ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

REGULATION NO. 14

REGULATIONS AND ADMINISTRATIVE PROCEDURES FOR THE WASTE TIRE PROGRAM

Adopted by the
Arkansas Pollution Control & Ecology Commission
in July 2012

EXHIBIT A

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CHAPTER 1: GENERAL PROVISIONS

Reg.14.101 Intent

The purpose of this regulation is to protect the public health, welfare and the environment by providing for the regulation of waste tire collection, storage, transporting, processing and disposal and to encourage reducing, reusing, recycling and retreading of waste tires.

Reg.14.102 Authority

Title 8, Chapter 9, Subchapter 4 of the Arkansas Code Annotated (Ark. Code Ann.), as amended by Acts 518, 519, and 529 of 1993, Act 1315 of 1995, Act 1292 of 1997, Acts 1164 and 775 of 1999, Act 1304 of 2003, Acts 961, 1822, and 1951 of 2005, and Act 744 of 2011 ("Acts") authorizes the Arkansas Pollution Control and Ecology Commission ("Commission") to adopt rules and regulations necessary for the Arkansas Department of Environmental Quality ("Department") to implement and effectuate the powers and duties of the Commission as established under the Acts.

CHAPTER 2: DEFINITIONS

Reg.14.201 Definitions

For the purposes of this regulation, unless otherwise stated herein, the following definitions apply:

"Abatement" means the removal of waste tires from stock piles or other sites with accumulations of whole or shredded scrap tires.

"Automobile Tire" means any motor vehicle tire with a load rating of "F" or lower.

"Baling" means a method of volume reduction whereby tires are compressed into bales.

"Board" means unless otherwise specified, a Regional Solid Waste Management Board as established pursuant to Ark. Code Ann. § 8-6-703 *et seq.*

"Civil Engineering Application" means the use of waste tires in lieu of or in addition to natural occurring materials (such as rock, sand, dirt, gravel, etc.) in construction. This definition does not include land reclamation.

"Commission" means the Arkansas Pollution Control and Ecology Commission.

"Compacted and Baled Tires" means tires that have been mechanically compressed and tied with interlocking wrappings that have been approved by the Department.

"Department" means the Arkansas Department of Environmental Quality, or its successor.

"Director" means unless otherwise specified, the Director of the Arkansas Department of Environmental Quality or the Director's designee.

"Disclosure Statement" means a written statement regarding business and legal activities as defined in Ark. Code Ann. § 8-1-106 *et seq.*

"Distribution Cycle" means a single quarterly funding cycle that the Department opens with the acceptance of District quarterly reports which detail moneys received and expended, tires collected, and other program related information as determined by the Department; and ends with the distribution of grant moneys from funds available for the distribution cycle.

"District" means unless otherwise specified, a Regional Solid Waste Management District as defined in Ark. Code Ann. § 8-6-702 *et seq.*

"Fee Paid Tire" means waste tire in which a state waste tire fee has been collected, reported, and paid on the replacement tire sold at retail.

"Grant Decisions" means final administrative decisions by the Director on all applications for grants pursuant to the Department's administration of the Waste Tire Program created under Ark. Code Ann. § 8-9-401 *et seq.* and the final decision of the Director on any disputes arising under any such grant.

"Grant Round" means a two-year grant cycle that the Department opens with the acceptance of new applications for funding and ends with eligibility approval to Districts to participate in quarterly distribution cycles during the given two-year period.

"Load Rating" means the system of trade designations that identifies the weight carrying capacity range of a tire.

"Manufacture Reject Tire" means a tire rendered defective in the manufacturing process.

"Motor Vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated primarily on the roads of this State, used to transport persons or property, and propelled by power other than muscular power.

"Non-Fee Paid Tire" means waste tire in which no state waste tire fee has been collected, reported, and paid on a replacement tire sold at retail.

"Operator" means any person who performs any operation at a permitted waste tire processing or disposal facility requiring individual judgment which may directly affect the proper operation of the facility. Operator shall not be deemed to include any official solely exercising general administrative supervision.

"Permit" means a written consent issued by the Department authorizing a person or business to construct, operate, and/or maintain a waste tire processing facility, a waste tire disposal facility, or a waste tire collection center.

"Permitted Site" means any site used for collection, storage, processing, or disposal of waste tires which has a current valid operating permit issued by the Department.

"Person" means any individual, corporation, company, firm, partnership, association trust, state agency, government instrumentality or agency, institution, county city, town or municipal authority or trust, venture or other legal entity, however organized.

"Processed Tire" means tires and commingled tire parts and pieces that have been cut, shredded, or otherwise altered so that they are no longer whole and/or no longer identifiable.

"Quantity" means the weight, volume, or actual number of tires.

"Recycling" means the systematic collecting, sorting, decontaminating, and returning of waste materials to commerce as commodities for use or exchange.

"Regional Solid Waste Management Board" means a "Board" created under Ark. Code Ann. § 8-6-701 *et seq.*

"Regional Solid Waste Management District" means a "District" created under Ark. Code Ann. § 8-6-701 *et seq.*

"Registered Professional Engineer" means professional engineer registered in the State of Arkansas.

"Registered Used Tire Dealer" means a tire retailer who is registered with the Arkansas Department of Finance and Administration as a Waste Tire Fee Collecting Agent and who sells both new and used tires.

"Residuals" means any liquids, sludges, metals, fabric or byproducts resulting from the processing or storage of tires. Residuals do not include processed tires held for recycling provided the conditions of Chapter 14 are met.

"Specialty Tire" means any tire not specifically covered by any other definition in this section including without limitation traction engines, road rollers, vehicles that run only on a track, bicycles, and farm tractors and trailers.

"Tire" means a continuous solid or pneumatic rubber covering that is used for encircling the wheel of a motor vehicle.

"Tire Derived Fuel" or "TDF" means fuel derived from whole tires or processed tires.

"Tire Manufacturer" means a manufacturing operation engaged in the final assembly of the basic components of a tire.

"Tire Recycling" means any process by which waste tires, processed tires, compressed and baled tires, or residuals are reused or returned to use in the form of products or raw materials.

"Truck Tire" means any motor vehicle tire with a rim size greater than nineteen inches (19") and a load rating of "F" or higher including without limitation wide-base or extra-wide single tire.

"Used Tire" means a tire that is repairable or retreadable for its original intended purpose but shall not include a tire being held for ninety (90) calendar days or less for the purpose of retreading or repairing the tire.

"Waste Tire" means a whole tire that is no longer repairable or retreadable or no longer suitable for its original intended purpose because of wear, damage, or defect. Waste tire includes, but is not limited to, used tires and processed tires.

"Waste Tire Collection Center" means a site where used or waste tires are collected from the public prior to being offered for recycling or disposal and where fewer than three thousand (3,000) loosely stored tires are kept on the site on any given day or up to a maximum of ten thousand (10,000) tires which have been compacted and baled are kept on the site on any given day.

“Waste Tire Generator” means any person who generates by removing from rim for disposal or stores waste tires on property owned or leased by that person.

“Waste Tire Management Facility” means a permitted facility involved in the collection, storage, recycling, processing, and/or disposal of waste tires.

“Waste Tire Monofill” means a separately permitted landfill or landfill unit specifically designed and rated for the sole disposal of waste tires, and where the area has been prepared in such a manner that the tires can be recovered at a later date.

“Waste Tire Originating From a Tire Manufacturer” means those new tires which originate from a tire assembly process and are determined by the tire manufacturer to be either defective or unfit for use on a motor vehicle.

“Waste Tire Processing Facility” means a site where equipment is used to cut, chip, grind, or otherwise alter whole waste tires.

“Waste Tire Site” means a site at which one thousand (1,000) or more unpermitted used or waste tires are accumulated in the outdoors, whether loosely stored or compacted and baled, or a combination thereof.

“Waste Tire Transporter” means a person who collects and transports from one place to another, twenty-five (25) or more whole, used or waste tires, processed tires, or tire residuals for storage, processing, recycling, reuse, resale, or energy recovery.

“Wide-base Tire or Extra-wide Single Tire” means a tire approximately four hundred fifty-five millimeters (455 mm) wide that is used on a motor vehicle in which the front axle load exceeds the load capacity of a truck tire.

CHAPTER 3: WASTE TIRE PERMIT EXEMPTIONS

Reg.14.301 Exemptions

(A) A permit is not required for a tire retreading business, where fewer than one thousand (1,000) waste tires are kept on the business premises.

(B) A permit is not required for a single facility that, in the ordinary course of business, removes tires from motor vehicles, if fewer than one thousand (1,000) waste tires are kept onsite.

