a disposal site or waste tire storage site after the site is closed according to the requirements of a permit issued by the department.

(b) Waste tire carriers setting aside financial resources or otherwise assuring that adequate funds are available to ensure compliance with and ORS 459.705 to 459.790 and waste tire carrier rules OAR 340-096-0260 to OAR 340-096-0290.

(45) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters that are inundated by the base flood.

(46) "Gravel Pit" means an excavation in an alluvial area from which sand or gravel has been or is being mined.

(47) "Groundwater" means water that occurs beneath the land surface in the zone(s) of saturation.

(48) "Hazardous Substance" means any substance defined as a hazardous substance pursuant to Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601 et seq.; oil, as defined in ORS 465.200; and any substance designated by the Commission under ORS 465.400.

(49) "Hazardous Waste" means discarded, useless or unwanted materials or residues and other wastes that are defined as hazardous waste pursuant to ORS 466.005.

(50) "Heat-Treated" means a process of drying or treating sewage sludge where there is an exposure of all portions of the sludge to high temperatures for a sufficient time to kill all pathogenic organisms.

(51) "Home composting" means composting operated and controlled by the owner or person in control of a single or multiple family dwelling unit and used to compost residential food waste produced within the dwelling unit and yard debris produced on the property.

(52) "Incinerator" means any device used for the reduction of combustible solid wastes by burning under conditions of controlled airflow and temperature.

(53) "Industrial Solid Waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under ORS Chapters 465 and 466 or under Subtitle C of the federal Resource Conservation and Recovery Act. Such waste may include, but is not limited to, waste resulting from the following processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; water treatment; and timber products manufacturing. This term does not include construction/demolition waste; municipal solid waste from manufacturing or

industrial facilities such as office or "lunch room" waste; or packaging material for products delivered to the generator.

(54) "Industrial Waste Landfill" means a landfill that receives only a specific type or combination of industrial waste.

(55) "Inert" means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.

(56) "Infectious Waste" means biological waste, cultures and stocks, pathological waste, and sharps; as defined in ORS 459.386.

(57) "Land Application Unit" means a disposal site where sludges or other solid wastes are applied onto or incorporated into the soil surface for agricultural purposes or for treatment and disposal.

(58) "Land Disposal Site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, waste pile, pit, pond, lagoon or land application.

(59) "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

(60) "Leachate" means liquid that has come into direct contact with solid waste and contains dissolved, miscible and/or suspended contaminants as a result of such contact.

(61) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(62) "Local Government Unit" means a city, county, Metropolitan Service District formed under ORS Chapter 268, sanitary district or sanitary authority formed under ORS Chapter 450, county service district formed under ORS Chapter 451, regional air quality control authority formed under ORS 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government unit responsible for solid waste management.

(63) "Low-Risk Disposal Site" means a disposal site which, based upon its size, site location, and waste characteristics, the department determines to be unlikely to adversely impact the waters of the State or public health.

(64) "Material Recovery" means any process of obtaining from solid waste, by pre-segregation or otherwise, materials which still have useful physical or chemical properties and can be reused, recycled or composted for some purpose.

(65) "Material Recovery Facility" means a solid waste management facility that separates materials for the purposes of recycling from an incoming mixed solid waste stream by using manual and/or mechanical methods, or a facility at which previously separated recyclables are collected.

(66) "Medical Waste" means solid waste that is generated as a result of patient diagnosis, treatment, or immunization of human beings or animals.

(67) "Mobile Disposal Site" means a disposal site facility that is intended to be moved from place to place in order to process wastes in different locations.

(68) "Monofill" means a landfill or landfill cell into which only one type of waste may be placed.

(69) "Municipal Solid Waste Landfill" means a discrete area of land or an excavation that receives domestic solid waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under § 257.2 of 40 CFR, Part 257. It may also receive other types of wastes such as nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction and demolition waste and industrial solid waste.

(70) "Net Working Capital" means current assets minus current liabilities.

(71) "Net Worth" means total assets minus total liabilities and is equivalent to owner's equity.

(72) "Passenger Tire" means a tire with less than an 18-inch rim diameter.

(73) "Passenger Tire Equivalent" means a measure of mixed passenger and truck tires, where five passenger tires are considered to equal one truck tire.

(74) "Pathological Waste" means biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological waste" does not include teeth or formaldehyde or other preservative agents.

(75) "Permit" means a document issued by the department which by its conditions may authorize the permittee to

construct, install, modify, operate or close a disposal site, waste tire carrier or waste tire storage site in accordance with specified limitations.

(76) "Permit Action" means the issuance, modification, renewal or revocation of a permit by the department.

(77) "Person" means the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(78) "Processing of Wastes" means any technology designed to change the physical form or chemical content of solid waste including, but not limited to, baling, composting, classifying, hydropulping, incinerating and shredding.

(79) "Public Waters" or "Waters of the State" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(80) "Putrescible Waste" means solid waste containing organic material that can be rapidly decomposed by microorganisms, and which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(81) "Recycling" means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.

(82) "Regional Disposal Site" means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this section, "immediate service area" means the county boundary of all counties except a county that is within the boundary of the Metropolitan Service District. For a county within the Metropolitan Service District, "immediate service area" means that Metropolitan Service District boundary.

(83) "Release" has the meaning given in ORS 465.200(14).

(84) "Resource Recovery" means the process of obtaining useful material or energy from solid waste and includes energy recovery, material recovery and recycling.

(85) "Retreadable Casing" means a waste tire suitable for retreading.

(86) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(87) "Salvage" means the controlled removal of reusable, recyclable or otherwise recoverable materials from solid wastes at a solid waste disposal site or waste tire storage site.

(88) "Sensitive Aquifer" means any unconfined or semiconfined aquifer that is hydraulically connected to a water table aquifer, and where flow could occur between the aquifers due to either natural gradients or induced gradients resulting from pumpage.

(89) "Sensitive Environment" means a sensitive environment defined in OAR 340-122-0115(50) of the Hazardous Substance Remedial Action Rules.

(90) "Septage" means the pumpings from septic tanks, cesspools, holding tanks, chemical toilets and other sewage sludges not derived at sewage treatment plants.

(91) "Sharps" means needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

(92) "Sludge" means any solid or semi-solid waste and associated supernatant generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

(93) "Sole Source Aquifer" means the only available aquifer, in any given geographic area, containing potable groundwater with sufficient yields to supply domestic or municipal water wells.

(94) "Solid Waste" means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or

parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid materials, dead animals and infectious waste. The term does not include:

(a) Hazardous waste as defined in ORS 466.005;

(b) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or

(c) Woody biomass that is combusted as a fuel by a facility that has obtained a permit described in ORS 468A.040.

(95) "Solid Waste Boundary" means the outermost perimeter (on the horizontal plane) of the solid waste at a landfill as it would exist at completion of the disposal activity.

(96) "Source Separate" means that the person who last uses recyclable materials separates the recyclable material from solid waste.

(97) "Tangible Net Worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(98) "Third Party Costs" mean the costs of hiring a third party to conduct required closure, post-closure or corrective action activities.

(99) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle in which a person or property is or may be transported in or drawn by upon a highway. "Tire" does not include tires from vehicles not driven on highways, including bulldozers, mobile cranes, road graders, loaders, rotary snow plows, road rollers and road sanders. Except for the purposes of disposal under OAR 340-093-0190(4), "tire" does not include tires from the following:

(a) A device moved only by human power;

(b) A device used only upon fixed rails or tracks;

(c) A motorcycle;

(d) An all-terrain vehicle, including but not limited to, three-wheel and four-wheel ATVs, dune buggies and other similar vehicles. All-terrain vehicles do not include jeeps, pick-ups and other four-wheel drive vehicles that may be registered, licensed and driven on public roads in Oregon;

(e) A device used only for farming, except a farm truck;

(f) A retreadable casing while under the control of a tire retreader or while being delivered to a tire retreader.

(100) "Tire Carrier" means a person who picks up or transports waste tires for the purpose of storage, removal to a processor or disposal. "Tire carrier" does not include the following:

(a) Solid waste collectors operating under a license or franchise from a local government unit;

(b) Persons who transport fewer than five tires for disposal;

(c) Persons who transport their own waste tires to a processor or for proper disposal;

(d) The United States, the State of Oregon, any county, city, town or municipality in this state, or any agency of the United States, the State of Oregon or a county, city, town or municipality of this state.

(101) "Tire-Derived Materials" means tire chips or other materials produced from the physical processing of waste tires and used for productive purposes and not disposal.

(102) "Tire Retailer" means a person actively engaged in the business of selling new replacement tires at retail, whose local business license or permit (if required) specifically allows such sale. To be "actively" engaged in selling new tires, the person must demonstrate to the Department's satisfaction that new replacement tires have been sold in the preceding calendar quarter.

(103) "Tire Retreader" means a person actively engaged in the business of retreading waste tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire for sale to the public.

(104) "Transfer Station" means a fixed or mobile facility other than a collection vehicle where solid waste is taken from a smaller collection vehicle and placed in a larger transportation unit for transport to a final disposal location.

(105) "Treatment" means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid waste except for composting, material recovery, or energy recovery. Treatment

includes but is not limited to detoxifying or remediating solid waste prior to disposal or beneficial use.

(106) "Treatment Facility" means a facility intended for treatment of solid waste. It includes but is not limited to soil remediation facilities and rotary kilns used to treat oily sludges. It does not include composting facilities, material recovery facilities, energy recovery facilities, incinerators, or conversion technology facilities as defined in this rule.

(107) "Truck Tire" means a tire with a rim diameter between 18 and 24.5 inches.

(108) "Underground Drinking Water Source" means an aquifer supplying or likely to supply drinking water for human consumption.

(109) "Vector" means any insect, rodent or other animal capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.

(110) "Vegetative" means feedstocks used for composting that are derived from plants including but not limited to: fruit and vegetable peelings or parts, grains, coffee grounds, crop residue, waxed cardboard and uncoated paper products. Vegetative material does not include oil, grease, or dairy products such as milk, mayonnaise or ice cream.

(111) "Vermicomposting" means the controlled and managed process by which live worms convert solid waste into dark, fertile, granular excrement.

(112) "Vermiculture" means the raising of earth worms for the purpose of collecting castings for composting or enhancement of a growing medium.

(113) "Waste Tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(114) "Water Table Aquifer" means an unconfined aquifer in which the water table forms the upper boundary of the aquifer. The water table is typically below the upper boundary of the geologic strata containing the water, the pressure head in the aquifer is zero and elevation head equals the total head.

(115) "Wellhead protection area" means the surface and subsurface area surrounding a water well, spring or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach that water well, spring, or wellfield. A public water system is a system supplying water for human consumption that has four or more service connections or supplies water to a public or commercial establishment which operates a total of at least 60 days per year, and which is used by 10 or more individuals per day.

