

SCRAP TIRES – STATUTE AND REGULATIONS

Frequently Asked Questions (FAQ)

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GENERAL QUESTIONS

Calculating 75 Percent Removal of Material from Collection Site

1. How should collection sites that are processors certify they are removing 75 percent every year?

Those sites who want to meet the commodity exemption under Section 16903(6), the end-user certification under Section 16904a(1), and the processor exemption certification under Section 16903b(1), must submit the certification form approved by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) (see Sections 16903(6)(b) and 16904a(1) as applicable); “collection site owner or operator certifies compliance with this subdivision on a form approved by the department.” The intent of these exemptions is to NOT GROW the pile. They need to show that 75 percent of the total number of tires and tire material, by weight or volume, that was on-site during the previous year has been recycled and removed from the site. This means that the volume/weight of tires and tire material that the site started the year with, plus what was brought in during the year, is divided into the volume/weight of tires and tire material that have been recycled and removed from the site to show the percentage. This should be easy for the person certifying this fact to do, as they should be keeping inventory records.

2. Is it acceptable to round up to the whole digit to obtain 75 percent? For example, from 74.85 to 75?

Yes, common mathematic practices would allow for anything over 0.5 to be rounded up to the next whole number.

3. Can a retreader who also repairs tires count the repaired tires toward meeting their 75 percent of tires recycled or used for resource recovery for an end-user exemption?

Section 16901(1)(k)(iv) states an end-user is, “A person who is authorized by this part to accumulate scrap tires, who acquires scrap tires, and who converts scrap tires into a product that is sold in the market or reused in a manner authorized by this part.” As long as there is an actual physical repair being made and the tire is put back into service on a vehicle, it can be counted toward the 75 percent for an end-user certification. Repairing and storing the tires is not sufficient; it must also be put back into service. A used tire in general that has not been processed or repaired and put back into service does not count toward the 75 percent on the end-user certification.

4. What is a Passenger Tire Equivalent (PTE)? Are there conversion factors for different sizes of tires?

Yes. The following are scrap tire conversion factors:

- 1 Passenger Tire = 1 PTE
- 1 Semi Truck Tire = 5 PTE
- 1 Oversized or Off-the-Road (OTR) Tire = 15 PTE
- 4 Passenger Tire Sidewalls = 1 PTE
- 4 Semi Sidewalls = 1 Semi Truck Tire (5 PTE)
- 1 Ton = 89 PTE (in any form)
 - = 18 Semi Truck Tires
 - = 9 Cubic Yards PTE (in any form)
 - = 7 Cubic Yards Semi Truck Tires
- 1 Cubic Yard = 10 PTE (in any form)
 - = 2.5 Semi-Truck Tires
 - = 40 Shredded PTE (shreds approximately 2" x 2")
 - = 63 Crumbled PTE (20-30 mesh)
 - = 0.1 Ton PTE (in any form)
 - = 0.14 Ton Semi Truck Tires

Collection Site

Collection Site - New Location

5. Does a collection site obtain a new registration number if the site moves to a new location?

Yes, the collection site registration number remains with the address/property. If a site moves to a new location, a new collection site registration number must be issued. Hauler registrations, however, can move with the hauler to a new location.

Collection Site – Outdoor Commodity Storage Area

6. What should I do if an existing registered collection site using two trailers for storage (no bond) decides to add an additional <one-acre outdoor commodity storage area for drain field chips?

The applicant will need to resubmit their entire collection site registration as an “amended” application, including an accurate, scaled map showing the commodity storage area, including an explanatory cover letter and the commodity storage form EQP5127. No bonding fee would be required. Since they have already paid their \$200.00 registration fee, which is considered an annual fee rather than a processing fee, they would not need to pay another \$200.00.

Farm Use of Scrap Tires

7. Part 169 exempts a farm feed storage location from the definition of a collection site. What does this mean?

A location on one or more parcels of adjacent property that contains a farm operation where not more than 3,000 scrap tires are used to secure stored feed is not required to register as a scrap tire collection site.

Farm Feed Storage Locations – Less than 3,000

8. A farm feed storage location is allowed to use up to 3,000 scrap tires without registering as a scrap tire collection site. What is included in the 3,000 scrap tires? Is this all whole tires? Does it include sidewall slabs or rings used as weights to secure the stored feed?

While the definition of “scrap tire” under Part 169 includes any tire that is no longer being used for its original intended purpose, including portions of a tire, the limit on the number of scrap tires at a feed storage location is intended to cover whole tires only. Sidewall rings or slabs cut from tires for use as weights are commodities under Part 169 and are exempt from regulation under the statute when properly used at a feed storage location. A farm can have as many sidewall rings or slabs as necessary to secure stored feed.

9. Are there any management requirements for sidewall slabs or rings used as weights by a farm to secure stored feed?

While there are no management requirements contained in the statute for sidewall rings or slabs, EGLE recommends that sidewall slabs or rings be managed and stored to reduce the risks of fires. Suggested management includes storing the sidewall slabs or rings in piles that are no greater than 15 feet in height with horizontal dimensions no greater than 200 feet by 40 feet, with a minimum of 30 feet between piles. To allow access to the sidewall slabs or rings should a fire occur, it is suggested they be stored in piles no closer than 20 feet from property lines and no closer than 60 feet from any building. The stored sidewall slabs or rings should be otherwise accessible to firefighting equipment and should be stored so that they are isolated from hazardous products such as lead acid batteries, fuel tanks, solvent barrels, and pesticide containers. Persons working at the farm should be trained what to do in the case of an emergency at the site and know who to contact should an emergency occur.

10. Are there any management requirements for less than 3,000 whole scrap tires used by a farm to secure stored feed?

There are no management requirements in the statute for less than 3,000 whole scrap tires being used by a farm to secure stored feed. However, EGLE recommends that these whole scrap tires be managed and stored to reduce the risks of mosquitoes and fires. Suggested management includes storing the scrap tires in piles that are no greater than 15 feet in height with horizontal dimensions no greater than 200 feet by 40 feet, with a minimum of 30 feet between piles. To allow access to the whole tires, piles should be located no closer than 20 feet from property lines and no closer than 60 feet from any building. The tires should be otherwise accessible to firefighting equipment and should be stored so that they are isolated from hazardous products such as lead acid batteries, fuel tanks, solvent barrels, and pesticide containers. It is recommended that the owners of these locations notify the local fire department that serves the jurisdiction where the site is located that they have a number of scrap tires on-site in case of a fire at the site. Persons working at the farm should be trained what to do in the case of an emergency at the site and know who to contact should an emergency occur. The whole tires should also be maintained in a manner that limits the potential of mosquito breeding by providing for proper drainage of water or treating the tires to eliminate the potential for mosquito breeding. Proper drainage can be achieved by drilling a minimum of four holes at least one-inch in diameter in the tires. The holes should be located where the tread meets the sidewall with two holes near each sidewall, so that no matter how the tire lies, one set of holes should be on the side that is down.

Farm Feed Storage Locations – Greater than 3,000

11. What if a farm wants to use more than 3,000 whole scrap tires to secure stored feed?

The farm would need to submit a written request for the use of more than 3,000 whole scrap tires to EGLE's Waste Management and Radiological Protection Division Director. This written request would need to explain the reasons why the farm needs to use a greater number of whole scrap tires. If the request were approved, EGLE would issue an authorization under the Designation of Inertness for Tire Material for the use. The authorization would include the maximum number of tires that could be used for this purpose, that appropriate measures be taken to prevent runoff and sedimentation to surface waters, and requirements for the proper use and storage of the whole scrap tires while in use to secure stored feed and after the tires are pulled off the feed piles. This includes following the statutory requirements for the storage of whole scrap tires in order to reduce the risks of mosquitoes and fires. Whole scrap tires must be stored in piles that are no greater than 15 feet in height with horizontal dimensions no greater than 200 feet by 40 feet, with a minimum of 30 feet between piles. Tire piles should be no closer than 20 feet from property lines and no closer than 60 feet from any building. The tires must be accessible to firefighting equipment and must be stored so that they are isolated from hazardous products such as lead acid batteries, fuel tanks, solvent barrels, and pesticide containers. The farm must supply written notice to the local fire department that serves the jurisdiction of EGLE's approval to use scrap tires for this purpose. This written notification must be provided immediately upon receipt of this approval to use more than 3,000 scrap tires, and a copy must be provided to EGLE. Persons working at the farm should be trained what to do in the case of an emergency at the site and know who to contact should an emergency occur. The tires must be maintained in a manner that limits the potential for mosquito breeding by providing for proper drainage of water or treating the tires to eliminate the potential for mosquito breeding. Proper drainage can be achieved by drilling a minimum of four holes at least one-inch in diameter in the tires. The holes should be located where the tread meets the sidewall with two holes near each sidewall, so that no matter how the tire lies, one set of holes should be on the side that is down.

