

**PROPOSED AMENDMENTS TO THE RULES OF THE
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
SCRAP AND USED TIRE MANAGEMENT
CHAPTER 391-3-4-.19**

The Rules of the Department of Natural Resources, Chapter 391-3-4-.19, Scrap and Used Tire Management are hereby amended, added to, repealed in part, revised, as hereinafter explicitly set forth in the attached amendments, additions, partial repeals, and revisions for specific rules, or such subdivisions thereof as may be indicated.

[Note: Underlined text is proposed to be added. Lined-through text is proposed for deletion.]

Rule 391-3-4-.19(2), "Definitions." is amended to read as follows:

(2) Definitions. For the purposes of this Rule:

- (a) "Beneficial reuse" means the use of scrap tires for purposes other than its original intended use and that have been approved by the Division prior to reuse.
- (b) "Enclosure" means structure with four sides and roof or an area surrounded by a wall or fence with the purpose of controlling or limiting access.
- (c) "End user" means the last person who uses the scrap tires, chips, crumb rubber, or similar materials to make a product with economic value, or, in the case of energy recovery, the person who uses the heat content or other form of energy from the incineration, combustion or pyrolysis of waste tires, chips or similar materials.
- (d) "Financial Assurance" means a mechanism designed to demonstrate that funds will be available to ensure compliance with statutory, regulatory and permit requirements of tire carriers and processors. The financial mechanism must be either a surety bond or an irrevocable letter of credit.
- (e) "Manufacturer" means a person who produces new tires from raw materials for the original intended use on, but not limited to, automobiles, trucks, motorcycles, trailers, recreational vehicles, construction equipment, earth-moving equipment and aircraft.
- (f) "Mixed Tires" means a group of tires that may consist of "used tires," "retreadable casings," and "scrap tires."
- (g) "Organized Site Cleanup Activity" means scrap tire abatement activities conducted by a government entity, non- profit, or other organization.
- (h) "Point of Final Disposition" means a location approved by the Division to receive scrap tires including, but not limited to, scrap tire processors, scrap tire sorters and end users.

(i) "Residuals" means by-products resulting from the processing of scrap tires including, but not limited to, fibers, metals, inner tubes and rims.

(j) "Retreadable Casing" means a scrap tire suitable for retreading. This includes casings that have value as a potential retreaded tire. This does not include casings with tread separation, unrepaired cuts, corroded belts, sidewall damage, run- flat or skidded.

(k) "~~Retail Dealer-Distributor~~" means any person, other than a used motor vehicle parts dealer licensed in accordance with Chapter 47 of Title 43, actively engaged in the sale of new replacement tires to tire retailers for sale by such tire retailers actively engaged in the business of selling new replacement tires. Retail dealers may also be, but are not limited to, manufacturers, wholesalers, and others who sell new replacement tires to the ultimate consumer or who sells directly to ultimate consumers in Georgia, as further described in O.C.G.A. § 12-8-40.1 and Rule 391-3-4-.19(3)(a).

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

(m) "Scrap Tire Generator" means any person who generates scrap tires including, but not limited to, tire retailers; ~~retail dealers~~; retreaders; scrap tire processors; scrap tire sorters; automobile dealers; private company vehicle maintenance shops; used tire dealers; garages, and service stations; and city, county, and state governments.

(n) "Scrap Tire Processing" means any method, system, or other treatment designed to change the physical form, size, or chemical content of scrap tires for beneficial use.

(o) "Scrap Tire Processor" means any person approved through a permit issued by the Division to receive and process scrap tires, but shall not include a registered secondary metals recycler operating a scrap metal shredder for the purpose of shredding metallic scrap, including scrap automobiles containing five or fewer scrap tires per automobile into specification grades of scrap metal.

(p) "Scrap Tire Sorter" means any person, other than a registered scrap tire generator or a scrap tire processor, who handles mixed tires by separating used tires and retreadable casings from scrap tires and is approved through a permit by the Division.