(116) "Wood waste" means chemically untreated wood pieces or particles generated from processes commonly used in the timber products industry. Such materials include but are not limited to sawdust, chips, shavings, stumps, bark, hog-fuel and log sort yard waste, but do not include wood pieces or particles containing or treated with chemical additives, glue resin, or chemical preservatives.

(117) "Wood waste Landfill" means a landfill that receives primarily wood waste.

(118) "Woody biomass" means material from trees and woody plants, including limbs, tops, needles, leaves and other woody parts, grown in a forest, woodland, farm, rangeland or wildland-urban interface environment that is the by-product of forest management, ecosystem restoration or hazardous fuel reduction treatment.

(119) "Zone of Saturation" means a three-dimensional section of the soil or rock in which all open spaces are filled with groundwater. The thickness and extent of a saturated zone may vary seasonally or periodically in response to changes in the rate or amount of groundwater recharge, discharge or withdrawal.

STATUTORY/OTHER AUTHORITY: ORS 459.045, 468.020, 459.775, 459.780, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459, 459A, 459.705

AMEND: 340-093-0040

RULE TITLE: Prohibited Disposal

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adding "or waste tire storage site" to rule language.

RULE TEXT:

(1) No person shall dispose of or authorize the disposal of solid waste except at a solid waste disposal site or waste tire storage site permitted by the Department to receive that waste, or at a class of disposal site or waste tire storage site specifically exempted by OAR 340-093-0050(5) from the requirement to obtain a solid waste permit.

(2) Wastes prohibited from disposal at solid waste disposal sites or waste tire storage sites:

(a) Hazardous Wastes. Wastes defined as hazardous wastes must be managed in accordance with ORS 466.005 et seq. and applicable regulations;

(b) Hazardous Wastes from Other States. Wastes which are hazardous under the law of the state of origin shall not be managed at a solid waste disposal site or waste tire storage site when transported to Oregon. Such wastes may be managed at a hazardous waste facility in Oregon if the facility is authorized to accept the wastes pursuant to ORS 466.005 et seq. and applicable regulations.

(3) No person shall dispose of and no disposal site or waste tire storage site shall knowingly accept for disposal at a solid waste disposal site or waste tire storage site any of the following:

(a) Used oil as defined in ORS 468.850(5), including liquid used oil and used oil purposely mixed with other materials for the purpose of disposal, but not including cleanup materials from incidental or accidental spills where the used oil spilled cannot feasibly be recovered as liquid oil;

(b) Discarded or abandoned vehicles;

(c) Discarded large metal-jacketed residential, commercial or industrial appliances such as refrigerators, washers, stoves and water heaters;

(d) Tires, except those that meet size reduction criteria as provided in OAR 340-093-0190(4). Waste tires shall be managed and stored under a Department-issued waste tire storage permit.;

(e) Lead-acid batteries.

(4) Notwithstanding any other provision of law relating to solid waste disposal, if the state of origin prohibits or restricts the disposal of any kind of solid waste within the state of origin, such prohibition or restriction also shall apply to the disposal of the out-of-state solid waste in Oregon.

STATUTORY/OTHER AUTHORITY: ORS 459.005-418, 459.045(1)&(3), 459A.100-120, 459.235(2), 459.420, 468.065, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.005(8), 459.205(1), 459.710

AMEND: 340-093-0050

RULE TITLE: Permit Required

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adding "or waste tire storage" and "or waste tire carriers" to rule language.

RULE TEXT:

- (1) Except as provided by OAR 340-093-0050(5), no person may establish, operate, maintain or substantially alter, expand, improve or close a disposal site or waste tire storage site, and no person may change the method or type of disposal at a disposal site or waste tire storage site, until the person owning or controlling the disposal site or waste tire storage site obtains a permit therefore from the Department.
- (2) Persons owning or controlling the following classes of disposal sites must comply with the requirements in the following rules:
- (a) Municipal solid waste landfills must comply with OAR 340, division 94 "Municipal Solid Waste Landfills";
 - (b) Industrial Solid Waste Landfills, Construction and Demolition Landfills, Wood Waste Landfills and other facilities not listed in OAR 340, division 96 must comply with OAR 340, division 95 "Land Disposal Sites Other Than Municipal Solid Waste Landfills";
 - (c) Energy recovery facilities and incinerators receiving domestic solid waste must comply with OAR 340, division 96 "Special Rules Pertaining to Incineration";
 - (d) Composting facilities must comply with OAR 340-096-0060 through 340-096-0150: "Special Rules Pertaining to Composting."
 - (e) Land used for deposit, spreading, lagooning or disposal of sewage sludge, septage and other sludges must comply with OAR 340-096-0030 "Special Rules Pertaining to Sludge and Land Application Disposal Sites";
 - (f) Transfer stations and Material Recovery Facilities must comply with OAR 340-096-0040 "Transfer Stations and Material Recovery Facilities";
 - (g) Petroleum contaminated soil remediation facilities and all other solid waste treatment facilities must comply with OAR 340-096-0050 "Solid Waste Treatment Facilities"; and
 - (h) Conversion technology facilities must comply with OAR 340-096-0160 to 340-096-0200 "Conversion Technology Facilities."
- (3) Waste tire storage sites must comply with OAR 340-096-0210 through 340-096-0240.
- (4) Waste tire carriers must comply with OAR 340-096-0260 through 340-096-0290.
- (5) Persons owning or controlling the following classes of disposal sites are specifically exempted from the above requirements to obtain a permit under OAR chapter 340, divisions 93 through 97, but must comply with all other provisions of OAR chapter 340, divisions 93 through 97 and other applicable laws, rules, and regulations regarding solid waste disposal:
- (a) A facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste;
 - (b) Disposal sites, facilities or disposal operations operated under a permit issued under ORS 468B.050 if all applicable requirements in OAR chapter 340, divisions 93 through 97 have been met;
 - (c) A land disposal site used exclusively for the disposal of clean fill, unless the materials have been contaminated such that the department determines that their nature, amount or location may create an adverse impact on groundwater, surface water or public health or safety;

[NOTE: Such a landfill may require a permit from the Oregon Division of State Lands. A person wishing to obtain a permit exemption for an inert waste not specifically mentioned in this subsection may submit a request to the department with such information as the department may require to evaluate the request for exemption, under OAR 340-093-0080.]

- (d) A site or facility that conducts solid waste operations or activities that are limited to one or more of the following, excluding a site or facility where the department determines that the nature, amount or location of the materials or operations may constitute a potential threat of adverse impact on the environment or public health:
- (A) Using any amount of sewage sludge or biosolids under a valid water quality permit issued under ORS 468B.050;
 - (B) Receiving source separated materials for purposes of material recovery;
 - (C) Receiving, storing, processing or grinding wood, including painted wood, from construction and demolition and other activities to make a combustion fuel, when that fuel is to be burned at a facility that is in compliance with air quality rules;
 - (D) Receiving and processing for recycling metal, cardboard, and other non-hazardous materials that have been separated from solid waste at material recovery facilities;
 - (E) Receiving or processing plastics to make a feedstock for a conversion technology facility, except the following plastics:
 - (i) Plastics that have viable recycling markets and are acceptable in most Oregon curbside recycling collection programs, or
 - (ii) Clean polyolefin film plastics acceptable in commercial recycling programs;
 - (F) Receiving and storing used oil for transfer to another facility for processing. The facility must accept and store used oil in compliance with state and federal used oil regulations;
 - (G) Combusting fuels made in part from tire chips or wood, including painted wood, when burned for energy recovery in compliance with air quality rules;
 - (H) Transferring a container, including but not limited to a shipping container, or other vehicle holding solid waste from one mode of transportation to another (such as barge to truck); if:
 - (i) The container or vehicle is not available for direct use by the general public;
 - (ii) The waste is not removed from the original container or vehicle; and
 - (iii) The original container or vehicle does not stay in one location longer than 72 hours, unless otherwise authorized by the department.
- (6) The Department may, in accordance with a specific permit containing a compliance schedule, grant reasonable time for solid waste disposal or waste tire storage sites or waste tire carriers to comply with OAR chapter 340, divisions 93 through 97.
- (7) If it is determined by the Department that a proposed or existing disposal site or waste tire storage site is not likely to create a public nuisance, health hazard, air or water pollution or other environmental problem, the Department may waive any or all requirements of OAR 340-093-0070, 340-093-0130, 340-093-0140, 340-093-0150, 340-094-0060(2) and 340-095-0030(2) and issue a letter authorization in accordance with OAR 340-093-0060.
- (8) Each person who is required by OAR 340-093-0050 (1) through (4) and (7) to obtain a permit must:
- (a) Make prompt application to the Department therefore;
 - (b) Fulfill each and every term and condition of any permit issued by the Department to such person;
 - (c) Comply with OAR chapter 340, divisions 93 through 97;
 - (d) Comply with the Department's requirements for recording, reporting, monitoring, entry, inspection, and sampling, and make no false statements, representations, or certifications in any form, notice, report, or document required thereby; and
 - (e) Allow the Department or an authorized governmental agency to enter the property under permit at reasonable times to inspect and monitor the site and records as authorized by ORS 459.385, 459.272 and 459.760.
- (9) Failure to conduct solid waste disposal or waste tire storage or waste tire carrier requirements according to the conditions, limitations, or terms of a permit or OAR chapter 340, divisions 93 through 97, or failure to obtain a permit is a violation of OAR chapter 340, divisions 93 through 97 and may be cause for the assessment of civil penalties for each violation as provided in OAR chapter 340, division 12 or for any other enforcement action provided by law. Each and every day that a violation occurs is considered a separate violation and may be the subject of separate penalties.

STATUTORY/OTHER AUTHORITY: ORS 459A.025, 459.045, 468.020, 459.705 to 459.760

STATUTES/OTHER IMPLEMENTED: ORS 459.205, 459.215, 459.225

AMEND: 340-093-0070

RULE TITLE: Applications for Permits

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Moving content from 064-0020, 064-0040 and 064-0045 to this rule.

RULE TEXT:

(1) Any person wishing to obtain a new, modified, or renewal permit from the Department must submit a written application on a form provided by the Department. The Department must receive renewal applications at least 180 days before a permit is needed. All other applications must be received 60 days before a permit is needed. All application forms must be completed in full, signed by the applicant or the applicant's legally authorized representative, and accompanied by the specified number of copies of all required exhibits. The name of the applicant must be the legal name of the owner of the facility or waste tire carrier or the owner's agent or the lessee responsible for the operation and maintenance of the facility or waste tire carrier.

(2) The Department will accept applications for a permit only when complete, as detailed in OAR 340-093-0070 (3). Within 45 days after receipt of an application, the Department will conduct a preliminary review of the application to determine the adequacy of the information submitted. Failure to complete this review within 45 days does not preclude the Department from later requesting further information from the applicant as provided in this section.