Mosquito Sampling

12. How long should EGLE staff keep mosquito samples taken at scrap tire collection sites?

EGLE staff only needs to keep a sample if it is to be used in an enforcement case/action.

13. How often should EGLE staff obtain mosquito samples from a scrap tire collection site?

EGLE staff should take mosquito samples from scrap tire collection sites annually. If a site is treated for mosquitoes, follow-up sampling should be done to determine the effectiveness of treatment.

Retreading/Retreaders

Retreaders versus Processors

14. Are scrap tire retreaders also classified as processors?

Per Section 16901(v), a “retreader” means a person who retreads, recases, or recaps tire casings for reuse. However, if they exceed 1,500 tires on-site (retailer exemption), they would be required to register as a scrap tire collection site, have a bond, as applicable, and maintain compliance with the site requirements for one year in order to be exempt from the bond requirements.

Retreaders – Collection Site versus End-User

15. Does a retreader with 1,500 or more scrap tires have to register as a scrap tire collection site?

In Section 16901(1)(k)(iv), an end-user is defined as “a person who is authorized by this part to accumulate scrap tires, who acquires scrap tires, and who converts scrap tires into a product that is sold in the market or reused in a manner authorized by this part.” Therefore, if the retreader annually certifies that 75 percent of the scrap tires, by weight or volume, that are stored on-site each calendar year are recycled or used for resource recovery during that year and complies with the record keeping requirements of Section 16906, the retreader will not be required to register as a scrap tire collection site. If the retreader does not certify as an end-user, then they will be required to register as a scrap tire collection site and must meet all applicable storage and bonding requirements.

Note: This applies only to the site that is retreading the scrap tires; satellite locations of the retreader where no retreading activity is occurring will be required to register as a scrap tire collection site.

Scrap Tire Hauler

Hauler Supplemental List of Vehicles

16. What do we do if a registered scrap tire hauler submits a supplemental list of vehicles?

Attach the supplemental list of vehicles to the current Registration Application rather than issue a new registration.

Who Must Register?

17. Who has to register as a scrap tire hauler?

A scrap tire hauler is defined as a person who transports more than ten scrap tires at once in a vehicle on a public road or street except for the following scenarios:

- a. A person, other than a commercial business, who transports that person's own tires to a location authorized in Section 16902(1).

- b. A member of a nonprofit service organization who is participating in a community service project and is transporting scrap tires to a location authorized in Section 16902(1).
- c. The owner of a farm who is transporting only scrap tires that originated from his or her farm operation, to a location authorized in Section 16902(1), or that are intended for use in a feed storage location.
- d. A solid waste hauler that is transporting solid waste to a disposal area licensed under Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451).
- e. A person who is transporting only a commodity.
- f. A retreader who is transporting scrap tires for the purpose of retreading, recasing, or recapping and who has the documentation required in Section 16906(5).

Municipalities

18. Do municipalities that haul more than ten tires at once have to register as a scrap tire hauler?

Section 16901(x) states that a scrap tire hauler does not include a person, other than a commercial business, who transports that person's own tires to a location authorized in Section 16902(1). EGLE would consider a municipality or other governmental entity (i.e., county, state department) as eligible for the "ownership" exemption, if the scrap tires are being removed from publicly-owned property or are scrap tires abandoned on a road right-of-way within the governmental unit's jurisdiction. Likewise, a tax reverted property would also be considered publicly owned and eligible for the "ownership" exemption. However, if the municipality does not want to avail themselves of this exemption because it implies an "ownership" interest in the scrap tires, they should register as a scrap tire hauler if they intend to haul more than ten tires at once in a vehicle on a public road or street.

Hauler Manifest Requirements

19. What is a consolidated load? How would the manifest requirement work for a consolidated load?

A scrap tire hauler is required to maintain a record (manifest) of each load or consolidated load of scrap tires he or she transports on forms approved by EGLE that contain all of the information required under Part 169. Further, they are then required to leave a copy of that record with the person who contracted for removal of the tires at the time of the removal.

A consolidated load occurs when a single hauler is picking up small quantities of scrap tires from multiple locations or generators who have contracted with the hauler. These pickups must occur on the same day and be taken to the same final destination. The scrap tire hauler would use the EGLE-approved Consolidated Load Scrap Tire Transportation Record EQP5128a (manifest) in conjunction with the EGLE-approved Scrap Tire Transportation Record EQP5128 in the following manner: "See Consolidated Load information" and the number of pages attached would be listed in the generator portion of the manifest in Part 1 of the Scrap Tire Transportation Record. The consolidated load box would also be checked. Part 2 (hauler information) and Part 3 (final destination information) are to be completely filled out, as usual. The individual names and/or addresses of the locations where the tires are picked up by the scrap tire hauler and numbers of tires would be tracked on the Consolidated Load Scrap Tire Transportation Record. A copy of the Scrap Tire Transportation Record and the Consolidated Load Scrap Tire Transportation Record would need to be left at each location where the hauler picks up scrap tires that become part of the consolidated load. The hauler must total all of the attached pages and include that total on Page 1 of the Scrap Tire Transportation Record in the generator section prior to delivery

of the tires to the final destination. Within 30 days of receiving the consolidated load manifest, the final destination should mail a completed copy of the consolidated load manifest to each generator.

OTHER

Estimating the Number of Scrap Tires

20. How can I reasonably determine the numbers of scrap tires in a tire accumulation?

A vast number of variables affect the quantification of tires stored in similar scrap tire collections. Passenger versus truck tire size; age of the pile; loose, laced, or baled tires; underlying terrain; and an irregular foot print of the pile are a few of these variables. An acceptable national standard for estimating scrap tire numbers is to allow for ten scrap tires for each cubic yard of accumulation. This number can be reduced if the pile is new or the tires are loosely piled, or the number can be increased if the pile is older or the tires are laced, baled, shredded, or otherwise volume reduced.

The most difficult task might be to gain an accurate estimate of the tire pile volume. Tire piles seldom occur in perfect rectangular forms that are easily measured. Most often tire piles are uneven heights, varying widths, and meandering lengths. This often calls for an estimation of averages. The accuracy of the tire estimation is predicated on the accuracy of the tire pile dimension measurements.

The formula: Length (yds) X Width (yds) X Height (yds) = ___ Cubic Yards X 10 (+ or - for variables) gives a reasonable estimate of tire quantities. The most critical number in tire quantity estimations are statutory thresholds of 500, 1,500, 2,500, and 100,000; 150 cubic yards of scrap tire processed material to be used as an aggregate replacement in septic drain fields; or when estimating tire pile numbers for the cleanup grant program.

Salvage Yards

21. Where can we find salvage yard license information?

Information for salvage yard licensing can be found on the Michigan Department of State (SOS) Web site located at: [HY](#). For specific phone numbers and section titles of SOS staff, please check the Web site.

End User and Processor

22. How do we determine who is an end-user and/or a processor?

See attached flow chart dated December 29, 2006 ([Attachment 1](#)).