(q) "Tire" means a continuous solid or pneumatic rubber covering designed for encircling the wheel of a motor vehicle and which is neither attached to the motor vehicle nor a part of the motor vehicle as original equipment.

(r) "Tire Carrier" means any person engaged in collecting or transporting tires, other than new tires. For the purpose of this Rule, tire carrier does not include a transporter of scrap or crushed vehicles.

(s) "Tire Manifest" means a form or document used to identify the quantity, composition, origin, routing and destination of scrap tires during transportation from the point of generation to a point of final disposition and to track used tires from the point of generation to another location.

(t) "Tire Retailer" means any person, other than a used motor vehicle parts dealer licensed in accordance with Chapter 47 of Title 43, actively engaged in the business of selling new replacement tires to the ultimate consumer. Tire retailers may also be, but are not limited to, manufacturers, wholesalers, distributors, and others who sell new replacement tires to the ultimate consumer ~~or used tires.~~

(u) "Tire Retreader" means any person actively engaged in the business of retreading scrap tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire.

(v) "Ultimate Consumer" means the last person who receives and uses a new replacement tire.

(w) "Used Tire" means a tire which has a minimum of 2/32inch of road tread and which is still suitable for its original purpose but is no longer new. A used tire retailerdealer shall inventory and market used tires in substantially the same fashion as a new tire and be able to provide satisfactory evidence to the division that a market for the used tire exists and that the used tire is in fact being marketed as a used tire. A used tire shall not be considered solid waste.

(x) "Used Tire Dealer" means a ~~tire retailer~~any person, other than a used motor vehicle parts dealer licensed in accordance with Chapter 47 of Title 43, actively engaged in the business of selling used tires, as defined in this Rule.

(y) "New replacement tire" means any new tire that is used to replace tires on an existing vehicle and include, but are not limited to, tires for automobile, truck, heavy equipment, motor bike, boat and other trailers, aircraft, and recreational vehicles.

Rule 391-3-4-.19(3) "Retail Dealers," is amended to read as follows:

(3) ~~Retail Dealers~~ Tire Management Fee.

(a) Beginning July 1, 2023, a tire management fee of \$1.00 per new replacement tire is imposed upon any distributor at the time they meet one of the following criteria:

1. The distributor sells a new replacement tire to a tire retailer in the state for sale by that tire retailer to the ultimate consumer; or

2. The distributor sells a new replacement tire to the ultimate consumer in the state for use by that ultimate consumer ~~Beginning July 1, 1992, a tire management fee is imposed upon the retail sale of all new replacement tires in this state of \$1.00 per tire sold. The fee shall be collected by~~

~~retail dealers at the time the retail dealer sells to the ultimate consumer; provided, however, that a Georgia tire distributor who sells tires to retail dealers must collect such fees from any retail dealer who does not have a valid scrap tire generator identification number issued by the Division.~~

~~1. — New replacement tires include, but are not limited to, automobile, truck, heavy equipment, motor bike, boat and other trailers, aircraft, and recreational vehicles.~~

~~2.(b)~~ Local and state governments are not exempt from the tire management fee.

~~3.(c)~~ The fee shall not be imposed on the sale of:

~~(i)1.~~ Tires with a rim size less than 12 inches;

~~(ii)2.~~ Tires from any device moved exclusively by human power; or

~~(iii)3.~~ Tires used exclusively for agricultural purposes, except farm truck tires.

~~(bd)~~ ~~Retail dealers-Distributors~~ shall register with the Division and remit fees and a quarterly tire fee report to the Division, documenting the number of new replacement tires sold ~~to the Division~~. The ~~retail dealers distributors~~ shall use forms provided by the Division. The fee and report shall be remitted by the 30th day of April, July, October, and January of each year, covering the period for the preceding quarter.

~~(ee)~~ In collecting, reporting, and paying the fees due under this section, each distributor ~~or retailer~~ shall be allowed the following deductions, but only if the amount due was not delinquent at the time of payment:

1. A deduction of three percent of the first \$3,000.00 of the total amount of all fees reported due on such report; and

2. A deduction of one-half of one percent of the portion exceeding \$3,000.00 of the total amount of all fees reported on such report.