(a) If the Department determines that additional information is needed it will promptly request the needed information from the applicant. The application will be considered to be withdrawn if the applicant fails to submit the requested information within 90 days of the request or such other time as the Department establishes in writing.

(b) If additional measures are necessary to gather facts regarding the application, the Department will notify the applicant that such measures will be instituted, and the timetable and procedures to be followed. The application will be considered to be withdrawn if the applicant fails to comply with these additional measures.

(3) An application for a new disposal site, waste tire storage or waste tire carrier permit is complete only if it:

(a) Is submitted on forms provided by the department, is accompanied by all required exhibits, follows the organizational format and includes the level of informational detail required by the Department, and is signed by the applicant and property owner or person in control of the premises;

(b) Except for mobile disposal sites and waste tire carriers, includes written recommendations of the local government unit or units having jurisdiction with respect to a new or existing disposal site or waste tire storage site, or alterations, expansions, improvements or changes in method or type of disposal at a new or existing disposal site or waste tire storage site. Such recommendations must include, but not be limited to, a statement of compatibility with the acknowledged local comprehensive plan and zoning requirements or the Land Conservation and Development Commission's Statewide Planning Goals;

(c) Identifies in list form, any other known or anticipated permits from the Department or other governmental agencies;

(d) Includes payment of application fees as required by OAR 340-097-0110 and 340-097-0120;

(e) Except for composting facilities, mobile disposal sites, waste tire carriers and facilities exempt under OAR 340-093-0070(4), includes a site characterization report prepared in accordance with OAR 340-093-0130, to establish a new disposal site or waste tire storage site or to substantially alter, expand or improve a disposal site or waste tire storage site or to make a change in the method or type of disposal at a disposal site or waste tire storage site, unless the requirements of said site characterization report have been met by other prior submittals;

(f) Except for composting facilities, waste tire carriers and facilities exempt under OAR 340-093-0070 (4), includes detailed plans and specifications as required by OAR 340-093-0140;

(g) For a new land disposal site:

(A) Includes a written closure plan that describes the steps necessary to close all land disposal units at any point during their active life under OAR 340-094-0110 to 340-094-0120 or 340-095-0050 to 340-095-0060; and

(B) Provides evidence of financial assurance for the costs of closure of the land disposal site and for post-closure maintenance of the land disposal site under OAR 340-094-0140 or 340-095-0090, unless the department exempts a

non-municipal land disposal site from this requirement under OAR 340-095-0090(2).

(h) For a new conversion technology facility:

(A) A description of the technology to be used at the facility including the types, sources, and amounts of feedstocks to be processed, the processing methods, the materials produced by the technology, the amounts of each product, the expected uses of the products, the types of materials that the products of the conversion technology facility are intended to replace, and how feedstocks, products, and other materials will be stored;

(B) A description of wastes expected to be produced by the facility including amounts, biological, chemical and physical analyses, waste storage and disposition of wastes;

(C) A description of leachate, stormwater, and process water expected to be produced at the facility, including information on the biological, chemical and physical characterization of process water and leachate and the management of leachate, stormwater, and process water;

(D) A description of flammable gases and liquids and also hazardous wastes expected to be produced by the facility, and how those materials will be managed; and

(E) The methods that will be used to minimize or exclude from feedstocks any materials that are detrimental to the conversion technology process or resultant products.

(i) For any type of mobile disposal site, includes an acknowledgement that before the mobile disposal site establishes operation in a new location, the local government unit or units having jurisdiction must provide a statement of compatibility with the acknowledged local comprehensive plan and zoning requirements or the Land Conservation and Development Commission's Statewide Planning Goals.

(j) For a new waste tire storage site:

(A) Address the requirements of ORS 459.730;

(B) Provide information required in OAR 340-096-0220 for the Department to determine the amount of financial assurance required in order to issue a waste tire storage permit.

(C) Site design and operations plans, which include:

(i) Anticipated maximum number of passenger and/or truck tires and/or tire-derived materials to be stored at the site for any given one year period;

(ii) Present and proposed method of disposal, and timetable;

(iii) How the facility will meet the technical tire storage standards in OAR 340-096-0230 for both tires and tire-derived materials currently stored on the site, and tires and tire-derived materials to be accepted;

(iv) Practices to reduce vector attraction and minimize nuisance conditions; and

(v) Procedures and timeline for site closure, including any phase-in of closure, removal of equipment and materials used to operate and maintain the site, removal and proper disposal of all waste tires and tire-derived materials from the site.

(k) Includes any other information the department may deem necessary to determine whether the proposed disposal site, waste tire storage site or waste tire carrier and the operation thereof will comply with all applicable rules of the department.

(4) If the department determines that a disposal site is a "low-risk disposal site" or is not likely to adversely impact the waters of the State or public health, the department may waive any of the requirements of OAR 340-093-0070 (3)(e) and (f), OAR 340-093-0150, 340-094-0060(2) and 340-095-0030(2). In making this judgment, the department may consider the size and location of the disposal site, the volume and types of waste received and any other relevant factor. The applicant must submit any information the department deems necessary to determine that the proposed disposal site and site operation will comply with all pertinent rules of the department.

(5) If a local public hearing regarding a proposed disposal site, waste tire storage site or waste tire carrier has not been held and if, in the judgment of the department, there is sufficient public concern regarding the proposed disposal site, waste tire storage site or waste tire carrier, the department may, as a condition of receiving and acting upon an application, require that such a hearing be held by the county board of commissioners or county court or other local government agency responsible for solid waste management, for the purpose of informing and receiving information from the public.

(6) Permit modifications:

(a) An application for a permit modification is required for:

(A) The sale or exchange of the activity or facility; or

(B) Any change in the nature of the activities or operations from those of the last application including modification or expansion of the disposal site or waste tire storage site, a change in the method or type of disposal or significant change in waste tire carrier activities.

(b) An application for a permit modification is complete only if it:

(A) Is submitted on forms provided by the department, follows the organizational format and includes the level of informational detail required by the department, and is signed by the applicant and property owner or person in control of the premises;

(B) Includes information showing the reasons for the permit modification and any information needed to document or explain the modification requested; and

(C) Includes updated information required to be submitted for new permits in OAR 340-093-0070 (3), if required by the Department. If the modification involves a substantial change in the scope or operations of the disposal site, waste tire storage site or waste tire carrier, the application must also include written recommendations from the local government unit as required for new permits under OAR 340-093-0070 (3)(b).

(7) Permit renewals:

(a) An application for a permit renewal is required if a permittee intends to continue operation beyond the permitted period. A complete renewal application must be filed at least 180 days before the existing permit expires. An application for a permit renewal is complete only if it is submitted on forms provided by the department, follows the organizational format and includes the level of informational detail required by the department, and is signed by the applicant and property owner or person in control of the premises.

(b) If the application for renewal involves a substantial change in the scope or operations of the disposal site or waste tire storage site, the application must also include written recommendations from the local government unit as required for new permits under OAR 340-093-0070 (3)(b). The department may also require the submittal of updates of the information required to be submitted for new permits in section OAR 340-093-0070 (3).

(c) If a completed application for the renewal of a permit is filed with the department in a timely manner before the expiration date of the permit, the permit does not expire until the department takes final action on the renewal application.

(d) If a completed application for the renewal of a permit is not filed with the department in a timely manner before the expiration date of the permit, the department may require the permittee to close the site and apply for a closure permit under OAR 340-094-0100 or 340-095-0050.

(8) Permits extended under OAR 340-093-0070 (7) remain fully effective and enforceable until the effective date of the new permit.

STATUTORY/OTHER AUTHORITY: ORS 459

STATUTES/OTHER IMPLEMENTED: ORS 459.235

AMEND: 340-093-0080

RULE TITLE: Variances and Permit Exemptions

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adding "or waste tire carriers" to rule language.

RULE TEXT:

(1) Variances. The Commission may by specific written variance waive certain requirements of OAR 340, divisions 93 through 97 when circumstances of the solid waste disposal or waste tire storage site location or waste tire carriers, operating procedures, and/or other conditions indicate that the purpose and intent of OAR 340, divisions 93 through 97 can be achieved without strict adherence to all of the requirements.

(2) Permit exemptions. Pursuant to OAR 340-093-0050(5), a person wishing to obtain an exemption from the requirement to obtain a solid waste permit for disposal of an inert waste in specified locations may submit a request to the Department. The applicant must demonstrate that the waste is substantially the same as "clean fill." The request shall include but not be limited to the following information:

- (a) The exact location (including a map) at which the waste is to be disposed of and a description of the surrounding area;
- (b) The monthly rate of disposal;
- (c) A copy of the Material Safety Data Sheet (or equivalent, if a MSDS is not available) for all applicable raw materials used at the facility generating the waste;
- (d) A description of the process generating the waste and how that process fits into the overall operation of the facility;
- (e) Documentation that the waste is not hazardous as defined in OAR 340, division 101. The procedure for making a hazardous waste determination is in OAR 340-102-0011;
- (f) A demonstration that the waste is inert, stable, non-putrescible, and physically similar to soil, rock, concrete, brick, building block, tile, or asphalt paving;
- (g) A demonstration that the waste will not discharge constituents which would adversely impact the waters of the state or public health.

STATUTORY/OTHER AUTHORITY: ORS 459

STATUTES/OTHER IMPLEMENTED: ORS 459.225

AMEND: 340-093-0105

RULE TITLE: Categories for Permit Actions

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Removing references to division 64.

RULE TEXT:

(1) Category 1:

(a) Waste Tire Carrier Permit under 340-096-0260.

(b) Letter Authorization under 340-093-0060.

(c) Modification to a permit that is administrative in nature or does not alter permit conditions.

(2) Category 2:

(a) Renewal of a construction and demolition debris landfill permit under 340-093-0070.

(b) Renewal of an industrial waste landfill permit under 340-093-0070.

(c) Renewal of a closure permit under 340-094-0100 and 340-095-0500.

(d) Renewal of a transfer station permit under 340-096-0040.

(e) Renewal of a material recovery facility permit under 340-096-0040.

(f) Renewal of a solid waste treatment facility permit under 340-093-0070.

(g) Renewal of a waste tire storage permit under 340-093-0050.

(h) Renewal of a solid waste composting permit under 340-093-0070.

(i) New composting facility registration issued under OAR 340-096-0100.

(j) Renewal of a composting facility registration under 340-096-0100.

(k) New conversion technology facility registration under 340-096-0190.

(l) Renewal of a conversion technology facility registration under 340-093-0070.

(m) Renewal of a conversion technology facility permit under 340-093-0070.

(n) All other modifications not listed under category 1.

(3) Category 3:

(a) New captive industrial facility permit as defined in 340-097-0120(1)(c).

(b) New transfer station or material recovery facility permit under 340-096-0040.