Crumb Rubber Disposal

23. If crumb rubber is used to construct an athletic field and the property is subsequently sold, would the material (crumb rubber) have to be removed and disposed of if it is no longer used as an athletic field?

If the athletic field is constructed of shredded tires not more than 3/8-inch by 3/8-inch in size or crumb rubber less than 1/8-inch in size, free of steel and fiber, the material would be considered a commodity, inert, and would not have to be removed and disposed of pursuant to the provisions of Section 11507(3) of Part 115 (Part 115 can be accessed at www.legislature.mi.gov/documents/mcl/pdf/mcl-451-1994-ii-3-115.pdf).

The Designation of Inertness #17-1-001 for Tire Material, dated March 8, 2017, Section 1(B)(ii) and Section 1(E) (the Designation of Inertness #17-1-001 can be accessed at www.michigan.gov/documents/deq/deq-whmd-stp-Designation-TireInert_247522_7.pdf).

Bead Wire**24. When is the bead wire of scrap tires recyclable as metal?**

Bead wire is a recyclable metal once it is removed from the tire and meets the definition of scrap metal. Once the bead wire is removed from the tire, it is exempt from Part 169. Otherwise, it is considered a solid waste under Part 115.

Tread Trimmings**25. Are tread trimmings and tire buffings from the retreading of tire casings regulated under Part 169?**

No. Tread trimmings and tire buffings are not scrap tires. The trimmings have not been on a tire nor have they been a tire and are, therefore, not a scrap tire and not regulated under Part 169. A similar argument can be made for the buffings as well. The tread trimmings and tire buffings are a waste from a manufacturing process and are regulated under Part 115. Site and/or source separated exemptions may apply on a case-by-case basis.

Intermodal Storage Containers**26. Do intermodal storage containers at a collection site require bonding?**

If the intermodal storage container is being used to transport scrap tires, it does not require bonding, similar to tires stored in trailers ([See Q&A regarding 16901\(1\)\(ff\)](#)). However, if the container remains stationary and is not being used to transport scrap tires, the container must be bonded ([See Q&A regarding 16903\(4\)](#)).

Clean-up of Site of less than 500 Tires**27. Can EGLE compel/order the cleanup of a site with less than 500 tires?**

Under Part 169, EGLE cannot compel/order the cleanup of a site with less than 500 tires. EGLE can work with the local authorities, township, fire department, zoning, etc., in an effort to address these sites. Furthermore, if necessary, under Part 115, EGLE can compel/order the cleanup of scrap tire sites with less than 500 tires if these are determined to be injurious to human health or the environment or create a nuisance during storage or use.

Manifests – Generators/Collection Site**28. How should manifests be handled when the hauler is the same as the generator or collection site?**

Signatures for the hauler and the collection site can be the same if they are the same company but cannot be signed in advance of the tires actually being hauled or delivered to the collection site. The signee must wait until they pick up the scrap tires (hauler) or the tires are delivered at the collection site (collection site/disposal location) to sign the manifest as the collection site. Once the manifest is signed by the collection site, it must be sent back to the generator. The manifest is then complete and delivery of the tires to the location on the manifest is certified.

Manifest – Consolidated Load**29. A scrap tire hauler is required to maintain a record (manifest) of each load or consolidated load of scrap tires he or she transports on forms approved by EGLE that contain all of the information required under Part 169 and is then required to leave a copy of that record with the person who contracted for removal of the tires at the time of the removal. What is a consolidated load? How would the manifest requirement work for a consolidated load?**

A consolidated load occurs when a single hauler is picking up small quantities of scrap tires from multiple locations or generators who have contracted with the hauler. These pickups must occur on the same day and be taken to the same final destination. The scrap tire hauler would use the EGLE-approved Consolidated Load Scrap

Tire Transportation Record (manifest) in conjunction with the EGLE-approved Scrap Tire Transportation Record in the following manner: “See Consolidated Load Information” would be listed in the generator portion of the manifest in Part 1 of the Scrap Tire Transportation Record, the scrap tire hauler’s name as the hauler in Part 2, and the name of the final destination where the tires are delivered would be listed in Part 3 of the manifest. The individual names and addresses of the locations where the tires are picked up by the scrap tire hauler, and the numbers of tires would be tracked on the Consolidated Load Scrap Tire Transportation Record. A copy of the Scrap Tire Transportation Record and the Consolidated Load Scrap Tire Transportation Record would need to be provided to each location where the hauler picks up scrap tires that become part of the consolidated load.

Manifest – Performance Tire Testing

30. What documentation is required for a manufacturer of new passenger vehicles to document tires hauled for evaluation/performance testing?

A manufacturer of new passenger vehicles (Part 169 defines vehicle in 16901(1)(ff), see below) that transports tires for the purpose of evaluation/performance testing does not need to utilize a transportation record provided that the following conditions are met:

- a. The timeframe for testing is defined and does not exceed 36 months,
- b. The tires are managed in a manner consistent with their status as a test tire (they must be managed as a usable product),
- c. The new passenger vehicle manufacturer tracks the test tires utilizing a system that includes the date of transportation, the number of test tires or the number of storage units (e.g., baskets, pallets, etc.) containing test tires, that are being transported and the location(s) where the test tires are being delivered for testing or storage,
- d. When the test tires are ultimately disposed of, the disposal is documented through the use of a scrap tire transportation record, and
- e. The manufacturer of new passenger vehicles shall maintain the documentation required in a.-d. above for three years and make the documentation available upon request to the department, or a law enforcement officer, at reasonable hours.

In summary: A manufacturer of new passenger vehicles hauling test tires for evaluation/performance testing is exempt from using a scrap tire transportation record if they are in compliance with the conditions outlined above. However, these tires are subject to full regulation under Part 169, Scrap Tires, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, when they are hauled for final recycling or disposal.

16901(1)(ff) (2015 statute language): "Vehicle" means a device in, upon, or by which a person or property is or may be transported or drawn upon a highway. Vehicle does not include a device that is exclusively moved by human power or used exclusively upon stationary rails or tracks or a mobile home as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

STATUTORY QUESTIONS

Section 16901 - Definitions

Section 16901(1)(d) - Solid Waste Transfer Station – Collection Site

- 31. Should all solid waste transfer stations register as collection sites unless they can show EGLE that the tires are or will be stored only within the licensed area?**

Yes, licensed transfer stations with over 500 scrap tires should, but are not required to, register as a collection site, per Section 16901(1)(d), if they can show EGLE that the tires are stored in compliance with Part 169 and within the licensed area per their Part 115 license. However, transfer stations licensed under Part 115 with less than 2,500 tires that never “touch the ground” and are placed directly into a collection trailer or roll-off located in the licensed area, are considered to be complying with the Part 169 storage requirements. A solid waste transfer station that does not have an operating license because it is exempt from the operating license requirements of Part 115 must register as a scrap tire collection site once it has over 500 scrap tires. If such an exempt solid waste transfer station has less than 500 scrap tires, it must comply with the operating requirements and rules administered under Part 115. These requirements include the handling/salvaging of materials such as scrap tires as long as the scrap tires are stored in a manner approved by the solid waste control agency in compliance with Part 169.

Section 16901(1)(d) – How to Count Tires Larger than Passenger Car Size for Determining Collection Site Status

- 32. Are semi-truck tires and/or OTRs converted to PTEs (passenger tire equivalent) for determining whether a site has enough tires to be considered a collection site?**

No. Semi-truck tires and/or OTRs are considered to each be one PTE for counting purposes based on the definition of “scrap tire.” PTE is not defined in Part 169. However, for purposes of grant reimbursement, semi-truck tires equal five PTE and an OTR equals 15 PTE.

Section 16901(1)(d)(i) - Area-Wide Tire Clean-up Site

- 33. During an area-wide tire cleanup, over 500 tires were stored on the ground overnight; does the site need to register as a collection site?**

The tires need to be loaded directly into a truck/trailer and hauled out. If the intention is to store overnight on the ground (outdoor tire storage), the site needs to register as a collection site as required by Part 169 per Section 16901(1)(d)(i).