(C) A permit is not required for a site designated by a regional solid waste management district, serving as a waste tire collection center, where fewer than one thousand (1,000) tires are kept on the premises.

(D) A person who leases or owns real property may use one thousand (1,000) or less waste tires for soil erosion control and drainage purposes, construction and building material, civil engineering applications or to secure covers over silage, hay, straw or agricultural products after obtaining authorization for such use from both the Department and the District in which the project will be located. Authorization by the Department may include requirements of the property owner to:

(1) Adequately prevent the tires from becoming a health, safety, and/or fire hazard; and

(2) Secure the tires in the event of flooding or other occurrence so that the tires will remain in place; and to take any other measures deemed necessary by the Department.

If more than one thousand (1,000) tires are located on the property, then the Department may require the owner or lessor to meet the general permitting requirements in this regulation. Authorization from the Department and the District in which the project will be located may include alternative end use requirements outlined in this regulation.

CHAPTER 4: WASTE TIRE FEES

Reg.14.401 Fees Imposed at Retail

Subject to Ark. Code Ann. § 8-9-404 *et seq.*, fees shall be imposed upon the sale of each new motor vehicle tire sold at retail. The fees shall be charged by the tire retailer to the person who purchases a motor vehicle tire for use on a motor vehicle and not for resale. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the tires have been computed and shall be separately stated on the invoice or bill of sale. The fees, imposed less five percent (5%) of fees collected, shall be retained by the tire retailer as administration cost, and paid monthly to the Director of the Department of Finance and Administration.

Reg.14.402 Authorization of Fee Amounts

(A) The fees on automobile tires and truck tires shall be imposed at the rate of two dollars ($2.00) per tire.

(B) An additional fee on truck tires shall also be imposed at the rate of three dollars ($3.00) per tire.

Reg.14.403 Exclusions

(A) The terms "sold at retail" and "retail sales" do not include the sale of new tires to a person solely for the purpose of resale, provided the subsequent retail sale in this State is subject to the fee.

(B) The fees imposed by this Chapter do not apply to retreaded tires or tires included as part of the equipment of a new motor vehicle.

Reg.14.404 Import Fees

In addition to the fee imposed on new tires, a fee shall be imposed at the rate of one dollar ($1.00) per tire on all waste automobile and truck tires that are imported into Arkansas. Subject to authorization by the Arkansas Pollution Control and Ecology Commission, this fee shall not apply if the waste tires are being imported to a permitted waste tire processing facility for recycling or reuse. The fee imposed shall be paid by the importer to the Arkansas Department of Finance and Administration in accordance with Ark. Code Ann. § 26-18-101 *et seq.* and any regulations promulgated by the Arkansas Department of Finance and Administration.

Reg.14.405 Fee Remittance

The fees shall be collected by the Director of the Arkansas Department of Finance and Administration and shall be subject to the Arkansas Tax Procedure Act, Ark. Code Ann. § 26-18-101 *et seq.*

Reg.14.406 Fee Imposed After Sales Taxes Computed

Fees imposed by this Chapter shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the tires have been computed and shall be separately stated on the invoice or bill of sale.

Reg.14.407 No Additional Charge to Customer

It shall be the responsibility of the tire retailer to accept, at no additional cost to the customer other than those fees collected pursuant to this regulation, any or all used or waste tires for which a new replacement tire was purchased.

Reg.14.408 Responsibility for Tires Collected

The tire retailer shall ensure that any used or waste tires collected through the tire retailer's business are transported by a licensed waste tire transporter to a permitted waste tire collection center, solid waste management facility, waste tire processing facility, or to a registered used tire dealer. This requirement shall also include proper stacking or placement of the tires in collection containers.

Reg.14.409 Tire Retailer Administration Cost

All fees imposed, less five percent (5%) of fees collected pursuant to Reg.14.402(A) and (B) which may be retained by the tire retailer for administration costs, shall be submitted monthly to the Director of the Arkansas Department of Finance and Administration.

Reg.14.410 Filing of Return

Each tire retailer shall file a return with the Director of the Arkansas Department of Finance and Administration, with a copy to the applicable District, on or before the twentieth (20^{th}) of each month, showing the total fees collected for both automobile and truck tires during the preceding calendar month, and shall remit the fees along with the return to the Arkansas Department of Finance and Administration. The Director of the Arkansas Department of Finance and Administration shall prescribe the form and contents of the return. At a minimum, the form shall indicate separately the number of automobile tires and the number of truck tires sold for which a fee was collected. In addition, the form shall indicate in which County or District the tires were sold.

Reg.14.411 Revenues Deposited

(A) The Arkansas Department of Finance and Administration shall deposit the proceeds of the waste tire fee in the State Treasury as special revenues and shall credit the proceeds to the following special funds created on the books of the State Treasurer, the State Auditor, and the Chief Fiscal Officer of the State in the following proportions:

(1) One hundred percent (100%) of the proceeds collected under Reg.14.402(B) and ninety-two percent (92%) of the proceeds collected under Reg.14.402(A) shall be deposited into

the fund known as the Waste Tire Grant Fund. Interest and other revenue received as a result of these funds shall also be deposited into the Waste Tire Grant Fund.

(2) Eight percent (8%) of the proceeds collected under Reg.14.402(A) shall be deposited into the Arkansas Department of Environmental Quality Fee Fund, as created in Ark. Code Ann. § 8-1-105 *et seq.*

(B) In addition to all moneys appropriated by the Arkansas General Assembly to the Waste Tire Grant Fund, there shall be deposited into the Waste Tire Grant Fund any federal government moneys designated to enter the Waste Tire Grant Fund, any moneys received by the State as a gift or donation to the Waste Tire Grant Fund, and all interest upon money deposited into the Waste Tire Grant Fund.

Reg.14.412 Administration of Grant Fund

The Waste Tire Grant Fund shall be administered by the Department, which shall authorize grants and administrative expenditures from the fund in accordance with this regulation and applicable state laws.

Reg.14.413 Proceeds of the Fee

For the purposes of this Chapter, "proceeds of the fee" shall mean all funds collected and received by the Arkansas Department of Finance and Administration under this Chapter, and interest and penalties on delinquent waste tire fees.

CHAPTER 5: TIRE GRANT PROGRAM

Reg.14.501 Allocation of Tire Grant Funds

(A) District Boards are responsible for the administration of the Waste Tire Program within their respective service areas. The Districts shall be the sole eligible recipients of grant funding available through the Waste Tire Grant Fund. Pursuant to Ark. Code Ann. § 8-9-401 *et seq.*, waste tire funds shall be allocated to the Districts using four (4) separate types of funding disbursements, hereinafter known as Additional Truck Tire Grants, Waste Tire Abatement Grants, Support Grants, or Waste Tire Management Grants, and shall follow distribution procedures described herein.

(1) Additional Truck Tire Fees

(a) Funds collected as Additional Truck Tire Fees shall be distributed quarterly to the Districts within which the waste tires were disposed when replaced by new tires on which additional truck tire fees were imposed when purchased at retail. The formula for distribution of additional truck tire grants shall be based on the number of truck tires disposed in the prior calendar year in accordance with Ark. Code Ann. § 8-9-404 *et seq.*

(b) As required by Ark. Code Ann. § 8-9-403 *et seq.*, each District shall develop and implement a manifest system to track the flow and number of waste tires within their service area.

(c) The Department shall not disburse Additional Truck Tire Grants in amounts greater than funds available from proceeds of the Additional Truck Tire Fees.

(2) Abatement Grants

(a) Of the total amount of grant funds available to the Districts, excluding Additional Truck Tire Grants, ten percent (10%) shall be set aside for special grants to Districts to be utilized for Abatement Grants and Support Grants based upon funding availability.

(b) A District may utilize existing reserves or apply for waste tire abatement grants for the removal of waste tires from illegal disposal sites, including those determined to be non-fee paid tires.

(c) These funds may be used only when the person(s) responsible for abatement of a site is either unable or unwilling to properly and timely abate the site.

(d) Nothing herein shall relieve the responsible person from any financial liability for such abatement.

(e) After the utilization of special grant funds for the abatement of an illegal waste tire site, any funds recovered by the Department or the District from the person(s) responsible shall be returned to the Waste Tire Grant Fund, or shall be returned to the District in instances where reserves held by a District are utilized to pay for site abatement.

(3) Support Grants

(a) A District, whose tire disposal costs exceeds waste tire management funds, may apply for support funds using a support grant request form prescribed by the Department. To qualify for support funds, a District must have:

(i) A system in place for assessing fees on non-fee paid tires to pay for their management, and

(ii) Verified that available funds are insufficient to finance waste tire management within the District.