(c) New composting permit issued under 340-096-0110.

(d) New closure permit under 340-094-0100 and 340-095-0500.

(e) New construction and demolition landfill permit under 340-095-0001.

(f) New solid waste treatment facility permit under 340-096-0050.

(g) New off-site industrial facility permit under 340-097-0120(2)(a).

(h) New sludge disposal facility permit under 340-096-0030.

(i) New waste tire storage permit under 340-096-0210.

(j) Renewal of a municipal landfill permit under 340-093-0070.

(k) Renewal of an incinerator or energy recovery facility permit under 340-093-0070.

(l) New conversion technology facility permit under 340-096-0200.

(4) Category 4:

(a) New municipal solid waste landfill facility permit under 340-094-0001.

(b) New incinerator permit under 340-096-0010.

(c) New energy recovery facility permit under 340-097-0120(2)(a).

STATUTORY/OTHER AUTHORITY: 459A.025, 459.045, 468.020

STATUTES/OTHER IMPLEMENTED: ORS 459.245

AMEND: 340-093-0113

RULE TITLE: Department Initiated Modification of a Permit

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adding statutory authority, statutes implemented.

RULE TEXT:

If the Department determines it is appropriate to modify a permit, the Department will notify the permittee by registered or certified mail of the proposed modification and include them and the reasons for them. The modification will become effective upon mailing unless the permittee requests a hearing within 20 days. A request for hearing shall be made in writing and state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413–183.470 and OAR 340-011. If a hearing is requested, the existing permit continues in effect until a final order is issued.

STATUTORY/OTHER AUTHORITY: ORS 459A.025, 459.045, 468.020, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.245, 459.715

AMEND: 340-093-0140

RULE TITLE: Detailed Plans and Specifications Required

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adding "or waste tire storage site " to rule language.

RULE TEXT:

Except as provided in OAR 340-093-0070(4):

(1) Any person applying for a solid waste disposal or waste tire storage permit must submit plans and specifications conforming with current technological practices, and sufficiently detailed and complete so that the department may evaluate all relevant criteria before issuing a permit. The plans and specifications must follow the organizational format, and include the level of information detail, as required by the department. The department may refuse to accept plans and specifications that are incomplete and may request such additional information as it deems necessary to determine that the proposed disposal or waste tire storage site and site operation will comply with all pertinent rules of the department.

(2) Engineering plans and specifications submitted to the department must be prepared and stamped by a professional engineer with current Oregon registration.

(3) If in the course of facility construction any person desires to deviate significantly from the approved plans, the permittee must submit a detailed description of the proposed change to the department for review and approval prior to implementation. If the department deems it necessary, a permit modification must be initiated to incorporate the proposed change.

STATUTORY/OTHER AUTHORITY: ORS 459

STATUTES/OTHER IMPLEMENTED: ORS 459.015, 459.205(1)

AMEND: 340-093-0150

RULE TITLE: Construction Certification

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adding "or waste tire storage site" to rule language.

RULE TEXT:

Except as provided in OAR 340-093-0070(4):

(1) The department may require, upon completion of major or critical construction at a disposal site or waste tire storage site, that the permittee submit to the department a final project report signed by the project engineer or manager as appropriate. The report must certify that construction has been completed in accordance with the approved plans including any approved amendments thereto.

(2) If any major or critical construction has been scheduled in the plans for phase development subsequent to the initial operation, the department may require that the permittee submit additional certification for each phase when construction of that phase is completed.

(3) Solid waste may not be disposed of in any new waste management unit (such as a landfill cell) of a land disposal site unless/until the permittee has received prior written approval from the department of the required engineering design, construction, Construction Quality Assurance, operations, and monitoring plans. Only after the department has accepted a construction certification report prepared by an independent party, certifying to the department that the unit was constructed in accordance with the approved plans, may waste be placed in the unit. If the department does not respond to a certified construction certification report within 30 days of its receipt, the permittee may proceed to use the unit for disposal of the intended solid waste.

STATUTORY/OTHER AUTHORITY: ORS 459.045, 459A.025, 468.020

STATUTES/OTHER IMPLEMENTED: ORS 459.015, 459.205 - 459.245

AMEND: 340-093-0190

RULE TITLE: Wastes Requiring Special Management

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Amending and moving content from 064-0052

RULE TEXT:

(1) The following wastes require special handling or management practices, and shall not be deposited at a solid waste disposal site unless special provisions for such disposal are included in a Special Waste Management Plan pursuant to OAR 340-094-0040(11)(b)(J) or 340-095-0020(3)(j), or their disposal is otherwise approved by the Department:

(a) Agricultural Wastes. Residues from agricultural practices shall be recycled, utilized for productive purposes or disposed of in a manner not to cause vector creation or sustenance, air or water pollution, public health hazards, odors, or nuisance conditions;

(b) Construction and Demolition Materials. Due to the unusually combustible nature of construction and demolition materials, construction and demolition landfills or landfills incorporating large quantities of combustible materials shall be designed and operated to prevent fires and the spread of fires, in accordance with engineering or operations plans required by OAR 340, divisions 93 through 96. Equipment shall be provided of sufficient size and design to densely compact the material to be included in the landfill;

(c) Oil Wastes. More than 25 gallons of petroleum-bearing wastes such as used oil filters, oil-absorbent materials, suspended solids that have settled to the bottom of the tank (tank bottoms) or oil sludges shall not be placed in any disposal site unless all recoverable liquid oils are removed and special provisions for handling and other special precautions are included in the facility's approved plans and specifications and operations plan to prevent fires and pollution of surface or groundwaters. See also OAR 340-093-0040(3)(a), Prohibited Disposal;

(d) Infectious Wastes. All infectious wastes must be managed in accordance with ORS 459.386 to 459.405:

(A) Pathological wastes shall be treated by incineration in an incinerator which complies with the requirements of OAR 340-025-0850 to 340-025-0905 unless the Department determines:

(i) The disposal cost for incineration of pathological wastes generated within the individual watershed exceeds the average cost by 25 percent for all incinerators within the State of Oregon which comply with the requirements of OAR 340-025-0850 to 340-025-0905; or the generator is unable to contract with any incinerator facility within the State of Oregon due to lack of incinerator processing capacity; and

(ii) The State Health Division of the Oregon Department of Human Resources has prescribed by rule requirements for sterilizing "cultures and stocks," and this alternative means of treatment of the pathological waste is available.

(B) Sharps. Sharps may be treated by placing them in a leak-proof, rigid, puncture-resistant, red container that is taped closed or tightly lidded to prevent loss of the contents. Sharps contained within containers which meet these specifications may be disposed of in a permitted municipal solid waste landfill without further treatment if they are placed in a segregated area of the landfill;

(C) Medical Waste. Medical waste other than infectious waste as defined by ORS 459.386 or hazardous wastes as defined by ORS 466.055 may be disposed of without special treatment in municipal solid waste landfills permitted by the Department if such disposal is not prohibited in the permit.

(e) Asbestos. Wastes containing asbestos shall be disposed of pursuant to OAR 340-248;

(f) Abrasive Blast Media Containing Pesticides. Waste described in OAR 340-101-0040(1) may be disposed of at a solid waste landfill if the site meets the design criteria of 40 CFR 258.40 for new municipal solid waste landfill units;

(g) Pesticide Treated Wood. Waste described in OAR 340-101-0040(2) may be disposed of at a solid waste landfill if the site meets the design criteria of 40 CFR 258.40 for new municipal solid waste landfill units.

(2) Incinerator ash. Ash from domestic energy recovery facilities and from domestic solid waste incinerator disposal sites shall be disposed of at an ash monofill permitted by the Department. Such a monofill must meet standards in 40 CFR 258 and OAR 340, division 94.

(3) Polychlorinated Biphenyls (PCBs). Wastes containing polychlorinated biphenyls shall be disposed of pursuant to

OAR 340, division 110.

(4) Waste tires.

(a) Waste tires may be disposed of at a solid waste disposal site if the waste tires meet the following criteria:

(A) The volume of 100 unprepared randomly selected whole tires in one continuous test period must be reduced by at least 65 percent of the original volume. No single void space greater than 125 cubic inches may remain in the randomly placed processed tires. The test to comply with this subsection is follows:

(i) Unprocessed whole tire volume shall be calculated by randomly placing the 100 unprepared randomly selected whole tires in a rectangular container and multiplying the depth of unprocessed tires by the bottom area of the container;

(ii) Processed tire volume shall be determined by randomly placing the processed tire test quantity in a rectangular container and leveling the surface. It shall be calculated by multiplying the depth of processed tires by the bottom area of the container.

(B) The tires shall be reduced to an average chip size of no greater than 64 square inches in any randomly selected sample of ten tires or more. No more than 40 percent of the chips may exceed 64 square inches.

(b) Waste tires that cannot meet the processing criteria in this rule may be disposed unprocessed with written approval from the Department.

STATUTORY/OTHER AUTHORITY: ORS 459.045, 459.046, 459A.025, 468.020, 459.770, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.015, 459.205-245, 459.411-405, 459.710

AMEND: 340-096-0001

RULE TITLE: Applicability

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adding section (2).

RULE TEXT:

(1) OAR Chapter 340, Division 96 applies to energy recovery facilities and incinerators receiving solid waste delivered by the public or by a solid waste collection service, composting facilities, conversion technology facilities, sludge disposal sites, land application disposal sites, transfer stations, material recovery facilities and, solid waste treatment facilities. Such facilities are disposal sites as defined by ORS Chapter 459, and are also subject to the requirements of OAR chapter 340, division 93, financial assurance requirements as set forth in division 95 at OAR 340-095-0090 and 340-095-0095, and division 97. The Department may tailor the financial assurance requirements to the nature of the facility and may exempt low risk facilities from the financial assurance requirements. For purposes of these division 96 rules, a low risk facility is one the Department determines is not likely to generate significant amounts of residual waste materials or contamination from the operation of the facility that will remain at closure.

(2) OAR Chapter 340 Division 96 also applies to waste tire storage sites and waste tire carriers. Waste tire storage sites and waste tire carriers are both subject to financial assurance requirements. The Department will modify active permits for any waste tire storage site or waste tire carrier in operation upon the effective date of these rules and issue permits to be consistent with OAR 340, Divisions 93, 96 and 97, at no additional application fee to the permittee. The Department will modify active permits for any combined tire carrier/storage site in operation upon the effective date of these rules and issue separate waste tire carrier and waste tire storage permits. The Department will modify active permits for any beneficial use waste tire storage site in operation upon the effective date of these rules and issue waste tire storage permits.