Section 16901(1)(d)(i) - Retail Store / Facility Scrap Tire Storage

- 34. Would a retail store/facility be allowed to store 1,499 scrap tires (<1,500 for a collection site) between two pieces of property if one of those properties was their retail operation and the other piece of property was located three blocks away, but not an adjacent piece of property?**

No. The properties have to be adjacent. In this case, the property three blocks away is not adjacent to the property on which the retail operation is being conducted. This means that the non-adjacent property is covered under the definition of Section 16901(1)(d)(i) and that it is required to be registered if there are 500 or more tires on it. This hinges on the fact that it must be both associated with a retail operation (which it is) AND it must be adjacent (which it is NOT).

Section 16901(1)(d)(iii) - Automotive Recyclers / Collection Site

35. Do salvage yards have to be licensed “automotive recyclers” in order to be exempt from Part 169 regulations for scrap tire accumulations less than 2,500? Do metal salvagers and/or automotive recyclers come under the exemption from collection site status if they store fewer than 2,500 tires on-site?

No. Section 16901(1)(d)(iii) only requires that the operations must meet the **definition** of an “automotive recycler” and not the license requirements of the Michigan Vehicle Code, 1949 PA 300, as amended (MVC).

The MVC defines an “automotive recycler” as “a person who engages in business primarily for the purpose of selling at retail salvage vehicle parts and secondarily for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal.” The Michigan Department of State (SOS) Web site further indicates that a licensed automotive recycler dealer buys or otherwise acquires late model major component **parts for resale**, either at wholesale or at retail. The dealer may also acquire whole vehicles to dismantle for the **resale of parts**, selling the remainder as scrap.

Therefore, if the **primary** operation is selling salvaged vehicle parts at retail, then they are considered an “automotive recycler” for the purpose of this section. They may also sell salvaged motor vehicles and/or scrap metal from vehicles; however, they **must** sell salvaged vehicle parts. Salvage yards that sell salvaged vehicle parts would be exempt from collection site status if they store fewer than 2,500 tires on-site. Metal salvagers who are not selling salvaged vehicle parts would be required to register as a scrap tire collection site once they reach 500 scrap tires.

Operations considered to be “automotive recyclers” by Part 169, may be in violation of the MVC if not licensed to operate under that code.

See the SOS’s Web site at: www.michigan.gov/sos.

Section 16901(1)(f) - Bonding - Chip Storage Area

36. Is a bond required for a scrap tire chip storage area?

Per Section 16901(1)(f), the tire chips are a commodity. No bond would be required for the commodity stored in a qualifying commodity storage area. All other tire chips that are not commodities or commodity storage areas over a total of one acre on the site would require a bond.

Section 16901(1)(ee) - Tire Storage Area

37. What is a tire storage area?

“Tire storage area” means a location within a collection site where tires are accumulated.

See Policy and Procedure OWMRP-169-01, “Tire Storage Area Calculation and Collection Site Bonding,” dated July 2, 2013: www.michigan.gov/documents/deq/DEQ-WHMD-STP-OpMemo_169-01_268972_7.pdf.

Section 16901(1)(k)(ii) - Landfill End-User

38. A landfill is registered as a scrap tire collection site and is bonded. They chip the tires and bury them in the landfill or use them as aggregate in their leachate collection system as authorized under the landfill’s license. Is this facility considered an end-user?

Yes, they would be an end-user per Section 16901(1)(k)(ii) if they use the chips as an aggregate in their leachate collection system since the operating license authorizes this use of scrap tires. If the chips are simply buried (disposed of) in the landfill, that does not constitute an end-use and would not qualify them as an end-user. (However, under Section 16902(1)(c) this is a disposal area licensed under Part 115 and, therefore, is a legal

location to which a person can deliver tires.) The landfill would not be required to register as a collection site but would have to complete the end-user certification to qualify for the end-user exemption under Part 169. A landfill that is authorized to use scrap tire chips as daily cover would also qualify as an end-user.

Section 16901(1)(v) / 16906(5) - Retreading Operation – Satellite Locations

39. A retreading operation has satellite locations that consolidate casings for pick up by the main retreading operation. The satellite locations will go out and bring casings back to their facility. The main retreading operation will pick up those casings from the satellite location, bring them back to the main facility, and retread the casings. The satellite locations and the retreader are under the same ownership. Do the satellite locations that are transporting casings to their facilities need to be registered haulers or do they meet the retreader hauler registration exemption?

Section 16901(1)(v) defines a retreader as a person who retreads, recases, or recaps tire casings for reuse. Therefore, only the actual retreader is exempt from the hauler registration and record keeping requirements. The actual retreader that is picking up casings and delivering them directly to the location where the retreading will take place is exempt from the scrap tire hauler registration and manifesting requirements. Tires delivered to satellite locations, even if being delivered by the actual retreader, must be delivered by a registered scrap tire hauler and manifested appropriately. Although a retreader delivering casings to his or her own retreading plant are exempt from the scrap tire registration and manifest requirements, in accordance with Section 16906(5), the retreader shall maintain for three years, and make available upon request to the department or a law enforcement officer at reasonable hours, all records required to be carried or maintained with the retreader's tire casings, including all of the following:

- a. A retread work order that includes the customer's name, date of transaction, retreader USDOT identification number pursuant to 49 CFR Part 574, order number, and details of casing information for the casing intended for processing. Work orders shall reflect the number of tires that are being transported and retreaded;
- b. A work order sales report that specifies the work process detail for the customer work order. This report shall be returned to the customer with the work order number and invoice; and,
- c. An invoice stating the sales transaction of the retread process that was completed for the customer.

In summary: A retreader hauling casings to their own retread plant is exempt. A retreader hauling ten or more casings to any location other than the retread plant or hauling ten or more un-retreadable casings/scrap tires must be registered to transport scrap tires. Customers delivering ten or more casings/scrap tires to the retread plant or satellite location must be registered haulers.

Section 16901(1)(w) – Definition of Scrap Tire

40. What is a scrap tire?

Section 16901(1)(w) defines a scrap tire as “a tire that is no longer being used for its original intended purpose including, but not limited to, a used tire, a reusable tire casing, or portions of a tire. Scrap tire does not include a vehicle support stand.”

This definition was specifically crafted in the original scrap tire statute to mean that all tires were considered scrap tires if they had been used, but are no longer in use on a tractor, other farm machinery, or a vehicle.

EGLE's position on regulated tires is as follows, is supported by the Department of the Attorney General, and has been upheld in a 1998 criminal court case in Calhoun County (see [Attachment 2](#), Court record, Leshner, Martin versus State of Michigan, 1998).

- a. New tires (never been on a vehicle), new retreads, and newly remanufactured tires (never been used on a vehicle since they were reconditioned) are not regulated as scrap tires.
- b. Any tire currently “being used” (i.e., rimmed and mounted on a vehicle) is not regulated as a scrap tire.
- c. Tires being used as a vehicle support stand (defined in Part 169) are not regulated as scrap tires.
- d. All other tires “previously used,” but not, at the time in question, “being used for their original intended purpose” (i.e., rimmed and mounted on a vehicle) are subject to the provisions of Part 169 regardless of their value, condition, or proposed future use. These tires are used to determine what constitutes a “collection site”; what must be transported by a registered hauler; and what must be properly manifested, properly stored, and covered by proper bonding.

Section 16901(1)(x) - Scrap Tire Hauler

41. Does the definition of “scrap tire hauler” allow railroads, Great Lakes shipping vessels, and interstate trucking companies to operate as scrap tire haulers using the registration of a shipping or receiving contractor?

Section 16905 requires scrap tire haulers to register annually with EGLE. Section 16901(1)(x) defines a scrap tire hauler as “a person who transports more than ten scrap tires at once in a vehicle, on a public road or street.”