(b) In determining if a District's funds are insufficient to finance waste tire management, the Department will compare a District's estimated upcoming quarter expenses to their total available funds for the upcoming quarter.

(4) Waste Tire Management Grants

(a) The total remaining funds, excluding Additional Truck Tire Grant and Abatement or Support Grant Funds, shall be available for distribution to the Districts as Waste Tire Management Grant Funds. Waste Tire Management Grant Funds will be utilized to fund management of tires in accordance with Ark. Code Ann. § 8-9-405(a)(5), except where reserves are utilized for abatement of waste tires from illegal disposal sites as specified in this Chapter.

(b) After determining total funds available at the end of the preceding quarter and after reviewing reports from each District for the preceding quarter, the Department shall distribute Waste Tire Management Grant Funds to each District as specified herein, utilizing a combination of two methods, hereafter referred to as Method A and Method B. Fifty percent (50%) of set aside funds will be determined using Method A and fifty percent (50%) of the set aside funds will be determined using Method B. The allocation figures obtained from each method will be combined to arrive at each District's fund distribution.

(i) Method A:

Disbursement of fifty percent (50%) of the set-aside funds in a grant distribution cycle shall be determined as follow:

The Department shall determine the amount of funds within each Planning and Development District organized under Ark. Code Ann. § 14-166-201 *et seq.* and

recognized by the Governor based upon the same distribution as general revenue support is distributed to the Planning and Development Districts in the current fiscal year.

The Department shall adjust the distribution within the Planning and Development Districts to coincide with the boundaries of the Districts by determining each county's share of the funds available within each Planning and Development District. Each county's share shall be based upon the proportion that each county's population bears to the total population in the Planning and Development District to which the county is assigned, multiplied by the amount of funds determined to be available within the Planning and Development District. The county's proportional share, as determined, shall be added to all other counties' share within the same District.

Formula for Method A:

I Begin with fifty percent (50%) of the total remaining grant funds.

II Divide equally by the eight Regional Planning and Development Districts.

III Multiply this result by the population of each county according to the most recent federal decennial census.

IV Divide this result by the Planning and Development District population in which the county is located. This determines the portion per county.

V Individual county portions are grouped and totaled by each new District to give each District's allocation.

(ii) Method B:

Disbursement of fifty percent (50%) of the set-aside funds in a grant distribution cycle shall be based upon District reporting and manifesting of tires disposed for the previous year.

Formula for Method B:

I Add the total of each District's automobile and truck tires disposed together to determine a statewide total for all tires disposed.

II Divide the total of each District's automobile and truck tires disposed by the statewide total of automobile and truck tires disposed to determine a ratio for each District.

III Multiply the ratio for each District by the amount of the fifty percent (50%) grant funds to determine the per District allocation amounts.

(B) Emergency

If the Department determines that an emergency exists that constitutes a threat to human health or the environment, it may, at its discretion, utilize funds available under the Abatement and Support Grants~~,~~ for the remediation of the emergency conditions.

(C) Waste Tire Management Fund District Obligations

(1) District Administration Apportionment. Of the total waste tire management grant funds allocated to each District, no more than ten percent (10%) per calendar year may be used by the District to administer the Waste Tire Program.

(2) Unawarded Funds. Funds set aside for each District in a grant distribution cycle that are not awarded to the District will be rolled over to the next grant distribution cycle.

(3) Reserve Funds. Prior to the quarterly distribution of waste tire management grant funds the Department shall determine, based upon reports received from each District that:

(a) Funds held in reserve have been reported for each District.

(b) All interest and other revenue received by each District as a result of the Waste Tire Program has been included in the report.

(c) An amount not to exceed the total of a District's previous year's waste tire grant disbursements has been held in reserve by a District or by one (1) or more Districts within a combined District.

(4) If a District is found to have an overage of funds in reserve, the District shall not be eligible to receive additional waste tire management grant funds until the District has expended, or shows obligations to expend the reserves within the current quarter or longer upon approval of the Department. Funds not awarded shall be rolled over to the next grant distribution cycle.

(5) Joined Districts. Two (2) or more Districts may be combined, for purposes of receiving joint waste tire management grant funding provided that any joint application, contract or agreement has been signed by the Regional Solid Waste Management Board chairman for each District and provided that such Districts have joined together for the purpose of sharing all resources and funds available among each District within the joined Districts.

(D) Interest and Other Revenue

Interest and all other revenues received by a District relative to the Waste Tire Management Program shall be utilized for waste tire management program activities.

(E) Contingency

If a District is unwilling or unable to meet the requirements of the program, the Department may authorize another District to assume the administration of the waste tire management system and may transfer funds from the waste tire grant fund to the authorized District for this purpose. All equipment held by the District but purchased with waste tire program funds for this purpose may be utilized.

Reg.14.502 Eligible Projects and Activities

Project Eligibility

Regional Solid Waste Management Boards, individually or collectively, are eligible to apply for and to receive grants for purposes authorized by the provisions of Ark. Code Ann. § 8-9-405 *et seq.*

Reg.14.503 Requirements of Regional Solid Waste Management District

A District must meet the following requirements and provide complete documentation to the Department as follows:

(A) Waste Tire Management Plan

A District must have a waste tire management plan for the disposal or recycling of tires in the District, as required by Ark. Code Ann. § 8-6-717(c). The tire management plan must be a part of the District's Regional Solid Waste Management Plan or must be submitted with the tire grant application for departmental approval. The Department shall prescribe the content of waste tire management plans.

(B) Tire Recycling Feasibility

In order to apply for funds for contracts, equipment or facilities to be used in the processing of tires destined for landfill disposal, monofilling or other long-term storage, or land reclamation, the District must verify that the feasibility of recycling alternatives has been explored. The District must further verify that tire grant funds and revenues from recovered material or energy will not be sufficient to finance the recycling alternative of such tires.

(C) Required Comment Letters

Prior to a District submitting a grant application or a grant contract to the Department, the District shall insert a notice in a newspaper of general circulation in the area affected describing the District's grant request and soliciting written comments from the public. Copies of these comments shall accompany the grant application or contract, or shall be forwarded to the Department when received by the District.

(D) Accountability

Records shall be kept by the District and made available to the Department on all waste tire counts and Waste Tire Program funds, including interest and other revenue received as a result of the Waste Tire Program.

(E) Application Materials

Application forms, changes, contracts or other documents must be completed in good order when submitted to the Department. Additional materials may be required, including but not limited to the following:

(a) A copy of the District's waste tire management plan or comprehensive solid waste management plan that incorporates a waste tire management plan.

(b) Specifications and designs, approved by a professional engineer registered in the State of Arkansas, unless otherwise approved by the Department, for grant-funded construction of facilities or bid-quote specifications for equipment when the cost of such construction or equipment exceeds twenty-five thousand dollars ($25,000).

(c) Copies of proposed specifications for a service contract and an estimate of the cost of the services to be contracted.

(d) A project budget summarizing the approximate costs of grant-eligible items or contract services to be funded and costs of facilities and activities not grant funded but an integral part of the proposed project.

(e) Verification that the applicant has conformed with all applicable procurement laws on contracting for services and on the purchase, use, or sale of equipment and facilities to be secured with state funds.

Reg.14.504 Arkansas Department of Environmental Quality Responsibilities

(A) Approval of Funding

The Department shall be responsible for reviewing and evaluating all grant applications, changes, and proposed projects in order to determine eligible project and contract costs, the merit and ranking of proposed grant projects, the amount of the award, and the conditions of approval for a grant award.

(B) Grant Rounds

(1) At least once biennially, the Department will accept and review applications, contracts, changes and proposed projects for funding eligibility. The Department shall give at least sixty (60) calendar days advance notice of the commencement of a new grant round to Regional Solid Waste Management Boards, and the Regional Solid Waste Management

Boards shall be required to submit a new waste tire grant application for each grant round.

(2) Additional Truck Tire Fees. Disbursements shall be made quarterly.

(3) Abatement or Support Grants. Unless an emergency exists, disbursements shall be made quarterly.

(4) Waste Tire Management Grants. Disbursements shall be made quarterly.

(C) Departmental Review of Application, Contracts, Changes, and Proposed Projects

(1) If an application, contract, change, or proposed project is rejected for incompleteness or lack of documentation, the Department shall return it to the applicant with an explanation of its deficiencies.

(2) The eligibility of specific project or contract costs for funding shall be determined by the Department. If upon review the Department determines that a grant application, contract, change, or proposed project is so poorly prepared or inadequately presented that an adequate review is made difficult or impossible, the Department may declare the application, contract, change, or proposed project ineligible. The Department shall provide the applicant with a statement of deficiencies in the application, contract, change, or proposed project in its letter of final determination.