STATUTORY/OTHER AUTHORITY: ORS 459.005 - 459.418, 459A.100 - 459A.120, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.015, 459.045

ADOPT: 340-096-0210

RULE TITLE: Waste Tire Storage Sites

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adopt and move content from 064-0005 and 064-0015

RULE TEXT:

Applicability: The purpose of OAR 340-096-0210 through 340-096-0240 is to prescribe requirements, limitations and procedures for storage, collection, and disposal of waste tires. Active waste tire storage permits, beneficial use waste tire storage permits and combined tire carrier/storage permits in operation upon the effective date of these rules will remain in effect and remain enforceable until the Department issues new permits under these rules.

(1) Except as provided by OAR 340-096-0210(2), no person shall establish, operate, maintain or expand a waste tire storage site until the person owning or controlling the waste tire storage site obtains a permit.

(2) Persons owning or controlling the following are exempted from the application and permit requirements of OAR 340-093-0070 unless the Department determines the waste tire storage site may adversely affect human health or the environment:

(a) A person who stores not more than 100 waste tires;

(b) A person who stores not more than 200 cubic yards of tire-derived materials;

(c) A tire retailer who stores not more than 1,500 waste tires for each retail business location;

(d) A tire retreader who stores not more than 3,000 waste tires for each individual retread operation so long as the waste tires are of the type the retreader is actively retreading;

(e) Storage of tire-derived materials packaged in closed plastic bags;

(f) Landfills, material recovery facilities, transfer stations and other Department-permitted solid waste disposal sites storing more than 100 waste tires, as long as the Department approved plans and specifications in the permit describe compliance with waste tire storage standards in OAR 340-096-0230;

(g) Using and storing waste tires as a ballast to maintain covers on agricultural materials or at a construction site.

(3) All waste tire storage sites shall comply with technical and operational standards in OAR 340-096-0230.

(4) All waste tire storage sites shall maintain financial assurance as required by ORS 459.720 in amounts determined by the Department.

(5) All waste tire storage sites shall comply with compliance requirements in OAR 340-096-0240.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.710, 459.712, 459.715, 459.720, 459.775, 459.780, 459.705, 459.708, 457.715

ADOPT: 340-096-0220

RULE TITLE: Financial Assurance

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adopt and move content from 064-0022

RULE TEXT:

(1) The Department shall determine for each applicant the amount of financial assurance required for waste tire storage sites. The Department shall base the amount on the estimated cost of cleanup for the maximum number of waste passenger tire equivalents and/or tire-derived materials allowed by the permit to be stored at the storage site.

(2) The Department will only accept financial assurance mechanisms listed in and complying with applicable requirements in OAR 340-095-0095.

(3) The financial assurance mechanism shall be filed with the Department and provide that the Department or a party approved by the Department is the beneficiary of the financial assurance.

(4) The Department shall make any claim on the financial assurance within one year of any notice of proposed cancellation of the financial assurance.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.720

ADOPT: 340-096-0230

RULE TITLE: Standards for Waste Tire Storage Sites

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adopt and move content from 064-0035

RULE TEXT:

(1) The holder of a waste tire storage permit shall comply with the technical and operational standards in OAR 340-096-0230.

(2) A waste tire storage site shall not be constructed or operated in a wetland, waterway, floodway, 25-year floodplain, or any area where it may be subjected to submersion in water.

(3) Operation. A waste tire storage site shall be operated in compliance with the following standards:

(a) An outdoor waste tire pile and a tire-derived material pile shall have no greater than the following maximum dimensions:

(A) Volume: 50,000 cubic feet;

(B) Area: 5,000 square feet;

(C) Height: 10 feet.

(b) Fire apparatus access roads shall have an unobstructed width of not less than 20 feet, exclusive of shoulders. Access roadways shall be within 150 feet of any point in the storage yard where waste tire piles and tire-derived material piles are located, not less than 20 feet from any waste tire pile and tire-derived material pile;

(c) Waste tire piles and tire-derived material piles shall be located at least 50 feet from buildings and lot lines;

(d) Waste tire storage piles and tire-derived material piles shall be separated by a clear space of at least 40 feet from other waste tire piles or tire-derived material piles;

(e) Waste tires to be stored for one month or longer must be ricked or horizontally stacked securely by overlapping so that the center of a tire fits over the edge of the tire below it;

(f) The permittee shall operate and maintain the site in a manner that minimizes vector attraction and nuisance conditions;

(g) A sign shall be posted at the entrance of the storage site stating operating hours, cost of disposal and site rules if the site receives tires from persons other than the operator of the site;

(h) No operations involving the use of open flames or blow torches shall be conducted within 25 feet of a waste tire storage pile or tire-derived material piles;

(i) An approach and access road to the waste tire storage site shall be maintained passable for any vehicle at all times. Access to the site shall be controlled through the use of fences, gates, or other means of controlling access;

(j) If required by the Department, the site shall be screened from public view;

(k) An attendant shall be present at all times the waste tire storage site is open for business, if the site receives tires from persons other than the operator of the site;

(l) The site shall be bermed or given other adequate protection to keep any liquid runoff from potential tire fires from entering waterways;

(m) If pyrolytic oil is released at the waste tire storage site, the permittee shall remove contaminated soil in accordance with applicable rules governing the removal, transportation and disposal of the material;

(n) In the case of waste tires stored for seasonal agricultural uses: During the annual period(s) during which the waste tires are not being used for seasonal agricultural uses, they shall be stored to meet the standards in this rule.

(4) The Department may impose additional storage requirements for an individual site which are necessary to protect the public health or the environment.

(5) The Department may approve exceptions to OAR 340-096-0230(3) if the Department determines that a waste tire storage site is not likely to adversely impact the waters of the State or public health, or be a fire hazard the department may waive any of the requirements of OAR 340-096-0230(3). In making this judgment, the Department may consider the size and location of the waste tire storage site, the volume of waste tires received, distance to surface water, and

any other relevant factors. The applicant must submit any information the Department deems necessary to determine that the proposed waste tire storage site and site operation will comply with all pertinent rules of the Department.

(6) The director may grant a variance to the technical and operational standards in this rule or the requirements of OAR 340-096-0240(3) for a waste tire storage site in existence on or before January 1, 1988. This may include certain requirements of these technical and operational standards when circumstances of the waste tire storage site location, operating procedures, and fire control protection indicate that the purpose and intent of these rules can be achieved without strict adherence to all of the requirements, or when the site is not receiving additional tires and is under a closure schedule approved by the Department.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.268, 459.710, 459.715, 459.720

ADOPT: 340-096-0240

RULE TITLE: Waste Tire Storage Site Permittee Obligations

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adopt and move content from 064-0025

RULE TEXT:

(1) Each person who is required by ORS 459.715, and OAR 340-096-0210, to obtain a permit shall:

(a) Comply with the provisions of ORS 459.705 to 459.790, OAR 340-096-0240, and any other applicable Department requirements;

(b) Inform the Department in writing within 30 days of changes that affect the permit, including but not limited to business name change, address change of the permittee and change in the form of ownership (such as from individual to partnership or corporation);

(c) Allow the Department access to the site and the permittee's records, including records required by other public agencies, for inspection by the Department.

(2) Each person who is required by ORS 459.715 and OAR 340-096-0210 to obtain a permit shall submit to the Department an annual compliance fee for the coming calendar year. The permittee shall submit evidence of required financial assurance when the annual compliance fee is submitted.

(3) Each waste tire storage site permittee shall do the following as a condition to holding the permit:

(a) Maintain records on approximate numbers of waste tires received and shipped, and tire carriers transporting the tires to fulfill the reporting requirements in OAR 340-096-0240(3)(c). The permittee shall issue receipts upon receiving loads of waste tires. Quantities may be measured by aggregate loads or cubic yards, if the permittee documents the approximate number of tires included in each. These records shall be maintained for a minimum of five years, and shall be available for inspection by the Department after reasonable notice;

(b) Maintain a record of the name (and the carrier permit number, if applicable) of the tire carriers not exempted by OAR 340-096-0260 who deliver waste tires to the site and ship waste tires from the site, together with the quantity of waste tires shipped with those carriers;

(c) Submit a report containing the following information annually:

(A) Number of waste tires received at the site during the year covered by the report;

(B) Number of waste tires shipped from the site during the year covered by the report;

(C) A list (and tire carrier permit number, if applicable) of the tire carriers not exempted by OAR 340-096-0260 delivering waste tires to the site and shipping waste tires from the site;

(D) The number of waste tires and amount of tire-derived materials located at the site at the time of the report.

(d) Notify the Department within one month of the vehicle license plate number and name, if possible, of any unpermitted tire carrier (who is not exempt under OAR 340-096-0260) who delivers waste tires to the site;

(e) If required by the Department, prepare for approval by the Department and implement:

(A) A site closure plan to remove some or all waste tires or tire-derived materials stored at the site, as required in OAR 340-093-0070(3)(j)(C)(v);

(B) A plan to process some or all waste tires stored at the site. The plan shall comply with ORS 459.705 through 459.790 and OAR 340-096-230.

(f) Maintain the financial assurance required under OAR 340-096-0220;

(g) Maintain any other plans and exhibits pertaining to the site and its operation as determined by the Department to be reasonably necessary to protect the public health, welfare or safety or the environment.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.705, 459.710, 459.720, 459.750

ADOPT: 340-096-0260

RULE TITLE: Waste Tire Carrier Permit Required

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adopt and move content from 064-0055

RULE TEXT:

(1) Any person engaged in picking up, collecting or transporting waste tires for the purpose of storage, processing or disposal must obtain a waste tire carrier permit from the Department.

(2) No person shall collect or haul waste tires or advertise or represent themselves as being in the business of a waste tire carrier without first obtaining a waste tire carrier permit from the Department. Active waste tire carrier permits and combined tire carrier/storage permits in operation upon the effective date of these rules will remain in effect and remain enforceable until the Department issues new permits under these rules.

(3) The following persons are exempt from the requirement to obtain a waste tire carrier permit:

(a) Solid waste collection service operating under a license or franchise from any local government unit;

(b) A person transporting their own waste tires to a processor or for proper disposal;

(d) Persons transporting tire-derived materials to a market;

(e) Persons transporting waste tires that meet the processed standards in OAR 340-093-0190;

(f) The United States, the State of Oregon, any county, city, town or municipality in this state or any agency of the United States, the State of Oregon or a county, city, town or municipality of this state;

(g) Persons possessing an automobile dismantler certificate issued under ORS 822.110 and transporting only tires generated from vehicles accepted for dismantling activities;

(h) Tire retailer and tire retreaders transporting waste tires generated from their business operation.

(4) In order to transport waste tires for the purpose of storage, processing or disposal, a person must apply to the Department for a waste tire carrier permit at least 90 days before beginning to transport the tires.

(5) Applications shall be made on a form provided by the Department. The application shall include information as required by the Department, including but not be limited to:

(a) The license number and registered vehicle owner for each vehicle used for transporting waste tires;

(b) Where the waste tires will be stored, processed and disposed of; and

(c) Any additional information required by the Department.