Railroads and Great Lakes vessels do not fall within the definition of “scrap tire hauler” whenever they are transporting scrap tires because they are not using vehicles as defined in Part 169 and are not transporting scrap tires on a public road or street. Trucking companies, including interstate trucking companies contracted or brokered by a scrap tire hauler with a current Michigan registration would fall under the definition of “scrap tire hauler.” The scrap tire hauler of record would be the Michigan registered hauling company and must be fully registered and compliant with Part 169. The contracted or brokered company would be considered an employee of the Michigan registered scrap tire hauler for the duration of the contract and delivery of the scrap tires. The contracted or brokered trucking company must be registered and numbered for interstate commerce with the United States Department of Transportation (USDOT) Motor Carrier as defined in 49 CFR Part 391.21. All scrap tire hauler documentation as required by Sections 16905(2), (3), (4), and (5) must be carried by the contracted or brokered hauler. The contracted hauler may comply with the vehicle display of the registration number as required in Section 16905(2) by temporarily displaying the registration number on the driver’s side door. The scrap tire transportation record (manifest) must identify both the Michigan registered scrap tire hauler and the contracted trucking company. The Michigan registered scrap tire hauler must provide, on the registration application, a 24-hour phone number where the applicant company may be contacted in case of an incident or emergency involving a contracted or brokered load of scrap tires. This number can include voice mail, an answering machine, or an answering service during non-business hours. This number CANNOT be the number for a commercial emergency response telephone service, such as Chemtrec.

Section 16901(1)(x) - Car / Auto Crushers – Registration Requirements

42. Do car/auto crushers need to register as a scrap tire hauler?

Yes, per Section 16901(1)(x). Prior to crushing, the vehicle’s tires are removed from the vehicle and placed inside the vehicle. Since the tires are no longer on the vehicle, they are scrap tires. Since most auto crushers transport more than one vehicle at a time (or place additional tires inside vehicles prior to crushing), more than ten scrap tires would be transported at any given time. Therefore, the transporter would be considered a scrap tire hauler and would be required to register as a scrap tire hauler. This also applies to vehicles that are not crushed. If a total of ten or more scrap tires are placed inside the vehicle/vehicles being transported, the transporter would be required to register as a scrap tire hauler.

Section 16901(1)(x) - Who Does Not Have to Manifest**43. Who does *not* have to manifest scrap tires being transported?**

Under Section 16901(1)(x)(i), “A person, other than a commercial business, who transports that person’s own tires to a location authorized in Section 16902(1)” is not a scrap tire hauler. Therefore, this person does not have to manifest their load of tires and is not subject to Section 16905. Other exclusions from the definition of scrap tire hauler are spelled out in Section 16901(1)(x)(i) – (vi). In Section 16906(2), it appears that scrap tire collection sites, end-users, etc., do not have to manifest or keep records of tires delivered to them by entities other than scrap tire haulers; however, we recommend they keep records and manifests of all tires received in order to protect themselves.

Section 16901(1)(x) - Supplemental Environmental Project (SEP) per Consent Order**44. Would a business that is fulfilling the requirements of a Supplemental Environmental Project as part of a consent order, etc., be required to be a registered hauler?**

Yes, per Section 16901(1)(x), a person who is transporting more than ten scrap tires at once in a vehicle on a public road or street is a scrap tire hauler and, therefore, needs to be a registered hauler per Section 16905.

Section 16901(1)(x) - Solid Waste Hauler**45. A solid waste hauler applies for a scrap tire hauling license. He then sends a truck out to pick up only tires at the curb in a municipality. He takes the tires to a licensed solid waste disposal facility to consolidate the load with others sorted at the facility. The facility has no more than 500 tires at a time. How does the manifest system work? Where do you start the manifest tracking?**

If the solid waste hauler was hired by a municipality to pick up tires at the curb throughout its borders, the solid waste hauler could use the EGLE-approved Consolidated Load Scrap Tire Transportation Record EQP5128a (manifest) in conjunction with the EGLE-approved Scrap Tire Transportation Record EQP5128. The Consolidated Load Scrap Tire Transportation Record would be handled in the following manner: the municipality's name would be listed as the generator on the Scrap Tire Transportation Record with the words “See Consolidated Load information,” check the consolidated load box, and indicate the number of pages attached. The solid waste hauler's name would be listed as the hauler and the landfill's name as the final destination. The individual addresses and numbers of tires would be tracked on the Consolidated Load Scrap Tire Transportation Record, so the municipality would have a record of the number of tires picked up from each residence. Within 30 days of receiving the consolidated load manifest, the final destination should mail a completed consolidated load manifest to the municipality as the person who arranged for removal of the tires.

Section 16901(1)(x) - Hauler – Own Tires and Manifests**46. If a registered scrap tire hauler is hauling their own tires from one store to another location and has less than 1,500 tires at the second store location, do both stores need to be written on the manifest?**

Yes, both store locations must be written/listed on the manifest.

Section 16901(1)(x)(i) - Scrap Tire Hauler Exemptions**47. Section 16901(1)(x)(i) states a person, other than a commercial business, who is transporting his or her own tires to a location authorized in Section 16902(1) is not a scrap tire hauler. Who does this exempt?**

The intent of Section 16901(1)(x)(i) is to allow the individual person, who happens to have a few scrap tires, to dispose of those scrap tires without having to register as a scrap tire hauler. It is not the intent to exempt commercial businesses from the scrap tire hauler registration requirement.

Section 16901(1)(x)(ii) - Non-Profit Member

48. Define “A member of a nonprofit service organization who is participating in a community service project...” Would this “member” include a business who is donating transportation, or would “member” have to be someone who is officially a member of the nonprofit organization?

Member is defined as: “A person belonging to some organization, association, society, community, party, etc.” Therefore, per Section 16901(1)(x)(ii), an official member of the actual non-profit organization could haul tires without being a registered hauler. A business donating transportation and hauling more than ten scrap tires at once in a vehicle on a public road or street would have to be a registered scrap tire hauler per Section 16901(1)(x).

Section 16901(1)(x)(iii) – Farmers

49. Is a farmer allowed to pick up and transport ten or more scrap tires from a retail facility or other site of generation without a scrap tire hauler registration?

Yes, if the tires are intended to be used in a feed storage location and the person hauling the tires is the owner of the farm as defined in Section 2 of the Michigan Right to Farm Act, 1981 PA 93, as amended, they do not need to register as a hauler. Per Section 16901(1)(x)(iii), a scrap tire hauler does not include an owner of a farm transporting scrap tires intended for use in a feed storage location. However, if this is to be a regular occurrence (a large number of tires more than once a year), obtaining a registration is encouraged since it would protect the farmer in the event of being stopped for hauling tires. The retailer and farmer should also be encouraged to keep records of the transaction for their own protection.

Section 16901(1)(y) - Scrap Tire Processor

50. What is the definition of a scrap tire processor?

The definition of a scrap tire processor, per Section 16901(1)(y), is either:

- (i) A person who is authorized by this part to accumulate scrap tires and is engaged in the business of buying or otherwise acquiring scrap tires and reducing their volume by shredding or otherwise facilitating recycling or resource recovery techniques for scrap tires.
- (ii) A portable shredding operation

Section 16901(1)(y)(ii) - Bonding – Portable Shredder

51. Does a portable shredder require a bond for their associated site?

Yes, under specific circumstances. A portable shredder is required to register as a Scrap Tire Collection Site, pursuant to Section 16904(1) [but not necessarily because there are 500 or more scrap tires on the site]. A portable shredder is also a Scrap Tire Processor, pursuant to Section 16901(1)(y)(ii).

Having been defined as a scrap tire collection site and as a processor, all applicable requirements and/or exemptions of Sections 16903 and 16903(b) apply, including bonding. Since Sections 16903 and 16903(b) do not specify a minimum number of scrap tires at regulated sites, even those sites with less than 500 scrap tires (scrap tire collection site by definition) may be required to bond those tires. Tires that are not stored in a vehicle or are not a commodity are required to be bonded. See [Attachment 1](#), page 2, Scrap Tire Bond Requirement Flow Chart.