(3) Notice of Final Determination. The Department shall notify a District in writing of the approval or disapproval of its applications contracts, changes, or proposed projects for funding. If an application, contracts, changes, or proposed projects is not approved for funding, a brief explanation of the rationale for not funding the District shall accompany such notice.

(D) Supervision and Oversight Responsibilities

As determined necessary, the Department may conduct program implementation audits of each District to ensure that waste tire funds are appropriately expended and accounted for and that adequate waste tire management services are provided to the public, tire retailers, and other waste tire generators.

Reg.14.505 Conditions of Grant Award

The Department may attach conditions to the award of a grant in order to meet the legislative intent and requirements of Ark. Code Ann. § 8-9-401 *et seq*. These conditions shall include at the minimum:

(A) Waste Tire Program. All District Boards must meet state requirements for adequate waste tire management, collection and recycling or disposal set out in this regulation or as determined by the Department.

(B) Permits and Licenses. Prior to the awarding of any grant funds, the District and/or their contractors must possess and be in compliance with current necessary permits and licenses required by state law.

(C) Service Contracts and the Purchase, Use, and Sale of Equipment and Facilities.

(1) The District must conform to all applicable procurement laws on contracting for services and on the purchase, use or sale of equipment and facilities secured with state funds.

(2) The Department reserves the right of title or to order the transfer or sale of equipment which is purchased with grant funds but is no longer used for the general purposes stated in the grant application.

(D) Contract Services. The District will award only the per tire or per ton amounts needed to cover the cost of the winning bid on a contract for services. Funding received by a District that is over and above the cost of the winning bid shall be carried in reserve and utilized for other eligible projects as described in Ark. Code Ann. § 8-9-405 *et seq*.

(E) Administrative Expenses.

Of the total waste tire management grant funds allocated to each District, no more than ten percent (10%) per calendar year may be used by the District to administer the Waste Tire Program. Administrative expenses shall be limited to actual costs incurred and may include grant administration costs, including salaries; office equipment; taxes, except taxes assessed on purchases of collection or processing equipment or vehicles used exclusively for collection or processing activities; insurance, except where coverage is on collection or processing equipment or vehicles used exclusively for collection or processing activities; office utilities, phone or postage; licenses and/or permits; legal costs; accounting costs, vehicle registration, except for registration fees assessed on collection or processing equipment or vehicles registration, except for registration fees assessed on collection or processing equipment or vehicles; land acquisition; consulting, if related to the services of a professional engineer at a permitted or proposed processing facility or civil engineering project; office space; and other expenditures approved by the Department.

(F) Terms of Contracts. No grant funds shall be used for a contract in which the term of the contract is longer than that authorized by Ark. Code Ann. § 19-11-238 *et seq*.

Reg.14.506 Disbursement of Grant Funds

Accounting. The Department shall observe all applicable state accounting procedures and regulations in the disbursement of funds connected with this grants program.

Reg.14.507 Reporting and Oversight Requirements

(A) Accounting.

(1) The District shall follow a budget and maintain an orderly accounting system to document waste tire revenues and expenditures.

(2) The District shall observe all applicable accounting procedures and regulations in the management of funds connected with this grant program.

(3) Waste Tire Program funds shall be accounted for separate from other types of funds held by the District.

(B) Audit Procedures. Pursuant to Ark. Code Ann. § 8-6-704(d), each District's annual financial audit shall define expenditures and shall define waste tire grant funds received separately from other District revenues, delineating interest, and other receipts received as a result of the funds.

(C) Reporting.

Quarterly. Within thirty (30) calendar days from the end of each quarter, using a report format to be provided by the Department, each District shall, at the least, provide the Department with quarterly reports summarizing progress in the project and expenditures from the grant award, as well as all revenue received or generated as a result of the District's implementation of the Waste Tire Program. Such report shall include the number and types of fee-paid tires processed and the number and types of non-fee paid tires processed, as well as other information, as determined by the Department, including but is not limited to the following:

The submission of documentation of revenues and expenditures for the three-month period and reserve funds.

(D) Right of Entry and Access. Department personnel shall have the right of entry to the premises of any grant-funded facility and the right of access to all records pertaining to any grant-funded project. Denial of access shall result in automatic suspension of the grant.

(E) Notice of Irregularities. It shall be the responsibility of the District to immediately notify the Department in the event that the District cannot meet the implementation schedule for a waste tire program or other conditions of the grant award.

(F) Modifications. After a grant award has been made, modifications may be made to the grant project only if the District submits adequate documentation with a change order to the Department. The change order will be on a form provided by the Department. The Department will review any changes requested and will determine if any modifications are to be allowed.

Reg.14.508 Suspension or Termination of Grant

(A) Notice. Upon written notice by the Director to the affected District, a grant may be suspended or terminated if the Director determines that because of the District's inability or unwillingness to complete or meet the conditions of the grant there is just cause for suspending or terminating the grant. Such notice shall be sent by certified mail no later than thirty (30) calendar days prior to the effective date of suspension or termination. Such notice shall include:

(1) The Director's decision to suspend or terminate the grant, the date of the Director's decision, and the effective date of the suspension or termination;

(2) A statement in reasonable detail giving the explanation of just cause for the suspension or termination;

(3) Notice of any applicable conditions;

(4) If the action taken is suspension, a statement that the District's failure to address the reasons for suspension in a timely manner may result in termination of the grant; and

(5) A statement that the District may request, in accordance with Reg.14.510, an adjudicatory hearing and Commission review on whether the decision of the Director should be reversed or modified.

(B) Suspension Procedures. Suspension shall be for a period of time to be approved by the Department after negotiations with the District, but not to exceed twelve (12) months. During the period of suspension no funds shall be disbursed to the District and the District must demonstrate to the Department's satisfaction that the reasons for suspension have been addressed and corrected in order for the grant funding to be reinstated. If, at the end of the specified suspension period, the Director determines that the grant project and conditions cannot be continued or completed, the grant shall be automatically terminated and the Director shall notify the District of such termination.

(C) Termination Procedures. Termination of a grant need not be preceded by suspension proceedings as described in this Chapter.

(D) Waste Tire Management During Suspension Period or Following Termination. In the event that a suspension or termination has been executed, the Department may authorize another District to assume the administration of the waste tire management system within the District receiving the suspension or termination.

Reg.14.509 Reimbursement of Funds to the Department

(A) Reimbursement Requirement. The Director may order the District to reimburse the Department a part of or all of the funds awarded if the Director determines that the District has not met the conditions of the grant or in the event that the Department must authorize another District to assume the administration of the waste tire management system within a

District due to a District's inability or unwillingness to complete or meet conditions of the grant.

(B) Reimbursement Order. Written notice of the Director's decision to order reimbursement shall be sent to the affected District by certified mail with a statement notifying the District that the District may request an adjudicatory hearing and Commission review on whether the decision of the Director should be reversed or modified.

Reg.14.510 Appeals of Grant Decisions

(A) Right of Appeal

Grant decision may be appealed by any person or entity entitled by law to contest the Director's decision.

(B) Adjudicatory Hearing

Any such person may appeal a grant decision by requesting an adjudicatory hearing and Commission review in accordance with Arkansas Pollution Control and Ecology Commission Regulation Number 8: Administrative Procedures.

CHAPTER 6: ALTERNATIVE END USES

Reg.14.601 Project Approval

Proposed alternative end use projects shall require approval by both the District and the Department and will be reviewed using a two-tier approach as described herein.

(A) The District in which waste tires or residuals will be utilized shall set any policies, form any standards, and develop any review process that it feels appropriate that do not conflict with any law or regulation. The District shall be responsible for the initial review and approval of specific sites and corresponding construction specification and details.

(B) Upon approval by the District, the District shall submit a complete copy of the proposed project to the Department for the second level of review. The Department's review will include, at a minimum, environmental protection, technical adequacy, regulatory compliance, and grant fund eligibility, if applicable.