(6) A person with more than one separate business location may submit one waste tire carrier permit application which includes all the locations. All the information required in OAR 340-096-0260(5) shall be supplied by location for each individual location. That person shall be responsible for amending the application whenever any of the required information changes at any of the covered locations, including changes to vehicles used for transporting waste tires.

(7) An application for a tire carrier permit shall include the applicable application fee and an annual compliance fee as listed in OAR 340 Division 97.

(8) The application for a waste tire carrier permit shall also include a bond in the sum of \$5,000 in favor of the State of Oregon. In lieu of the bond, the applicant may submit financial assurance acceptable to the Department. The Department will accept as financial assurance only those financial assurance mechanisms listed in and complying with applicable requirements in OAR 340-095-0095.

(9) The bond or other financial assurance mechanism shall be filed with the Department and shall provide that:

(a) In performing services as a waste tire carrier, the applicant shall comply with the provisions of ORS 459.705 through 459.790 and of OAR 340-096-0260 and OAR 340-096-0270; and

(b) Any person injured by the failure of the applicant to comply with the provisions of ORS 459.705 through 459.790 or OAR 340-096-0260 and OAR 340-096-0270 shall have a right of action on the bond or other financial assurance in the name of the person. Such right of action shall be made to the principal or the surety company within two years after the injury.

(c) The permittee's bond or other financial assurance required under OAR 340-096-0260(8) must provide that, in

performing services as a waste tire carrier, the operator of a vehicle leased by the permittee shall comply with the provisions of ORS 459.705 through 459.790, OAR 340-096-0260 and OAR 340-096-0270;

(10) Any financial assurance mechanisms submitted under OAR 340-096-0260 sections (8) and

(9) shall remain in effect for not less than two years following termination of the waste tire carrier permit.

(11) A waste tire carrier permit may be issued for a period not to exceed 10 years, to be determined by the Department and specified in the permit.

STATUTORY/OTHER AUTHORITY: ORS 468.020, 459.045, 459.705, 459.760, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.708

ADOPT: 340-096-0270

RULE TITLE: Waste Tire Carrier Permittee Obligations

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adopt and move content from 064-0025, 064-0063 and 064-0055

RULE TEXT:

(1) Each person required to obtain a waste tire carrier permit shall:

(a) Comply with ORS 459.705 to 459.790, OAR 340-096-0260 through 340-096-0290, and any other applicable requirements;

(b) Inform the Department in writing within 30 days of changes that affect the permit, including but not limited to business name change, address change of the permittee, change from in the form of ownership (such as from individual to partnership or corporation);

(c) Allow the Department access to the site and the permittee's records, including records required by other public agencies, for inspection by the Department;

(d) Maintain a copy of permittee's waste tire carrier permit in each vehicle used to transport waste tires;

(e) Maintain the financial assurance required under OAR 340-096-0260;

(f) Maintain a daily record of all vehicles used to transport waste tires, with beginning and ending dates used, license numbers and person who owns the vehicles. The daily record shall be kept current at all times. The daily record shall be made available to Department staff when requested and be submitted to the Department each year as part of the permittee's annual report.

(2) A waste tire carrier shall deliver waste tires for storage or disposal at a Department permitted waste tire storage site, at a disposal site permitted by the Department to store waste tires, or at another site approved by the Department, such as a site authorized to accept waste tires under the laws or regulations of another state.

(3) The Department may allow a waste tire carrier permittee to use up to two covered containers to collect waste tires. A maximum of 2,000 tires may be so collected at any one time, and for no longer than 90 days in each container, beginning with the date when a waste tire is first placed in a container. The containers must be located at the permittee's main place of business.

(4) Waste tire carrier permittees shall record and maintain for a minimum of five years, except as otherwise specified in this section, the following information regarding their activities for each month of operation:

(a) The approximate quantity of waste tires collected. Quantities may be measured by aggregate loads or cubic yards, if the carrier documents the approximate number included in each load;

(b) Where or from whom the waste tires were collected, and whether the waste tires are from the cleanup of a waste tire pile;

(c) Where the waste tires were deposited. The waste tire carrier shall keep receipts or other written materials documenting where all tires were stored or disposed of.

(d) The daily record identified in OAR 340-096-0270(1)(f), of all vehicles used to transport waste tires.

(e) Any additional information required by the Department.

(5) Waste tire carrier permittees shall submit to the Department an annual report that summarizes the information collected under OAR 340-096-0270(4). The information shall be broken down by quarters. This report shall be submitted to the Department annually as a condition of holding a permit together with the annual compliance fee.

STATUTORY/OTHER AUTHORITY: ORS 459.775, 459.780, 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.705, 459.712, 459.730, 459.750

ADOPT: 340-096-0280

RULE TITLE: Department Review of Waste Tire Carrier Permit Applications

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adopt and move content from 064-0070

RULE TEXT:

(1) Applications for waste tire carrier permits shall be processed in accordance with the Procedures for Issuance, Denial, Modification and Revocation of Permits as set forth in OAR 340, Division 93, except as otherwise provided in this division.

(2) Applications for waste tire carrier permits shall be complete only if they:

(a) Are submitted on forms provided by the Department, accompanied by all required exhibits, and the forms are completed in full and are signed by the applicant(s);

(b) Include the appropriate application fee pursuant to OAR 340 Division 97; and

(c) Include acceptable financial assurance pursuant to OAR 340-096-0260.

STATUTORY/OTHER AUTHORITY: ORS 459

STATUTES/OTHER IMPLEMENTED: ORS 459.745, 459.750, 459.755

ADOPT: 340-096-0290

RULE TITLE: Proper Disposition of Waste Tires and Documentation Required of Generators of Waste Tires

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Adopt and move content from 064-0080

RULE TEXT:

(1) Any person who generates or handles more than 100 waste tires a year shall keep a log of the amount of waste tires they generated or handled.

(2) Any person who generates waste tires shall either:

(a) Have the waste tires transported by a waste tire carrier operating under a permit issued by the Department under ORS 459.705 to 459.790; or

(b) Transport the waste tires generated by the person to a waste tire storage site operating under a permit issued by the Department or to another site authorized by the Department;

(c) Transport any waste tires which are also retreadable casings to a tire retreader for the purposes of retreading.

(3) The written record in OAR 340-096-0290 shall document the approximate amount of waste tires generated by the person or under that person's control and documented in the log as required under OAR 340-096-0290(1).

(4) The information maintained under OAR 340-096-0290 sections (1), (2) and (3) shall be made available to the Department upon request of the Department.

STATUTORY/OTHER AUTHORITY: ORS 459.785

STATUTES/OTHER IMPLEMENTED: ORS 459.708

AMEND: 340-097-0001

RULE TITLE: Applicability

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Updating applicability for division 97 and adding statute implemented.

RULE TEXT:

This division applies to persons owning or operating or applying to DEQ to own or operate, a municipal solid waste landfill, a non-municipal land disposal site, an energy recovery facility or an incinerator receiving solid waste delivered by the public or by a solid waste collection service, a composting facility, a sludge disposal site, a land application disposal site, a transfer station, a material recovery facility, a solid waste treatment facility, a solid waste conversion technology facility or any other solid waste disposal site required to obtain a solid waste permit from DEQ. It also applies to persons who transport solid waste out of Oregon for final disposal or destruction at a disposal site that receives domestic solid waste, construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction. This division also applies to persons engaged in or applying to DEQ to collect waste tires, transport waste tires, or collect and transport waste tires for the purpose of storage, processing or disposal and to waste tire storage sites requiring a permit from DEQ.

STATUTORY/OTHER AUTHORITY: ORS 459.045, 459A.100 - 459A.120, 468.020

STATUTES/OTHER IMPLEMENTED: ORS 459.235, 459.730

AMEND: 340-097-0110

RULE TITLE: Solid Waste Permit and Disposal Fees

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Updating rule references and adding "waste tire storage or waste tire carrier" to rule language.

RULE TEXT:

(1) Each person required to have a solid waste disposal permit, waste tire storage or waste tire carrier permit is subject to the following fees:

(a) An application processing fee for new facilities and new waste tire carriers which must be submitted with the application for a new permit as specified in OAR 340-097-0120(2); and

(b) A solid waste permit compliance fee as listed in OAR 340-097-0120(6).

(2) Each disposal site receiving domestic solid waste for final disposal or destruction must pay the per-ton solid waste disposal fees on solid waste as specified in OAR 340-097-0120(7). Beginning April 1, 2019, and first payable beginning July 1, 2019, land disposal sites receiving construction and demolition wastes, land clearing debris, or tires for final disposal or destruction must also pay this fee.

(3) Oregon solid waste disposed of out-of-state. A person who transports solid waste, generated in Oregon, for final disposal or destruction at a disposal site located outside of Oregon that receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, must pay the per-ton solid waste disposal fees as specified in OAR 340-097-0120(7).

(a) For purposes of OAR 340-097-0110 and 340-097-0120(7), a person is the transporter if the person transports or arranges for the transport of solid waste out of Oregon for final disposal or destruction at a disposal site that receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, and is:

(A) A solid waste collection service or any other person who hauls, under an agreement, solid waste out of Oregon;

(B) A person who hauls his or her own industrial, commercial or institutional waste or other waste such as cleanup materials contaminated with hazardous substances;

(C) An operator of a transfer station, when Oregon waste is delivered to a transfer station located in Oregon and from there is transported out of Oregon for final disposal or destruction;

(D) A person who authorizes or retains the services of another person for disposal of cleanup materials contaminated with hazardous substances; or

(E) A person who transports infectious waste.

(b) Notification requirement:

(A) Before transporting or arranging for transport of solid waste for final disposal or destruction out of Oregon to a disposal site that receives domestic solid waste, or beginning April 1, 2019, to a land disposal site that receives construction and demolition wastes, land clearing debris, or waste tires, the person identified in subsection (3)(a) must notify DEQ in writing on a form DEQ provides.

(B) The notification must state whether the person will transport the waste on an on-going basis.

(c) As used in this section, "person" does not include an individual transporting only the individual's own residential solid waste to a disposal site located out of the state.