Section 16901(1)(bb) Hi-Lo Tires**52. Are Hilo tires regulated under Part 169?**

Section 16901(1)(bb) broadly defines a tire as: "...a continuous solid or pneumatic rubber covering encircling the wheel of a tractor or other farm machinery or of a vehicle." However, a Hilo does not meet the definition of a vehicle under Part 169 which is "a device in, upon, or by which a person or property is or may be transported or drawn upon a highway." Vehicle does not include a device that is exclusively moved by human power or used exclusively upon stationary rails or tracks or a mobile home as defined in Section 2 of The Mobile Home Commission Act, 1987 PA 96, as amended, MCL 125.2302. A Hilo is typically not utilized on a highway. It is EGLE's position that scrap Hilo tires are not regulated under Part 169; however, scrap tires are a form of solid waste that is regulated under Part 115.

For the purposes of the landfill disposal prohibition on "whole motor vehicle tires", a "motor vehicle tire" shall be considered to be a whole tire off a "motor vehicle" requiring registration under the Michigan Vehicle Code, 1949 PA 300, as amended. This definition includes "every vehicle that is self-propelled," but does not include "industrial equipment such as a forklift, a front-end loader, or other construction equipment." Therefore, Hilo and other similar tires may be disposed of whole in a landfill. It is recommended that larger tires be at least cut in half or otherwise processed, if possible, before disposal in a landfill.

Section 16901(1)(cc) - Tire Chips**53. Is the definition of "tire chip" specific to those producing 2-inch x 2-inch materials?**

Per Section 16901(1)(cc), "tire chip" means any of the following:

- (i) Not more than 2-inches by 2-inches in size and meets requirements for size, metal content, and cleanliness as specified in an executed contract for delivery of the material by the scrap tire processor.
- (ii) Not more than 3/8 inch by 3/8 inch in size and sufficiently free from steel to be used in the construction and modification of sports surfaces such as golf course turf, athletic field turf, athletic tracks, hiking surfaces, livestock show arena surfaces, and playgrounds.
- (iii) To be used in a drain field approved under a district or county sanitary code.
- (iv) To be used as ground cover or mulch, if, in aggregate, 95 percent of the material is equal to or less than 3/4-inch in size in any dimension and the material contains less than one percent by weight or volume of steel and fiber.
- (v) Approved by the department for use at a landfill as daily cover or a leachate collection system protective layer or for access road construction within a lined cell.

Section 16901(1)(ff) - Trailers, Non-Road Worthy**54. Can EGLE require bonding for a trailer/vehicle that is not road worthy?**

The road worthy condition is derived from the Section 16901(1)(ff) definition of a vehicle. If a trailer/vehicle is not road worthy, a bond is required for the trailer/vehicle.

Section 16901(1)(ff) - Bonding Requirements – Trailers**55. What are the requirements for bonding of trailers used for storing scrap tires?**

EGLE will "exclude tires stored in a covered vehicle from Part 169 bonding requirements without regard to the number of tires at the collection site." A "covered vehicle" is defined to be one that is a fully enclosed vehicle. To be fully enclosed, a vehicle must consist of sides, a top, and an entryway that is secure and made of solid material without gaps. Also, the covered vehicle must be in road worthy condition in order for the allowance to

apply. This is based on Section 16901(1)(ff), which defines a “vehicle” as “a device in, upon, or by which any person or property is or may be transported or drawn upon a highway.” Vehicles to which the allowance applies must be able to be legally drawn upon or transported on a highway in this state.

Section 16901(1)(k)(iv) - Less than 500 Tires – Waste Pile versus End User

56. Someone who collects tires to make new products from them is a registered hauler but always has less than 500 tires at his site, so he is not a collection site. Hence, the tires at his site are not managed under Part 169. Are the tires at this site solid waste and is he engaged in solid waste disposal either through his storage of tires before reuse or through the actual reuse (processing)? Tires are not in the definition of source or site separated materials and the source separation designation for tires is only for waste to energy recovery. The site is usually below the volume threshold of Rule 104(v) of the Part 115 Rules, so it probably is not processing. Does he have a waste pile?

Per Section 16901(1)(k)(iv) the site would be an end-user.

Section 16901(1)(f) - Processed Tire Material

57. When is processed tire material no longer considered regulated under Part 169?

Section 16901(1)(f) provides the requirements for scrap tires to be considered a commodity exempt from certain portions of Part 169.

Section 16903 / 16904 - Collection Site – Ownership and Map Requirements

58. Does a collection site (in compliance with Part 169) have to provide EGLE proof of property ownership and an updated site map each year?

Yes, collection sites must update documents annually, per Sections 16903 and 16904.

Section 16903(4) - Bonding

59. What are bonding requirements for a scrap tire collection site?

The amount of the bond shall be not less than \$25,000.00 per quarter acre, or fraction thereof, of outdoor storage, and \$2.00 per square foot of tire storage area in a building. For a collection site with fewer than 2,500 scrap tires (total of all scrap tires, stored in all locations of a collection site, including but not limited to those stored outside, in buildings, and in trailers), the bond shall not exceed \$2,500.00.

See Policy and Procedure OWMRP-169-01, “Tire Storage Area Calculation and Collection Site Bonding,” dated July 2, 2013: www.michigan.gov/documents/deq/DEQ-WHMD-STP-OpMemo_169-01_268972_7.pdf

Section 16903 - Collection Site – Cash Bond

60. If a collection site has a cash bond, can the interest on the cash bond be used to bond an additional tire storage area?

Yes, EGLE will recognize the additional financial assurance provided by interest on the account, up to 6 percent per year and credit the facility accordingly. However, the facility is not due to be refunded the interest until the cash bond is released, so no funds will be returned to the facility until the time the cash bond is released.

Section 16903 - Registered Site – Additional Property**61. How do we add additional property to a site that is already registered?**

The collection site must provide an amended scrap tire collection site application. The site map must show the additional area to be covered by the registration. Additional bonding must also be provided, if required. If the additional property is owned by another entity/person, appropriate signatures must be provided.

Section 16903(1) / 16903(2) - Collection Site – More Storage Area – Bond Requirements**62. If a site has met the compliance requirements (i.e., a collection site has been in compliance with the storage requirements for the requisite one-year period and has had their bond released) and wanted to expand their operation to encompass more storage area, would EGLE require the site to bond the additional area or not?**

If they want to have more tires on site, they will have to bond the corresponding scrap tire storage area. This would be bonded at the rate of \$25,000.00 per quarter acre or fraction thereof until they can show that the site has been in compliance with the site requirements of Section 16903(1) and, if applicable, Section 16903(2), for at least one year; is a processor and removes not less than 75 percent of the scrap tires by weight or volume that year; and certifies compliance with the appropriate requirements on a form approved by EGLE.

Section 16903(4) - Collection Site – Size of Parcels**63. If the facility does not contain a qualifying “commodity storage area,” would each one-acre parcel require a \$100,000.00 bond because Section 16903(4) states that a bond shall not be less than \$25,000.00 per 1/4 acre?**

Yes, per Section 16903(4), each parcel would require a bond.

Section 16903(4) - Commodity Storage Area Form**64. Has the form to describe the commodity storage area that may qualify for exemption from bonding under Section 16903(4) of Part 169 been approved for use?**

Yes. Please see the Commodity Storage Area Qualification Form at: www.michigan.gov/documents/deq/deq-whmd-stp-eqp5127_251264_7.pdf

Section 16903(4) - Commodity Storage Area – Unbonded Areas**65. On the Commodity Storage Area Qualification Form, it states that: “The total acreage of the commodity storage area may only be one (1) acre or less; additional commodity storage areas must be bonded in accordance with Section 16903(4).” Does that mean that a facility is only permitted to have a single unbonded one-acre commodity storage area on-site and that all others must be bonded at \$25,000.00 per 1/4 acre?**

No. Per Section 16903, a facility is only permitted to have a total of one acre of unbonded commodity storage area. This one acre could be more than a single physical location at the collection site, but the total of those areas cannot be more than one acre. All commodity storage areas over this one acre must be bonded.