Reg.14.602 Project Proposal Requirements

The Department, at its discretion, may require the proposal to be prepared by a professional engineer, registered in the State of Arkansas. The proposal shall include the following information unless otherwise specified by the Department in writing:

(A) Legal description, address, and directions to the proposed site;

(B) A map or aerial photograph indicating land use within a one-fourth (1/4) mile radius of the proposed site which shall be of adequate scale to show all residences, structures, surface waters, public and private water supply sources, access roads, historic sites, and other existing man-made features relating to the site;

(C) Maps indicating the existence of any regulated wetlands or flood plains on or adjacent to the site;

(D) A site plan map that delineates survey boundary locations, the location of existing or proposed access roads, existing buildings and improvements including any staging and storage areas for incoming waste tires, general site topography, and existing and proposed drainage characteristics including any run-on/run-off control systems;

(E) A list of the waste tire generator(s) including both name, location, and mailing address;

(F) Concurrence of the landowner indicating acceptance and responsibility of the waste tires or residuals, and an agreement to indemnify the Department from any future liability resulting from the waste tire alternative end use project;

(G) Statement(s) from any local regulatory body having jurisdiction over the project, including planning, building, code enforcement, and/or drainage departments that the project complies with applicable regulations;

(H) Any applicable environmental permits;

(I) Project specifications and details including a description of the proposed application, the quantity of waste tires anticipated to be used in the project, construction methods and materials, construction drawings and details and a project schedule. Additionally, the reason for using tire chips in place of other materials must be substantiated; an explanation shall be provided demonstrating how the engineering properties of these materials will be beneficial to the project; and

(J) An explanation of how the project will comply with other pertinent Chapters of this regulation, including storage requirements, fire safety requirements, and waste tire processing requirements.

Reg.14.603 Review Considerations

The following conditions shall be considered by reviewing parties in determining the appropriateness of proposed waste tire end use applications:

(A) The level of engineering/technical detail provided as compared to the complexity of the project. Relatively simple uses of the waste tires such as for erosion control may require only a minimum amount of pre-project planning and construction drawing detail. Projects that will use waste tires in a manner that their failure could endanger life or damage property, shall require more engineering effort and detail; therefore, detailed construction drawings and specifications shall be provided that are signed and stamped by a registered professional engineer;

(B) Availability (or lack) of more cost effective, efficient, or dependable materials that could be used instead of the waste tires. This factor recognizes that in most cases, cost, efficiency, and dependability are important factors in the selection of materials to incorporate into a project. When waste tires are superior to other materials in these respects, incorporating them into the project is a reasonable alternative – when they are not, the legitimacy of their use cannot be substantiated;

(C) The probability of injury or damage should be balanced against the risk of failure; and

(D) Where tires are proposed as a substitute for another material, the applicant shall demonstrate that the waste tires will perform in a manner similar to the material for which it is substituted. In addition, if waste tire bales are used as structural members, a demonstration must be submitted showing that the bales exhibit adequate properties to perform as structural members. The demonstration may include previous projects where the baled tire performed satisfactorily under similar conditions, literature describing similar installations, or test data showing that the material meets required performance standards.

Reg.14.604 Additional Safeguards

The Department reserves the right to grant conditional approval for an alternative end use project and impose additional operating and/or design requirements as needed to ensure technical adequacy and protection of the environment.

Reg.14.605 Posting of Financial Assurance

The District in which an alternative end use project is located may require posting of separate financial assurance for a given application.

Reg.14.606 Exemptions

The following uses of waste tires may be exempted from the review and approval requirements of this Chapter as determined by the Department on a case-by-case basis:

(A) A person who owns or leases real property may use five hundred (500) or less tires for soil erosion control, drainage improvements, or to secure covers over silage, hay, straw, or agricultural products.

(B) The use of shredded waste tires as leachate collection media under solid waste landfills in place of traditional aggregate if the proposed alternative end use is approved during the permitting process or subsequent modifications.

(C) The use of shredded waste tires in on-site waste water soil absorption systems in place of traditional aggregate if the shredded waste tires meet Arkansas Department of Health specifications and guidelines.

(D) The use of shredded waste tires, baled tires or crumb rubber in road or highway construction projects if alternative end use projects are conducted by, in association with, or under the guidance of the Arkansas Highway & Transportation Department or other roadway authority, as applicable.

(E) Suitable processed tire materials may be used in the construction of daily and intermediate cover systems for all landfills if the use is authorized by the Department; shown to not present a threat to human health and the environment; and shown to control disease, vectors, fires, odors, blowing litter, or scavenging.

CHAPTER 7: WASTE TIRE PROHIBITIONS

Reg.14.701 Integral Part of Existing Facility

A person shall not maintain a waste tire site.

Reg.14.702 Prohibited Manner of Management

A person shall not transport, transfer, store, collect, recycle, or otherwise manage processed, used, or waste tires in any manner that may:

(A) Create a nuisance;

(B) Breed or harbor mosquitoes, snakes, insects, rodents, and/or other vectors;

(C) Cause a discharge of any constituents derived from waste tires into the air or waters unless otherwise permitted by the Department; or

(D) Create other hazards to the public health, safety, or environment as may be determined by the Department.

Reg.14.703 Unauthorized Disposal

It is unlawful for any person to dispose of used or waste tires or portions of used or waste tires in the State, unless such tires are disposed of for processing, or are collected for processing, at a permitted waste tire processing facility, at a waste tire collection center, or at a permitted solid waste disposal facility authorized to accept waste tires.

Reg.14.704 Land Restriction

Tires shall not be deposited into any permitted landfill as a method of ultimate disposal unless shredded or split into sufficiently small parts to assure their proper disposal. For purposes of disposal, a sufficiently small part means that the tire has been cut into four (4) substantially equal pieces or into two (2) pieces around the circumference of the tread.

Reg.14.705 Tire Monofills Restrictions

(A) No new monofills shall be permitted unless the applicant demonstrates that there is no feasible recycling alternative.

(B) Waste tire monofills shall be permitted, designed, constructed, and operated in accordance with the standards set forth in Reg.22.501.

Reg.14.706 Contracting Waste Tire Transporter

A person shall not contract with a waste tire transporter for the transportation of waste, used and/or processing tires unless the transporter has a current transporter license issued by the Department or is exempt from license requirements.

Reg.14.707 Open Burn

A person shall not cause or permit the open burning of tires in the State of Arkansas.

Reg.14.708 Processing or Baling of Monofill Tires

Only automobile tires which have been processed by cutting, shredding, or splitting into sufficiently small parts to assure proper disposal or automobile tires processed by baling, may be disposed at a disposal site that has a permit issued for a landfill designed and operated as a waste tire monofill. Whole truck tires may be placed in a waste tire monofill in accordance with the facility's permit without cutting, shredding, splitting, or baling. Whole baled tires may be disposed of in a waste tire monofill that has been prepared in such a manner that the tires can be recovered at a later date. Whole baled tires shall be deposited in a waste tire monofill in such a way that avoids or minimizes the collection of explosive gases and liquids as required by the Department.

CHAPTER 8: WASTE TIRE SITE NOTIFICATION

Reg.14.801 Notification Requirement

The owner or operator of any waste tire site shall provide notification to the Department and the applicable District on a Form TP 1 (Waste Tire Site Notification).

Reg.14.802 Plan and Implementation Schedule

The owner or operator of any waste tire site shall submit a written plan to the Department for review and approval that specifies a method and time schedule for the removal, disposal, or recycling of the tires. The owner or operator shall implement the approved plan according to the approved schedule.

Reg.14.803 Waste Tire Sites Required to Close

Waste tire sites that are not an integral part of a permitted waste tire processing facility or collection center shall close in compliance with the closure requirements specified in this regulation.

Reg.14.804 Responsibility

Individuals responsible for creating illegal waste tire piles or responsible for allowing the stockpiling of waste tires shall be responsible for properly removing and disposing of the waste tires in a manner approved by the Department.

Reg.14.805 Technical Assistance

Regional Solid Waste Management Boards and the Department, as required, shall provide technical assistance to owners and operators of waste tire sites regarding disposition of waste tires.

CHAPTER 9: GENERAL PERMITS

Reg.14.901 Eligibility

The following waste tire facilities or equipment shall operate pursuant to a general permit and shall meet requirements set out in this regulation:

(A) A waste tire collection center which stores no more than three thousand (3,000) waste tires at any one (1) time or up to a maximum of ten thousand (10,000) tires that have been compacted and baled at any one (1) time;

(B) A waste tire processing facility used for processing not more than five hundred (500) waste tires during any thirty (30) calendar days; or

(C) The owner or operators of mobile baling, chopping, cutting, or shredding equipment if they comply with the following conditions:

(1) The baling, chopping, cutting, or shredding equipment is located at the waste tire site or waste tire collection center for a period not to exceed one hundred twenty (120) calendar days;
(2) The waste tire site has notified the Department as required or the collection center has submitted the notification required by this regulation; and
(3) All processed tires and residuals are removed from the site for recycling or further processing, or are disposed of in a permitted solid waste management facility within thirty (30) calendar days after the completion of the chopping, cutting, or shredding operation.