(4) Fees. The solid waste permit compliance fee must be paid for each year a disposal site, waste tire carrier or waste tire storage site requiring a solid waste permit is in operation or under permit. The fee period is prospective and is as follows:

(a) New sites requiring a solid waste permit:

(A) Any new disposal site must pay a solid waste permit compliance fee 30 days after the end of the calendar quarter in which solid waste is received at the facility, except as specified in paragraph (4)(a)(B), (C) and (D);

(B) A new disposal site that receives less than 1,000 tons of solid waste per year, other than a transfer station, material recovery facility or composting facility, must pay the entire permit compliance fee for the first year's operation if the

facility is placed into operation on or before September 1. A new facility placed into operation after September 1 will not owe a permit compliance fee until the following January 31. An application for a new disposal site receiving less than 1,000 tons of solid waste a year must include the applicable permit compliance fee for the first year of operation;

(C) A new industrial solid waste disposal site, sludge or land application disposal site or solid waste treatment facility receiving more than 1,000 but less than 20,000 tons of solid waste a year must pay a solid waste permit compliance fee on January 31 following the calendar year in which the facility is placed into operation;

(D) A new transfer station, material recovery facility or composting facility must pay the entire permit compliance fee for the first fiscal year's operation, based on the state's fiscal year, if the facility is placed into operation on or before April 1. Any new facility placed into operation after April 1 will not owe a permit compliance fee until DEQ's annual billing for the next fiscal year. An application for a new transfer station, material recovery facility or composting facility must include the applicable permit compliance fee for the first year of operation.

(b) New waste tire carriers and waste tire storage sites shall pay the entire permit compliance fee for the first fiscal year's operation, based on the state's fiscal year, if the facility is placed into operation on or before April 1. Any new facility or carrier placed into operation after April 1 will not owe a permit compliance fee until DEQ's annual billing for the next fiscal year. An application for a new waste carrier or waste tire storage site shall include the applicable permit compliance fee for the first year of operation.

(c) Existing permitted sites. Any existing disposal site or waste tire storage site that is in operation and is permitted to receive or receives solid waste in a calendar year must pay the solid waste permit compliance fee for that year as specified in OAR 340-097-0120(6)(a), (b), and (c). A facility is deemed to be an "existing permitted site" from the time of permit issuance;

(d) Existing permitted waste tire carriers. Any existing waste tire carrier that is permitted to collect and transport waste tires in a calendar year shall pay the waste tire carrier permit compliance fees for that year as specified in OAR 340-097-0120(6). A waste tire carrier is deemed to be an "existing waste tire carrier" from the time of permit issuance;

(e) Closed sites. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, based on the state's fiscal year, the permittee must pay the solid waste permit compliance fee for the "year of closure" OAR 340-097-0120(6)(d)(A) specifies as well as the permit compliance fee the permittee pays quarterly based on the waste received in the previous calendar quarters. If a land disposal site has permanently ceased receiving waste and the site is closed, a solid waste permittee must pay the solid waste permit compliance fee for closed sites as specified in OAR 340-097-0120(6)(d);

(f) DEQ may alter the due date for the solid waste permit compliance fee upon receipt of a justifiable request from a permittee.

(5) Tonnage reporting. The permit compliance fee and per-ton solid waste disposal fees, if applicable, must be submitted together with a form DEQ approves. Information reported must include the amount and type of solid waste and any other information DEQ requires to substantiate the tonnage or to calculate the state material recovery rate.

(6) Calculation of tonnage. Permittees and registrants are responsible for accurately calculating solid waste tonnage. For purposes of determining appropriate fees under OAR 340-097-0120(6) and (7), annual tonnage of solid waste received must be calculated as follows:

(a) Municipal solid waste facilities. Annual tonnage of solid waste received at municipal solid waste facilities, including construction and demolition sites and municipal solid waste composting facilities, receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility for disposal must be weighed at the facility's scales, except as DEQ otherwise approves in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, estimated annual tonnage for municipal solid waste, including that at municipal solid waste composting facilities, will be based upon 300 pounds per cubic yard of uncompacted waste received, and 700 pounds per cubic yard of compacted waste received. If yardage is not known, the solid waste facility may use one ton per resident in the service area of the disposal site, unless the permittee demonstrates a more accurate estimate. For other types of wastes received at municipal solid

waste sites and where certified scales are not required or not available, the conversions and provisions in subsection (b) must be used;

(b) Industrial facilities. Annual tonnage of solid waste received at industrial facilities receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility must be weighed at the facility's scales, except as DEQ otherwise approves in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, industrial sites must use the following conversion factors to determine tonnage of solid waste disposed. Composting facilities must use the following conversion factors for those materials appropriate for composting:

(A) Asbestos: 500 pounds per cubic yard;

(B) Pulp and paper waste other than sludge: 1,000 pounds per cubic yard;

(C) Construction, demolition and land clearing wastes: 1,100 pounds per cubic yard;

(D) Wood waste:

(i) Wood waste, mixed, including log sort waste (as defined in OAR 340-093-0030): 1,200 pounds per cubic yard;

(ii) Wood waste including scrap lumber, pallets, wood from construction and demolition activities: 250 pounds per cubic yard;

(iii) Wood chips, green: 473 pounds per cubic yard;

(iv) Wood chips, dry: 243 pounds per cubic yard;

(v) Sawdust, wet: 530 pounds per cubic yard;

(vi) Sawdust, bone dry: 275 pounds per cubic yard.

(E) Yard debris:

(i) Grass clippings: 950 pounds per cubic yard;

(ii) Leaves: 375 pounds per cubic yard;

(iii) Compacted yard debris: 640 pounds per cubic yard; and

(iv) Uncompacted yard debris: 250 pounds per cubic yard.

(F) Manure, sludge, septage, grits, screenings and other wet wastes: 1,600 pounds per cubic yard;

(G) Food waste: 700 pounds per cubic yard;

(H) Ash and slag: 2,000 pounds per cubic yard;

(I) Contaminated soils: 2,400 pounds per cubic yard;

(J) Asphalt, mining and milling wastes, foundry sand, silica: 2,500 pounds per cubic yard;

(K) For wastes other than the above, the permittee or registrant must determine the density of the wastes subject to DEQ's written approval;

(L) As an alternative to the above conversion factors, the permittee or registrant may determine the density of their own waste, subject to DEQ's written approval.

(7) DEQ may refund the application processing fee, in whole or in part, after taking into consideration any costs DEQ may have incurred in processing the application, when submitted with an application if either of the following conditions exists:

(a) DEQ determines that no permit is required;

(b) The applicant withdraws the application before DEQ has granted or denied preliminary approval or, if no preliminary approval has been granted or denied, DEQ has approved or denied the application.

(8) Exemptions:

(a) Persons treating petroleum contaminated soils are exempt from the application processing and renewal fees for a Letter Authorization if the following conditions are met:

(A) The soil is being treated as part of a site cleanup authorized under ORS Chapters 465 or 466; and

(B) DEQ and the applicant for the Letter Authorization have entered into a written agreement under which the applicant must pay for costs DEQ incurred for oversight of the cleanup and for processing of the Letter Authorization.

(b) Persons to whom a Letter Authorization has been issued are not subject to the solid waste permit compliance fee.

(9) All fees must be made payable to the Department of Environmental Quality.

(10) Submittal schedule:

(a) DEQ bills the solid waste permit compliance fee to the holder of the following permits: transfer station, material recovery facility, composting facility, waste tire storage site, waste tire carrier and closed solid waste disposal site. The fee period is the state's fiscal year, July 1 through June 30, and the fee is due annually by the date indicated on the invoice. Any "year of closure" pro-rated fee will be billed to the permittee of a closed site together with the site's first regular billing as a closed site;

(b) For solid waste disposal site permit holders other than those in subsection (10)(a), DEQ does not bill the solid waste permit compliance fee to the permittee. The permittee must self-report these fees to DEQ, under sections (4) and (5). The fee period is either the calendar quarter or the calendar year, and the fees are due to DEQ as follows:

(A) For any disposal site required to pay the per-ton fee on any solid waste as specified in OAR 340-097-0120(7) (e.g., landfills, municipal waste incinerators, municipal energy recovery facilities, conversion technology facilities, and solid waste treatment facilities that receive domestic solid waste for final disposal or destruction), plus construction and demolition and tire landfills: on the same schedule as specified in subsection (10)(c);

(B) For industrial solid waste disposal sites, sludge or land application disposal sites and other disposal sites not required to pay the per-ton fee on solid waste as specified in OAR 340-097-0120(7), except construction and demolition and tire landfills:

(i) For sites receiving over 20,000 tons of waste a year: quarterly, on the 30th day of the month following the end of the calendar quarter; or

(ii) For sites receiving 20,000 tons of waste a year or less: annually, on the 31st day of January;

(iii) For a site that has received less than 20,000 tons of waste in past years but exceeds that amount in a given year, DEQ will in general grant a one-year delay before the site is required to begin submitting permit fees on a quarterly basis. If the site appears likely to continue to exceed the 20,000 annual ton limit, then DEQ will require the site to report tonnage and submit applicable permit fees on a quarterly basis.

(c) DEQ does not bill the per-ton solid waste disposal fees on solid waste and the Orphan Site Account fee. They must be paid on the following schedule:

(A) Quarterly, on the 30th day of the month following the end of the calendar quarter; or

(B) Annually, on the 31st day of January, for solid waste disposal site permit holders for sites receiving less than 1,000 tons of solid waste a year.

(d) The fees on Oregon solid waste disposed of out-of-state must be paid to DEQ quarterly on the 30th day of the month following the end of the calendar quarter or on the schedule specified in OAR 340-097-0120(7)(d)(C). The fees must be submitted together with a form DEQ approves, which must include the amount of solid waste, type, county of origin of the solid waste, and state to which the solid waste is being transported for final disposal.

STATUTORY/OTHER AUTHORITY: ORS 459.045, 459.235, 459.236, 459A.025, 459A.110, 459A.115, 468.065

STATUTES/OTHER IMPLEMENTED: ORS 459.235, 459.236, 459A.110, 459A.115

AMEND: 340-097-0120

RULE TITLE: Permit/Registration Categories and Fee Schedule

NOTICE FILED DATE: 02/27/2023

RULE SUMMARY: Amend and move content from 064-0020, 064-0025, 064-0055 and 064-0063

RULE TEXT:

(1) For purposes of OAR chapter 340, division 97:

(a) A "new facility" means a facility at a location not previously used or permitted, and does not include an expansion to an existing permitted site;

(b) An "off-site industrial facility" means all industrial solid waste disposal sites other than a "captive industrial facility;"

(c) A "captive industrial facility" means an industrial solid waste disposal site where the permittee is the owner and operator of the site and is the generator of all the solid waste received at the site.

(d) As used in this rule, the term "mixed solid waste" means solid wastes that include paper, plastic, and other materials at least partly made up of domestic waste, where the materials have not been separated from each other.

(2) Application Processing Fee. Except as provided in sections (3), (4), and (5) with respect to composting facilities, an application processing fee must be submitted with each application for a new facility, or waste tire carrier permit, including application for preliminary approval pursuant to OAR 340-093-0090. The amount of the fee depends on the type of facility and the required action as follows:

(a) A new municipal solid waste landfill facility, construction and demolition landfill, incinerator, energy recovery facility, solid waste treatment facility, off-site industrial facility or sludge disposal facility:

(A) Designed to receive over 7,500 tons of solid waste per year: \$10,000;

(B) Designed to receive 7,500 tons and less of solid waste per year: \$5,000.