Section 16903(4) – Bonding for Metal Storage Containers**66. A site would like to use an enclosed metal storage container to store additional tires in their yard. Would the metal storage container be bonded the same as a building?**

Yes, per Section 16903(4), as long as the metal storage container is stationary has walls, a roof, and a door, it can be viewed as a shed/building and bonded as such. However, if the metal storage container can be placed on a truck and the site plans to utilize the metal storage container on a truck, then it can be considered a vehicle and no bond would be required. However, for collection sites with fewer than 2,500 tires, the bond shall not exceed \$2,500.00.

Section 16903(4) – Land Contracts and Owners and Operators of a Collection Site**67. For a Collection Site being sold under a land contract, who signs as “owner” of the site?**

Signatures of all individuals with ownership interest are required.

Section 16903(4) – Bond Requirements for Operators of a Collection Site**68. For a Collection Site being sold under a land contract, who must provide the bond?**

The written agreement under 16903(4) needs to be signed by the non-operator owner. This statement should include that they are aware of all activities relating to scrap tires at the Collection Site. This agreement can also include that the owner-operator provide the bond for the Collection Site.

Section 16903(4) / 16903b - Collection Site – Move to New Location, Bond Requirements**69. If a compliant scrap tire collection site moves to a new site, would a bond be required for the new site?**

Yes, per Sections 16903(4) and 16903b, a bond is required for scrap tire collection sites unless all of the following requirements are met:

- (i) The owner or operator of the collection site is a scrap tire processor.
- (ii) Not less than 75 percent of the scrap tires, by weight or volume, that are stored at the collection site each calendar year are recycled or used for resource recovery during that year.
- (iii) The collection site has been in compliance with storage requirements for at least one year.
- (iv) The owner or operator annually certifies compliance with the requirements of this subsection on a form approved by the department.

However, it should be noted that under Section 16903b(3), “If a scrap tire processor has maintained its collection site in compliance with subsection (1) for 5 years, the scrap tire processor may move its operation to a new collection site location and remains exempt from the requirement to maintain a bond under section 16903(4) as long as the scrap tire processor continues to comply with subsection (1).”

Section 16903(6)(c) - Commodity Storage Area**70. Does Section 16903(6)(c) mean that a site that stores a commodity must store that commodity in individual one-acre parcels as long as they are stored in accordance with the requirements of Section 16903? In other words, if they have a ten-acre site, they must have ten one-acre storage areas?**

No, this means one-acre *total* is allowed as a commodity storage area.

Section 16903(7)(d) / 16910 - Fire Department Reimbursement**71. If a fire department expends funds in response to a tire fire, who pays back the fire department?**

The owner of the scrap tire site should pay the money from their own funds. However, if that is not possible, per Section 16903(7)(d), the bond for the collection site can be called upon. A fire department request for reimbursement would be processed through EGLE’s Lansing central office. Also, per Section 16910, “A person who incurs costs as a result of a response to a fire or a violation of this part at a collection site may bring an action against the owner or operator of the collection site, in the circuit court in which the collection site is located, to recover the incurred costs.”

Section 16903a – Statewide Fire Plan

[Attachment 3](#), Statewide Plan for Response to Fires at Scrap Tire Collection Sites, issued June 30, 1998.

Section 16903a - Clean-up Grants – Removal Plans**72. Do tire grant recipients have to present removal plans in order to receive funds for cutting in fire lanes at existing scrap tire collection sites?**

Yes, grant recipients who are receiving funds for cutting in fire lanes must provide plans outlining the removal of scrap tires. These plans must be signed and approved by the local fire department and EGLE and become part of the grant contract. See [Attachment 3](#).

Section 16903b - Exemption from Bonding**73. Who is eligible for the exemption from bonding?**

Only the owner or operator of a collection site that is a scrap tire processor is eligible for the exemption from the bonding requirement under Section 16903b.

16903b(1)(c): Determination of the one year in compliance will be from date of issuance of the registration, therefore the bond may be in place for longer than one year. The applicant may request the bond be returned as part the next annual Collection Site Registration application by submittal of a Processor Bond Exemption Qualification Form (EQP 5232).

Section 16904 - Owner or operator of collection site or portable shredding operation; application for registration; form; documentation of bonding; compliance with storage requirements; fee.**Section 16904(1) - Mobile Scrap Tire Shredders****74. Is the owner and/or operator of a mobile scrap tire shredder required to register as a scrap tire hauler and/or required to register as a scrap tire collection site?**

Portable shredding operations are considered to be processors and must register as a collection site per Section 16904(1).

If a mobile shredder is used at a scrap tire site only to shred tires, and the owner or operator of the mobile shredder is not also engaged in hauling scrap tires to and from the site or storing whole scrap tires or shredded tires at the site, then the owner or operator of the mobile shredder is not required to register as a scrap tire hauler. If the owner and/or operator of the mobile shredder also transports the shredded tires directly to a certified end-user, other scrap tire processor, tire retailer, scrap tire recycler, landfill, or registered scrap tire collection site, then the owner or operator of the mobile shredder is required to register as a scrap tire hauler and comply with the applicable Sections of Part 169.

In addition, if the owner and/or operator of a mobile shredder wants to be on EGLE's approved processor list and, therefore, be eligible as a processor under the scrap tire cleanup grant program, then by the definition of "scrap tire processor," the owner and/or operator of the mobile shredder must be authorized to accumulate scrap tires at a registered scrap tire collection site. Therefore, the owner and/or operator of the mobile shredder must register as both a scrap tire hauler and a scrap tire collection site, whether they use that site or not, in order to be grant-eligible as an approved processor. If a person is transporting only a commodity, they do not need to register as a scrap tire hauler.

Section 16904a - Exempt End Users**75. Can a currently registered scrap tire collection site become an exempt end-user? At what point would the exemption occur?**

Yes, a collection site must maintain compliance with Part 169 (including registration and bond), until it is able to certify that 75 percent of the scrap tires, by weight or volume, that are stored on the site each calendar year are recycled or used for resource recovery, during that year, in accordance with Section 16904a. Therefore, if a site becomes an end-user in July, it could feasibly certify the following January. However, if the site becomes an end-user in July and cannot certify at the end of that calendar year that it was in compliance with Section 16904a, it will have to wait until the end of the next calendar year to certify exempt. The site would be required to be in compliance with Part 169 during this additional year or until they are able to make such certification. Note: 75 percent of what is stored during the calendar year must be recycled or used for resource recovery. Therefore, if on January 1, the site has 100,000 tires on-site and brings in another 100,000 tires during this calendar year, a total of 150,000 tires (75 percent of 200,000) must be recycled or used for resource recovery during that calendar year.

Section 16904a - New End Users**76. When would a new end-user become an exempt end-user?**

A new end-user must be able to certify compliance with Section 16904a which requires that 75 percent of the scrap tires, by weight or volume, that are stored on the site each calendar year are recycled or used for resource recovery during that year. A statement by a new end-user that it has not stored scrap tires on-site during the previous calendar year is considered equivalent to the required certifications. Thus, for example, a facility newly permitted to burn tires under Part 55, Air Pollution Control, of Act 451, can qualify for the end-user exemption by virtue of it not having stored tires on the site during the previous calendar year. A new end-user who has stored tires on-site in the previous calendar year (e.g., as a registered collection site), must be able to explicitly make the 75 percent recycle or use certification. Thus, a new end-user in this category will need to maintain its status as a registered collection site during the time that it demonstrates its ability to meet the use/recycling performance required to qualify for exemption.

Section 16904a - End User Certification Time Frame**77. Can an end-user certify for the exemption in the middle of the year?**

Only if the end-user is certifying compliance with Section 16904a for the previous calendar year. However, the end-user would still be required to maintain compliance with Part 169 until the certification is received. Certification is required to meet the exemption.