Reg.14.902 Notification

To obtain coverage under a general permit, the owners and operators of qualifying facilities or mobile equipment shall notify the Department on Form TP 6 (Waste Tire General Permit Notification) thirty (30) calendar days before the operation begins or the existing general permit coverage expires.

Reg.14.903 Reporting and Permit Fees

Owners or operators of mobile baling, chopping, cutting, or shredding equipment must report to the Department by March 1 annually describing their activities on Form TP 5 (Processing Facility Annual Report). The annual permit fee is one hundred dollars ($100.00).

Reg.14.904 Ineligible Facilities

Any waste tire processing facility which does not fulfill the requirements of coverage under a general permit shall obtain a waste tire processing facility permit or shall close in accordance with the requirements of this regulation.

Reg.14.905 Permit Period

The general permit for a collection center or processor shall be valid for five (5) years. The general permit for a mobile chopper, cutter, or shredder shall be valid for five (5) years.

CHAPTER 10: WASTE TIRE COLLECTION CENTER REQUIREMENTS

Reg.14.1001 Establishment of Waste Tire Collection Centers

Regional Solid Waste Management Regional Boards shall establish, individually or collectively, waste tire collection centers for their residents. The number of waste tire collection centers established in a District shall be outlined in the Solid Waste Management Board's Waste Tire Management Plan. Collection centers should be located at sites that ensure a maximum travel distance to the site is less than sixty (60) miles from any boundary within their respective regions. Storage capacity of sites must ensure that the needs of the public and tire retailers in the District's service area are met sufficiently.

Reg.14.1002 Permit Required – Waste Tire Collection Centers

Waste tire collection centers shall meet the requirements contained in this regulation for waste tire collection centers, as well as the general permitting requirements contained in this regulation, unless exempt from permitting as specified in Reg.14.301.

Reg.14.1003 Application

Waste tire collection centers shall submit to the Department Form TP 6 (Waste Tire General Permit Notification Application) requesting coverage under the General Permit, prior to operating. The waste tire collection centers shall submit to the Department Form TP 8 (Waste Tire Collection Center Annual Report) by March 1 annually.

Reg.14.1004 Disposal Fees

(A) An individual resident of the District shall not be charged a fee for discarding four (4) or fewer automobile tires at a waste tire collection center per month or more often at the discretion of the District.

(B) A retail seller of tires shall not be charged a fee for discarding, at a waste tire collection center, a number of automobile and truck tires equal to the number of tires for which the retailer seller has collected and paid the waste tire fee levied by Ark. Code Ann. § 8-9-404 *et seq.*

(C) Any state or other governmental entity within this state that is required to purchase tires on state contract may dispose of an equal number of waste automobile and truck tires equal to the number of tires for which they have paid the waste tire fee levied by Ark. Code Ann. § 8-9-404 *et seq.* provided that they can show proof that said fee was paid to a retail seller of tires registered with the Arkansas Department of Finance and Administration to collect and pay the waste tire fee levied. Such state or other governmental entity may dispose of said waste tires in a District other than the District in which the waste tires were purchased at retail without being charged any additional fee.

(D) A waste tire collection center may collect an equitable fee, to be established by the respective District, on all non-fee paid automobile and truck tires. The fee shall be posted for the public, and the Department notified of the total fees collected on the District's quarterly grant report. Any fees charged for said tires must not be in excess of the costs of properly removing and disposing of such tires. The District shall not charge for said tires in excess of the cost of removing and disposing of said tires.

(E) If a waste tire collection center accepts large specialty tires, the District shall establish their own fees for accepting such tires in amounts sufficient to cover the increased disposal costs associated with these types of tires. The District will provide the Department with a price scale prior to collecting fees, and the Department shall be notified of the total fees collected on the District's quarterly grant report. Any fees charged for said tires must not be in excess of the costs of properly removing and disposing of such tires.

Reg.14.1005 Recordkeeping and Annual Reporting

The owner or operator of a waste tire collection center shall record and maintain for one (1) year information regarding their activities, which shall be used to complete Form TP 8 (Waste Tire Collection Center Annual Report) due by March 1 annually to the Department. Records shall be maintained onsite and available for inspection by the Department personnel during normal business hours.

Reg.14.1006 Annual Permit Fee

Annual waste tire collection center permit fee is twenty-five dollars ($25.00).

Reg.14.1007 Storage

A permitted waste tire collection center may collect a maximum of three thousand (3,000) loose tires or a maximum of ten thousand (10,000) compacted and baled tires at the site. Storage shall be in accordance with waste tire storage requirements described in this regulation.

Reg.14.1008 Access

Access to the facility must be controlled at all times in accordance with the Chapter 14: Storage Requirements.

CHAPTER 11: WASTE TIRE TRANSPORTER REQUIREMENTS

Reg.14.1101 Prior to Commencing Operations

All waste tire transporters shall submit an application and obtain a waste tire transporter license from the Department prior to commencing waste tire operations, unless otherwise approved by the Department.

Reg.14.1102 Transporters

This Chapter is applicable to transporters of used tires, waste tires, processed tires, baled tires, and tire residuals.

Reg.14.1103 License Required – Waste Tire Transporters

Waste tire transporters shall obtain a license and shall meet the requirements contained in this regulation for waste tire transporters.

Reg.14.1104 Exemptions

Persons who use company-owned or company-leased vehicles to transport tire casings for the purposes of retreading between company-owned or company-franchised retail tire outlets and retread facilities owned or franchised by the same company are not considered waste tire transporters unless they also transport used tires, waste tires, processed tires, and/or tire residuals.

Reg.14.1105 Decals

Any person engaged in collecting or transporting used tires, waste tires processed tires, and/or tire residuals equal to twenty-five (25) or more tires for the purpose of resale, storage, disposal, or processing shall display a current transporter decal obtained from the Department. The decal shall be displayed on the window outside of the driver's front door of each truck used to transport tires. Common carriers are not required to display decals but must carry a copy of their fleet transporter license in each vehicle.

Reg.14.1106 Application

To obtain a waste tire transporter license and approval to transport processed, used, waste tires, and/or tire residuals a collector transporter shall submit an application on Form TP 2 (Waste Tire Transporter License Application) to the Department.

For a new transporter, the application shall be submitted at least thirty (30) calendar days before the transporter intends to begin transporting waste tires.

Reg.14.1107 Fleet Application

A corporate entity or local government may submit one application to license its entire fleet of vehicles.

Reg.14.1108 License Change

The waste tire transporter shall provide written notice to the Department within thirty (30) calendar days of any change to their license if:

(A) The place of business is relocated;

(B) The transporter's name, home address, and/or telephone number has changed;

(C) The transporter has purchased a new vehicle intended for transporting waste tires or sold the vehicle originally licensed by the Department.

Reg.14.1109 Sanctions

A waste tire transporter license shall be non-transferable. A transporter license may be suspended, or revoked in whole or in part, or an application for license may be denied, for cause, including but not limited to the following:

(A) Violation of any part of Ark. Code Ann. § 8-9-401 *et seq.* or this regulation; or

(B) Misrepresentation of any material fact in the license application.

Reg.14.1110 Appeal

Appeal of suspension, revocation, or denial of initial or renewal license procedures shall be in accordance with the conditions of Arkansas Pollution Control and Ecology Commission Regulation 8: Administrative Procedures.

Reg.14.1111 Recordkeeping

Waste tire transporters shall maintain a record of each individual collection and delivery to a permitted or approved processing, storage, or disposal facility.

Reg.14.1112 Vehicle, Trailer and Equipment Maintenance

All vehicles and equipment used for the collection and transportation of whole used or scrap tires shall be constructed, operated, and maintained to prevent loss of whole used or scrap tires during transport and to prevent health nuisances and safety hazards to operating personnel and the public.

Reg.14.1113 Out-of-State Transporter

Out-of-state transporters shall meet the same requirements as in-state transporters except as specified in Ark. Code Ann. § 8-9-404 *et seq.*

Reg.14.1114 Disclosure Statement

The applicant shall file a disclosure statement at the time of application in accordance with Ark. Code Ann. § 8-1-106 *et seq*. An exemption will be allowed if a facility has submitted to the Department a disclosure statement within twelve (12) months preceding the date of application or is otherwise exempt from disclosure requirements.

Reg.14.1115 Recordkeeping, License Fees, Annual Reporting, and License Renewal

(A) Recordkeeping

A waste tire transporter shall record and maintain for one (1) year information regarding its activities which records shall be available for inspection by Department personnel during normal business hours.