(b) A new captive industrial facility, other than a transfer station or material recovery facility: \$1,000;

(c) A new transfer station or material recovery facility:

(A) Receiving over 50,000 tons of solid waste per year: \$500;

(B) Receiving over 10,000 and less than or equal to 50,000 tons of solid waste per year: \$200;

(C) Receiving 10,000 tons and less of solid waste per year: \$100.

(d) Letter Authorization under OAR 340-093-0060:

(A) New site: \$500;

(B) Renewal: \$500.

(e) Permit Exemption Determination under OAR 340-093-0080(2): \$500.

(f) Beneficial use of solid waste application and reporting fees under OAR 340-093-0260 through 340-093-0290:

(A) The review of an annual or other report required under a beneficial use determination: \$250;

(B) A Tier One beneficial use determination: \$1,000;

(C) A Tier Two beneficial use determination: \$2,000;

(D) A Tier Three beneficial use determination: \$5,000;

(E) Annual extension to a demonstration project authorization: \$1,000.

(g) A new conversion technology facility:

(A) Designed to receive over 7,500 tons of feedstocks per year: \$2,000;

(B) Designed to receive 7,500 tons or less of feedstocks per year: \$1,500.

(h) A new waste tire storage permit: \$250.

(i) A new waste tire carrier permit: \$25

(3) Composting Facility Screening Fee. Every composting facility that is required to comply with OAR 340-096-0080 must pay a screening fee of \$150. The fee must be submitted with the application for screening, as provided in OAR 340-096-0080(1).

(4) Facility Plan Review and Approval Fee.

(a) Every composting facility that is required to comply with OAR 340-096-0090 must pay an Operations Plan Approval

fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0090(1). Agricultural composting facilities for which the Oregon Department of Agriculture is providing facility plan review and approval are not required to pay this fee.

- (A) For facilities composting over 100 tons and less than or equal to 3,500 tons of feedstocks per year: \$500;
- (B) For facilities composting over 3,500 tons and less than or equal to 7,500 tons of feedstocks per year: \$750;
- (C) For facilities composting over 7,500 tons and less than or equal to 10,000 tons of feedstocks per year: \$1,000;
- (D) For facilities composting over 10,000 tons and less than or equal to 50,000 tons of feedstocks per year: \$2,000;
- (E) For facilities composting over 50,000 tons of feedstocks per year: \$5,000.

(b) Every conversion technology facility that is required to comply with OAR 340-096-0180 must pay a fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0180.

- (A) For facilities designed to receive 3,500 tons of feedstocks or less per year: \$1,000;
- (B) For facilities designed to receive over 3,500 tons but no more than 7,500 tons of feedstocks per year: \$1,500;
- (C) For facilities designed to receive over 7,500 tons but no more than 20,000 tons of feedstocks per year: \$2,200;
- (D) For facilities designed to receive over 20,000 tons but no more than 50,000 tons of feedstocks per year: \$3,000;
- (E) For facilities designed to receive over 50,000 tons of feedstocks per year: \$5,000.

(5) Composting Facility Engineering Review Fee. Every composting facility that requires DEQ review of engineering plans and specifications under OAR 340-096-0130 must pay a fee of \$500. This fee is in addition to the fee required by section (4). Agricultural composting facilities for which the Oregon Department of Agriculture provides review of engineering plans and specifications are not required to pay this fee.

(6) Solid Waste Permit Compliance Fee. The following is the fee schedule including base per-ton rates to be used to determine the solid waste permit compliance fee. The per-ton rates are based on the estimated solid waste to be received at all permitted solid waste disposal sites and on DEQ's Legislatively Approved Budget. DEQ reviews annually the amount of revenue generated by this fee schedule. To determine the solid waste permit compliance fee, DEQ may use the base per-ton rates or any lower rates if the rates generate more revenue than provided in DEQ's Legislatively Approved Budget. Any increase in the base rates must be established by rule. In any case where a facility fits into more than one category, the permittee must pay only the highest fee:

(a) All facilities accepting or permitted to accept solid waste for final disposal or destruction, excluding transfer stations, material recovery facilities and composting facilities:

- (A) The greater of \$200; or
- (B) A solid waste permit compliance fee based on the total amount of solid waste received at the facility in the previous calendar quarter or year, as applicable, at the following rate:

- (i) All municipal landfills, construction and demolition landfills, industrial landfills, sludge disposal facilities, incinerators and solid waste treatment facilities: \$.21 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016;
- (ii) Energy recovery facilities: \$.13 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016; and
- (iii) Conversion technology facilities: \$.10 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016.

(C) If DEQ does not require a disposal site, other than a municipal solid waste facility, to monitor and report volumes of solid waste collected, the solid waste permit compliance fee may be based on the estimated tonnage received in the previous quarter or year.

(D) Ash or residue received by a landfill from an energy recovery facility, incinerator, or conversion technology facility is not subject to the solid waste permit compliance fee paid on a per-ton basis under paragraph (B) if the energy recovery facility, incinerator, or conversion technology facility has paid this fee on all incoming waste. Alternatively, DEQ can make arrangements to split this fee between a landfill and an energy recovery facility, incinerator, or conversion technology facility, based on the proportion by weight of the ash and residue received by the landfill and the total weight of incoming waste received by the energy recovery facility, incinerator, or conversion technology facility.

(b) Transfer stations and material recovery facilities:

- (A) Facilities accepting over 50,000 tons of solid waste per year: \$1,000;
- (B) Facilities accepting over 10,000 and less than or equal to 50,000 tons of solid waste per year: \$500;

- (C) Facilities accepting 10,000 tons or less of solid waste per year: \$50.
- (c) Composting facilities with a composting permit, except agricultural composting facilities for which the Oregon Department of Agriculture is providing facility oversight:
- (A) Utilizing over 50,000 tons of feedstocks for composting per year: \$5,000;
- (B) Utilizing over 7,500 and less than or equal to 50,000 tons of feedstocks for composting per year: \$1,000;
- (C) Utilizing over 3,500 and less than or equal to 7,500 tons of feedstocks for composting per year: \$500;
- (D) Utilizing over 100 tons and less than or equal to 3,500 tons of feedstocks for composting per year: \$100.
- (d) Closed Disposal Sites:
- (A) Year of closure. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, DEQ will determine a pro-rated permit compliance fee for those quarters of the fiscal year not covered by the permit compliance fee paid on solid waste received at the site. The pro-rated fee for the quarters the site was closed is based on the calculation in paragraph (B);
- (B) Each land disposal site that closes after July 1, 1984: \$150 or the average tonnage of solid waste received in the three most active years of site operation multiplied by \$.025 per ton, whichever is greater; but the maximum permit compliance fee is \$2,500.
- (e) Waste tire storage sites: \$250.
- (f) Waste tire carrier: \$200.
- (7) Per-ton solid waste disposal fees on solid waste. Each solid waste disposal site that receives domestic solid waste for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(3)(c), must submit fees to DEQ for solid waste received at the disposal site or transported out of Oregon. Beginning April 1, 2019, each solid waste land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded under OAR 340-097-0110(3)(c), must also submit fees to DEQ for solid waste received at the disposal site or transported out of Oregon.
- (a) These fees include:
- (A) A fee of \$.81 per ton through March 31, 2016, raised to \$1.11 per ton beginning April 1, 2016, through March 31, 2019, and raised to \$1.18 per ton beginning April 1, 2019;
- (B) An additional per-ton fee of \$.13 for the Orphan Site Account.
- (b) Tons subject to these fees include:
- (A) All solid wastes landfilled, incinerated without energy recovery or treated for disposal by an Oregon disposal site that receives domestic solid waste, except as excluded in subsections (c) and (f);
- (B) All Oregon solid wastes that are transported out-of-state for disposal or destruction at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(3)(c) and subsections (c) and (f);
- (C) Mixed solid wastes that are processed by a conversion technology facility, burned for energy recovery, or composted by an Oregon disposal site that receives domestic waste;
- (D) Mixed solid waste that includes at least some domestic solid waste, that has been processed into refuse-derived fuel to be burned for energy recovery by a facility that does not have a solid waste permit, or that does not pay per-ton fees as specified in this section;
- (E) Beginning April 1, 2019, all solid wastes landfilled at an Oregon land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f); and
- (F) Beginning April 1, 2019, all Oregon solid wastes that are transported out-of-state for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f).
- (c) Tons not subject to these fees include:
- (A) Through March 31, 2019, all solid wastes received at a facility that does not receive domestic solid waste;

- (B) Beginning April 1, 2019, all solid wastes received at a facility that does not receive domestic solid waste or construction or demolition waste, land clearing debris, or tires;
 - (C) Source-separated recyclables or other materials separated and recycled from mixed solid waste, including separated organics that are composted;
 - (D) Construction and demolition wastes and industrial wastes that are processed by a material recovery facility or a conversion technology facility to make a fuel to be burned off-site for energy recovery (e.g., in a wood fuel boiler);
 - (E) All solid wastes sent by a disposal site to another disposal site, where the per-ton fees are paid by a disposal site that subsequently receives that waste;
 - (F) Solid waste used as daily cover at a landfill as described in subsection (f);
 - (G) Ash from an energy recovery facility or incinerator that has paid these fees; and
 - (H) Sewage sludge or septic tank and cesspool pumpings.
- (d) Submittal schedule:
- (A) These per-ton fees must be submitted to DEQ quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter;
 - (B) Disposal sites receiving less than 1,000 tons of solid waste per year must submit the fees annually on January 31. If DEQ does not require the disposal site to monitor and report volumes of solid waste collected, the disposal site must submit with the fees an estimate of the population the disposal site serves;
 - (C) For solid waste transported out-of-state for disposal, the per-ton fees must be paid to DEQ quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter in which the disposal occurred. If the transportation is not on-going, the fee must be paid to DEQ within 60 days after the disposal occurs.
- (e) Solid waste that is used as daily cover at a landfill in place of virgin soil is not subject to the per-ton solid waste fees in this section, provided that:
- (A) The amount of solid waste used as daily cover does not exceed the amount needed to provide the equivalent of six inches of soil used as daily cover;
 - (B) If disposed of in Oregon, the solid waste is not being used on a trial basis, but instead has received necessary approvals from DEQ for use as daily cover; and
 - (C) If disposed of in a landfill outside of Oregon, the solid waste has received final approval from the appropriate state or local regulatory agency that regulates the landfill.
- (f) For solid waste delivered to disposal facilities owned or operated by a Metropolitan Service District, the fees established in this section are levied on the district, not on the disposal site.

STATUTORY/OTHER AUTHORITY: ORS 459.045, 459.235, 468.065

STATUTES/OTHER IMPLEMENTED: ORS 459.235, 459.236, 459A.110, 459A.115