Section 16904a - End User Certification**78. Must a new end-user operate an entire year before they can certify?**

No, an end-user may open any time during the calendar year, however, the certification must cover the entire calendar year. To become exempt, the site must be able to state that tires were not stored on-site during the previous calendar year or certify that 75 percent of the scrap tires, by weight or volume, that were stored on-site for the previous calendar year, were recycled or used for resource recovery during that year. Therefore, it does not matter at what point during the year the end-user begins operation, as long as it can meet the certification requirements for the entire year.

Section 16904 / 16905 – Collection Site / Hauler Registration

79. Can EGLE deny registration to a scrap tire collection site or scrap tire hauler? If so, for what reason?

Administratively complete applications may be denied registration by the Waste Management and Radiological Protection Division Director for significant, uncorrected violations of Part 169 and/or for lack of sufficient bonding. Major collection site storage violations, lack of proper record keeping, or disposal at illegal sites are some of the significant violations that could cause registration denial by EGLE. Registration applications that are lacking bonding information, acceptable site maps, or are otherwise lacking in the required information will be returned to the applicant as administratively incomplete.

Section 16905(2) - Scrap Tire ID Numbers

80. Where should the scrap tire hauler number be placed on the truck, trailer, or both? Is there a minimum height for the numbers? Does the number on the truck/trailer need to be preceded by the words “Scrap Tire Hauler?”

The scrap tire hauler registration number issued by EGLE shall be visibly displayed on a motor vehicle transporting scrap tires, whether the scrap tires are transported in or on the motor vehicle or a trailer. The number shall be in block style numerals at least two-inches high and located on the driver's side of the vehicle but not on a window. The color of the numerals shall contrast with the background vehicle color. The number does not need to be preceded by “Scrap Tire Hauler.”

Sections 16905(3) / 16905(4) / 16905(5) / 16906 - Inspection of Receipts and Logbooks

81. Can EGLE inspectors look at or request copies of the receiving facility's receipts or logbooks to track the number of scrap tires delivered to the facility by entities who are not registered scrap tire haulers?

Yes. The retention requirement applies to records required by Sections 16905(3), 16905(4), 16905(5), and 16906.

Section 16906 -- Amending a Scrap Tire Transportation Record

82. How is a scrap tire transportation record corrected if the generator and/or hauler of scrap tires incorrectly completed the information and the final destination notices the error? For example, the record indicates 550 scrap tires are being delivered to the collection site and only 300 tires are actually delivered.

The final destination can prepare an amended scrap tire transportation record. This record should contain all the information from the original record with the exception of the item(s) being amended. The record should be clearly labeled on the top that it is an amended record and include an explanation of the need for an amended manifest/record. The final destination must then mail the amended copy back to the generator. In addition, the final destination should notify the hauler that there was a discrepancy.

Section 16906 - Scrap Tire Transportation Records

83. Section 16906 requires that scrap tire transportation records be kept for three years and made available upon request by EGLE or a peace officer. Can these records be kept electronically, or must they be kept as paper copies?

Scrap tire transportation records may be kept electronically as long as all records are kept for three years and are made available upon request by EGLE or a peace officer. There is no requirement in the statute to keep paper copies.

Section 16909(1) - Violations

84. Under Section 16909(1), “A person who violates this part, if fewer than 50 scrap tires are involved, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$200.00 or more than \$500.00, or both, for each violation.” However, Section 16901 states that the minimum number of tires regulated under Part 169 as a collection site is 500 tires. So, this section of Part 169 has no application? No, Sections 16909(1) and 16909(2) would still apply even if an offense involves more than 50 scrap tires; officer discretion should allow the officer to write an appearance ticket for 50 of the offending tires. Violations can be issued for haulers who are hauling less than 500 tires or for record violations of less than 500 tires.

Section 16909a - Inspection Authority – Collection Sites

85. Do EGLE staff have inspection authority at scrap tire collection sites?

The authority to inspect is contained in Section 16909a. This allows EGLE to enter at reasonable hours a tire retail establishment, vehicle owned or operated by a scrap tire hauler for the transport of scrap tires, or collection site or other place where scrap tires are or have been present and may inspect the location or other place for the purposes of enforcing or administering Part 169. An investigation or inspection under Part 169 must comply with the United States Constitution and the Michigan Constitution of 1963.

Part 169 establishes specific requirements to be met by a collection site; compliance with these requirements can only be verified through inspections by EGLE staff. These requirements include those established in:

- a. Section 16903, imposing compliance responsibilities based on the number of tires on site.
- b. Section 16903(4), describing requisite bonding amounts based on the area and types of tire storage area on site.
- c. Section 16903, imposing specific requirements pertaining to the design and operation of a collection site.
- d. Section 16903b, describing bonding exemptions based on compliance with site requirements and exempting a number of tires stored on-site based on several factors.

EGLE staff who are refused inspection entry or have difficulty in gaining access to properly inspect collection sites should contact the appropriate Department of Natural Resource’s Environmental Investigations Section officer for guidance and/or search warrants, if necessary.

ADMINISTRATIVE PROCEDURES ACT (ACT 306) QUESTIONS**Act 306 - Administrative Procedures Act**

86. Does a registered scrap tire hauler or registered scrap tire collection site have any rights under the Administrative Procedures Act, 1969 PA 306, as amended (Act 306)?

Yes, EGLE should treat scrap tire hauler and collection site registrations as “licenses” for the purposes of Act 306. These registrations fall within the very broad definition of “license” in MCL 24.205(1).

The specifics are as follows: Act 306 defines “contested case” as a proceeding in which the determination of a party’s rights, privileges, etc., “is required by law to be made after an opportunity for an evidentiary hearing.” MCL 24.203(3). The legal requirement for an evidentiary hearing may be either statutory (i.e., provisions of the particular licensing statute) or constitutional (i.e., due process clauses of the United States or State Constitution prohibiting the state from taking away a protected property or liberty interest without affording procedural due

process, including reasonable notice and opportunity to be heard, etc.). Here are three distinct situations concerning whether there is a legal requirement for an evidentiary hearing and, thus, a right to a contested case hearing:

- 1) Denial of initial application for registration – No right to a hearing because Part 169 does not require it and there is no constitutionally protected property interest in obtaining such a license in the first instance (i.e., no legitimate claim of entitlement to it).
- 2) Denial of application for renewal – No statutory right to a hearing under Part 169, but probably a constitutional right to a hearing based upon due process principles, the theory being that having once been licensed, the applicant has some legitimate expectation of being able to continue in the business, triggering procedural due process protections. Where EGLE denies an application for renewal of a “license,” whether under Part 115 or 169, there is a constitutionally-based right to an evidentiary hearing and, therefore, a contested case.
- 3) Revocation/suspension of existing registration – No express statutory right to a hearing under Part 169, but a clear constitutional right based upon due process clause, and a legitimate expectation of being able to continue regulated activity within the term of the license.

Rogers Hearing requirements:

The requirement for a Rogers Hearing is found in Section 92(1) of Act 306. It is a precondition to “proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license....”

Thus, by its terms, it does not apply to and is not required for either the denial of an initial application for registration or the denial of an application for renewal of a registration. Clearly, such a Rogers Hearing is required before EGLE revokes or suspends an existing registration or license.

In summary:

- 1) Denial of initial application for registration requires neither a Rogers Hearing nor a contested case hearing.
- 2) Denial of application for renewal of registration does not require a Rogers Hearing, but would trigger a constitutionally based right to an evidentiary/contested case hearing.
- 3) Revocation or suspension of an existing registration requires both a Rogers Hearing and a contested case hearing.

ATTACHMENTS

[ATTACHMENT 1](#) – End User, Processor and Bond Requirement Flow Charts

[ATTACHMENT 2](#) – Leshner Court Decision

[ATTACHMENT 3](#) – Statewide Plan for Response to Fires at Scrap Tire Collection Sites

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