(B) License Fees, Annual Reporting, and License Renewal

All waste tire transporter licenses expire February 28 of each year regardless of the issuance date. Waste tire transporters shall submit to the Department an annual report on Form TP 3 (Waste Tire Transporter Annual Report and License Application), provided by the Department annually by March 1 along with the annual transporter license fee as a condition of holding a license. The annual license fee per vehicle is twenty-five dollars ($25.00) and ten dollars ($10.00) for the decal, up to a maximum of two hundred fifty dollars ($250.00) for a fleet license. The replacement fee for a lost or destroyed registration decal is ten dollars ($10.00).

Reg.14.1116 Compliance

Any person or persons who fail to comply with this regulation is subject to having their waste tire transporter license revoked, as well as other penalties provided by law.

Reg.14.1117 Decal Removal

When a waste tire transporter license expires or is revoked, the applicant shall immediately remove all waste tire transporter decals from all vehicles.

Reg.14.1118 Disposition Sites

A waste tire transporter shall leave waste tires and processed tires for storage or disposal only in a permitted waste tire processing or collection facility, at a permitted solid waste management facility, or at another site approved by the Department.

Reg.14.1119 Procedures to Suspend, Revoke, or Deny License

Suspension, revocation, or denial of licensure procedures are as follows:

(A) The Department may suspend or revoke a license or deny an initial or renewal license for:

(1) Failure to maintain a complete and accurate record of tire shipments;

(2) Falsification of waste shipping documents or waste tire manifests;

(3) Delivery of waste and/or used tires to a facility not permitted to accept the tires;

(4) Failure to comply with any rule or order issued by the Commission pursuant to the requirements of this regulation;

(5) Failure to submit the annual report required by this Chapter;

(6) Illegal dumping of waste and/or used tires or tire residuals; or

(7) Collection or transportation of waste and/or used tires without a valid transporter license.

(B) A waste tire transporter license may be suspended for a period of six (6) months depending upon the seriousness of the offense(s). A waste tire transporter license is revoked automatically upon a second suspension. If the license is suspended or revoked, a transporter shall not transport waste and/or used tires regulated under this regulation.

(C) The holder of a waste tire transporter license that has been revoked by the Department may reapply for a license pursuant to this regulation as if applying for the first time, after a period of at least six (6) months from the date of revocation.

(D) Procedures for appeal of suspension, revocation or denial of initial or renewal of a transporter license shall be in accordance with the requirements of the Arkansas Pollution Control and Ecology Commission Regulation 8: Administrative Procedures.

CHAPTER 12: WASTE TIRE PROCESSING FACILITY REQUIREMENTS

Reg.14.1201 Permit Required – Waste Tire Processing Facilities

Waste tire processing facilities shall obtain a permit and shall meet the requirements contained in this regulation for waste tire processing facilities (Waste Tire Processing Facility Requirements) or shall meet the general permit requirements contained in this regulation.

Reg.14.1202 Permit Modifications Required

Permitted solid waste management facilities shall apply for a permit modification to authorize the storage and processing of waste tires if they maintain a waste tire site and process the waste tires for recycling or disposal.

Reg.14.1203 Storage

All whole tires, used tires, tire bales, waste tires, processed tires, and tire residuals shall be stored in accordance with the waste tire storage requirements described in this regulation.

Reg.14.1204 Storage Limit

A waste tire processing facility may not accept any waste tires for processing if it has reached its storage limit. The storage limit for processing facilities is thirty (30) times the daily capacity of the processing equipment used. Owners or operators of waste tire processing facilities shall provide processing equipment specifications from which daily capacity may be determined. In extraordinary cases, such as where a specific project requires a large accumulation of baled or shredded tires to complete an alternative end use initiative, the Department shall have the authority to increase the storage limit, provided all other requirements of this regulation are met.

Reg.14.1205 Duration

At least seventy-five percent (75%) of both the waste tires and processed tires that are delivered to or that are contained on the site of the waste tire processing facility must either be processed and removed from the facility during the year for disposal or recycling from the facility during the year, or disposed of on the site in a permitted solid waste management facility.

Reg.14.1206 Temporary Cover – Emergency Event

Earthen cover material will not be required for processed tires meeting the requirements of this Chapter. However temporary cover material may be used or required to mitigate fire hazards or to assist in fire suppression, or for vector control in the event of an emergency situation. The owner or operators shall properly remove, process, or dispose of the subject material within sixty (60) calendar days of such emergency event. Notification will be made to the Department in accordance with the facility permit.

Reg.14.1207 Recordkeeping

The owner or operator of a waste tire processing facility shall record and maintain information regarding their activities. The records shall be available for inspection by Department personnel during normal business hours.

Reg.14.1208 Prior to Construction or Operation

Processing facilities shall comply with this and all other regulations and must obtain all necessary environmental permits prior to commencing construction or operation.

Reg.14.1209 Vector Control

An approved vector control program must be operational at all times for tires stored outdoors.

Reg.14.1210 Emergency Preparedness

The owner or operator shall submit, for review and approval, an emergency preparedness plan that adequately mitigates all fire hazards, and provides for the safety and health of all persons who may be potentially affected by a fire event at the facility. Once approved, implementation of the plan shall begin immediately, and shall be completed within thirty (30) calendar days.

Communication equipment shall be maintained at all facilities to ensure that the site operator can contact local fire protection authorities in the event of fire.

Adequate equipment to aid in the control of fires must be provided and maintained at the facility at all times. An adequate water supply shall be available for use by the local fire authority.

All of the fire control requirements of this Chapter shall apply unless the local fire authority having jurisdiction over a particular facility determines that different requirements are necessary or adequate to meet the intent of these regulations for fire control and the protection of life and property.

Reg.14.1211 Operator License Requirement

All operators of waste tire processing facilities shall be licensed as solid waste management facility operators in accordance with Arkansas Pollution Control and Ecology Commission Regulation 27.

Reg.14.1212 Application and Annual Permit Fees

Applications for processing facility permits shall be submitted to the Department on TP 4 (Waste Tire Processing Facility Permit Application). Engineering components of the waste tire processing facility shall be designed and/or examined by a professional engineer licensed in the State of Arkansas. Annual permit fee is one hundred dollars ($100.00).

Reg.14.1213 Disclosure Statement

The applicant shall file a disclosure statement at the time of application as mandated by Ark. Code Ann. § 8-1-106. An exemption will be allowed if a facility has submitted to the Department a disclosure statement within twelve (12) months preceding the date of application or is otherwise exempt from disclosure requirements.

Reg.14.1214 Permit Transfers – Waste Tire Processing Facilities

Permits for waste tire processing facilities are transferable provided the current permittee submits an administratively complete application including but not limited to the following:

(A) A written request for the permit transfer presented on a form provided by the Department;

(B) A certification by the current permittee that all facility engineering design, operational plans, and other permit application documents have or will be furnished to the proposed permittee prior to permit transfer as well as certification that the facility was constructed according to design;

(C) Adequate documentation from the current permittee showing that the proposed permittee shall have ownership or control of the site for which transfer of permits is being requested;

(D) A completed disclosure statement of the proposed permittee;

(E) A permit transfer fee in accordance with the Department's current fee schedule as found in the Arkansas Pollution Control and Ecology Commission Regulation No. 9; and

(F) Proof of financial assurance that complies with the requirements of this regulation is submitted within thirty (30) calendar days of the documented date of asset transfer.

Reg.14.1215 Annual Reporting

Owners and operators of waste tire processing facilities shall submit to the Department an annual report by March 1 that summarizes information on facility activities. The report shall be submitted to the Department on Form TP5 (Waste Tire Processing Facility Annual Report).

CHAPTER 13: REQUIREMENTS FOR FINAL DISPOSAL OF WASTE TIRES AT A PERMITTED SOLID WASTE DISPOSAL FACILITY

Reg.14.1301 Landfilling Requirements

(A) Whole tires shall not be deposited into a landfill as a method of ultimate disposal unless shredded or split into sufficiently small parts to assure their proper disposal.

(B) For purposes of disposal, "sufficiently small part" means that the tire has been cut into four (4) substantially equal pieces or into two (2) pieces around the circumference of the tread. Landfills that receive waste tires must also meet and comply with the conditions and standards contained in Arkansas Pollution Control and Ecology Commission Regulation 22.

Reg.14.1302 Cover Requirement

Tires shall be covered at least weekly or as required by the permit with earthen cover material or other alternate cover as approved by the Department.

Reg.14.1303 Recordkeeping

The owner or operator of a permitted solid waste disposal site shall record and maintain for one (1) year information regarding their activities. The records shall be made available for inspection by Department personnel during normal business hours.

Reg.14.1304 Annual Reporting

Owners and operators of waste tire disposal facilities shall submit to the Department an annual report on Form TP 10 (Waste Tire Disposal Facility Annual Report) by March 1 annually that summarizes the information collected regarding their activities. In addition, waste tire monofills shall meet annual reporting requirements under Arkansas Pollution Control and Ecology Commission Regulation 22.

CHAPTER 14: STORAGE REQUIREMENTS

Reg.14.1401 Indoor Tire Storage

Waste tires stored indoors shall be stored under conditions that meet the most current standards published by the National Fire Protection Association.

Reg.14.1402 Outdoor Above-Ground Tire Storage

All waste tire sites, collection centers, and any processing or disposal facilities which store used tires, waste tires, or processed tires outdoors above ground must comply with the following technical and operational standards:

(A) A waste tire site shall not be constructed, maintained, or operated in or within two hundred feet (200') of any wetland, transitional wetland, or isolated wetlands. A person may maintain a waste tire site setback within the two hundred-foot setback upon demonstration to the Department that permanent control methods for residuals will result in compliance with water quality standards of the Department. Storm water control methods shall meet storm water requirements of the Department. The site shall be managed in such a way as to divert storm water or flood waters around and away from the storage piles. Specifically, if an open-top container or trailer is utilized to collect and store waste tires at a waste tire collection center, a storm water permit will not be required if the container or trailer is covered with a tarp or placed under some type of constructed cover during inclement weather and/or when the business is closed. If waste tires are collected and stored without benefit of a container or trailer, a storm water permit from the Department's Water Division will be required unless approval is received, in writing, from the Department's Water Division that a permit is not required. This Chapter shall not apply to artificial reefs constructed pursuant to Department approval.

(B) Waste tires shall be stored separately from used tires in such a manner that is easily recognizable. If not segregated to be easily recognizable, used tires shall be determined to be waste tires.

(C) An outdoor waste tire pile or processed tire pile shall have no greater than the following maximum dimensions:

(1) Width: fifty feet (50');
(2) Length: one hundred feet (100'); and
(3) Height: fifteen feet (15').

(D) A fifty-foot wide fire lane shall be placed around the perimeter of each waste tire pile. Access to the fire lane for emergency vehicles must be unobstructed at all times.

(E) The owner or operator shall develop and implement a program to control mosquitoes and rodents or request such control measures from the local mosquito and vector control office, so as to protect the public health and welfare. Mosquito control measures may include covering containers and trailers used for the collection and storage of waste tires with a tarp

or placing them under some type of constructed cover during inclement weather and/or when the business is closed.

(F) If the site receives tires from persons other than the operator of the site, a sign legible from a distance of twenty feet (20') shall be posted at the entrance of the site stating operating hours, cost of disposal and site rules.

(G) No operations involving the use of open flames shall be conducted within twenty-five feet (25') of a waste tire pile.

(H) An approach and all weather access road to the waste tire site shall be kept passable for any motor vehicle at all times.

(I) Access to the site shall be controlled through the use of fences, gates, natural barriers, or other means approved by the Department. However, at waste tire collection centers where waste tires are collected and stored in containers and trailers, the installation of a fence will not be necessary if the collection center utilizes another method that is approved by the Department, such as the use of a heavy duty cable.

(J) Effective surface water run-on/run-off controls, such as berms and ditches, shall be established for all waste tire storage and processing areas to prevent surface water from entering the storage and/or processing area and to prevent liquid runoff from a potential tire fire from leaving the site or entering surrounding water bodies. A waste tire collection center which allows tires to be deposited on the ground or a concrete slab will be required to meet this requirement. However, a waste tire collection center which utilizes any type of container or trailer for collection and storage will not be required to berm the storage area.

(K) Fire protection services for the site shall be assured and documented in the operating records through notification to local fire protection authorities. A fire safety survey shall be conducted by the local fire protection authorities.

(L) Communication equipment shall be maintained at the waste tire site to assure that the site operator can contact local fire protection and emergency authorities in case of a fire.

(M) The waste tire site shall be kept free of grass, underbrush, and other potentially flammable vegetation at all times.

(N) The operator of the site shall prepare and keep at the site an emergency preparedness manual. The manual shall be updated at least once a year, upon changes in operations at the site.

(O) The operator of the site shall immediately notify the Department in the event of a fire or other emergency if that emergency has potential off-site effects and will submit a written report within two (2) weeks.

(P) Adequate equipment to aid in the control of fires shall be provided and maintained at the facility at all times.

(Q) The operator of the site shall maintain records of the quantity of waste tires and processed tires received at the site, stored at the site, and shipped from the site.

(R) The minimum separations distances between exposed buildings and piles or between isolated piles shall be in accordance with National Fire Protection Association Standards.

CHAPTER 15: CLOSURE REQUIREMENTS

Reg.14.1501 Closure Mandate

The owner or operator of any waste tire site that does not meet the requirements of this regulation, or any facility permitted under this regulation that will no longer accept, collect, or process tires shall close such site in accordance with this Chapter within sixty (60) calendar days.

Reg.14.1502 Procedures

In closing any waste tire site, the owner or operator shall:

(A) Stop public access to the site;

(B) Post a notice indicating the site is closed and the nearest site where waste tires can be deposited;

(C) Notify the Department and local government having jurisdiction of the onset of closure;

(D) Remove all waste tires, processed tires, and residuals to a permitted waste tire processing facility, permitted solid waste management facility, or a legitimate user of waste tires as approved by the Department;

(E) Make such repairs to the site to effectively promote surface water flow; and

(F) Notify the Department when closure is complete.

Reg.14.1503 Closure Plan

All permits issued under this regulation shall include an approved closure plan. The closure plan shall include, at a minimum:

(A) A description of how the closure requirements will be met;

(B) A closure schedule, including time period for completion;

(C) A plan for site rehabilitation if deemed necessary by the Department; and

(D) Proof of financial responsibility pursuant to this regulation.

Reg.14.1504 Closure Approval

After receiving notification that site closure is complete, the Department shall inspect the site. If the closure is found to be satisfactory, the Department shall approve the closure in writing. If the facility was required to provide proof of financial responsibility for closure by this regulation, the Director or his or her designee shall release the financial instruments within thirty (30) calendar days of closure approval.

CHAPTER 16: ENFORCEMENT

Reg.14.1601 Penalties and Enforcement

Any person who violates any provision of this regulation shall be subject to the same penalty and enforcement provisions as are contained in the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-204.

CHAPTER 17: FINANCIAL ASSURANCE REQUIREMENTS

Reg.14.1701 General Requirements/Applicability

Owners or operators of waste tire processing facilities must file and maintain financial assurance of closure with the Director as set forth in Arkansas Pollution Control and Ecology Commission Regulation 22. Financial assurance may also be required for certain waste tire collection centers and waste tire sites if the Department determines it to be warranted, and the following sections are applicable.

Reg.14.1702 Amount of Financial Assurance Required

(A) The amount of financial assurance required of the owner or operator shall be established by the Director based upon the estimated closure costs. This required amount may be adjusted to take into account any changes in the requirements of the permit.

(B) The owner or operator may appeal the Director's decision as set forth in Ark. Code Ann. § 8-6-1603.

Reg.14.1703 Filing of Financial Assurance

(A) New Waste Tire Processing Facilities/Disposal Facilities – Within ten (10) business days after the final decision to issue a permit for a new waste tire processing facility, the Director shall notify the permittee in writing of the amount of financial assurance required as established by this Chapter. The permittee must, before the permit can be effective, file with the Director, financial assurance meeting the requirements of this Chapter and in at least that amount, unless otherwise determined by an appeal pursuant of Regulation 14.1702(B).

(B) Incremental Filing – For waste tire processing facilities which seek to utilize an incremental operational plan as set forth in the permit application, the permittee may initially file financial assurance covering only closure of the initial increments. The permittee must, at least thirty (30) calendar days prior to beginning operation of a subsequent increment not covered by financial assurance, file adequate assurance for that increment with the Director.

Reg.14.1704 Mechanisms of Financial Assurance

Owners or operators of waste tire processing facilities that are required by the Director to post financial assurance shall select a financial assurance mechanism from those allowable mechanisms identified in Arkansas Pollution Control and Ecology Commission Regulation 22.

CHAPTER 18: SEVERABILITY AND EFFECTIVE DATE

Reg.14.1801 Severability

If any provision of this regulation or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are declared to be severable.

Reg.14.1802 Effective Date

This regulation shall be effective ten (10) days after filing the same with the Secretary of State, the State Library, and the Bureau of Legislative Research.