Rule 391-3-4-.19(5), “Tire Carriers,” is amended to read as follows:

(5) Tire Carriers.

(a) Unless otherwise exempted, any person collecting or transporting scrap or used tires shall have a tire carrier permit issued by the Division. A permit shall not be issued unless the financial assurance, as provided for in these Rules, has been submitted and approved by the Division.

(b) A separate permit and financial assurance instrument shall be required for each tire carrier business location.

(c) A tire carrier shall transport scrap tires only to a point of final disposition as defined in these Rules.

(d) Storage of scrap tires by tire carriers is prohibited.

(e) The permitted tire carrier shall maintain financial assurance in a format provided by the Division. The required financial assurance is as follows:

1. \$10,000.00 for carriers transporting up to 5,000 scrap tires per month.
2. \$20,000.00 for carriers transporting more than 5,000 scrap tires per month.

(f) The permitted tire carrier shall submit a quarterly report to the Division on forms provided by the Division. Reports shall be submitted by the 30th day of April, July, October and January of each year and cover the reporting period for the preceding calendar quarter. The tire carrier shall retain copies of the quarterly reports, tire manifests, invoices and weight tickets for three years at their place of business or other location approved by the Division. The tire carrier shall make these records available for review upon request by the Division.

(g) The permitted tire carrier shall display a decal issued by the Division on both the driver's and passenger's doors on each vehicle used to collect or transport tires. A decal shall not be required for a tire carrier that collects tires exclusively from outside this state and transports them directly to a scrap tire processor or end user within this state.

1. By August 1st of each year, tire carriers shall purchase decal(s) for each vehicle used to collect or transport tires.
2. The tire carrier shall pay the Division a nominal fee for each decal issued.
3. Decals are valid for a one-year period and shall expire on July 31st of each year.

(h) It shall be the responsibility of the permitted tire carrier to return the tire manifest, with the three required original signatures, to the scrap tire generator no later than 30 days from the date on which the carrier collected the scrap tires from the generator.

(i) The following persons shall not be required to have a tire carrier permit:

1. A tire retailer or distributor transporting its own used tires, if such dealer can provide proof of purchase with receipt for all used tires being transported and a document verifying the origin, route and destination of such used tires;
2. A municipal solid waste collector holding a valid solid waste collection permit under authority of this part whose primary business is the collection of municipal solid waste;

3. A private individual transporting no more than 10 of the individual's own tires or a private individual transporting more than 10 tires if such individual can provide proof of purchase with receipt for such tires;
4. A company transporting the company's own tires to a scrap tire processor or end user or for proper disposal;
5. Any person transporting tires collected as part of an organized site cleanup activity;
6. The United States, the State of Georgia, any county, municipality, or public authority.
7. Other persons, as approved by the Division, on a one time or temporary basis, as needed to further the intent of O.C.G.A. § 12-8-20, et seq., that scrap tires be reused or recycled rather than disposed.

Rule 391-3-4-.19(6), "Scrap Tire Storage," is amended to read as follows:

(6) Scrap Tire Storage.

- (a) No person may store more than 25 scrap tires anywhere in this state.
- (b) If scrap tires are secured in a locked enclosure or are otherwise adequately secured in a manner suitable to prevent unauthorized access, then paragraph (6)(a) of this Rule shall not apply to the following:
 1. A solid waste disposal site permitted by the Division, if the permit authorizes the storage of scrap tires prior to their disposal;
 2. A tire retailer, distributor, or a publicly owned vehicle maintenance facility with not more than 1,500 scrap tires in storage;
 3. A tire retreader with not more than 3,000 scrap tires in storage, so long as the scrap tires are of the type the retreader is actively retreading;
 4. A licensed used motor vehicle parts dealer registered with the Secretary of State's office, a registered secondary metals recycler or a privately owned vehicle maintenance facility that operates solely for the purpose of servicing a commercial vehicle fleet with not more than 500 scrap tires in storage; and
 5. A permitted scrap tire processor or sorter that has received approval prior to October 28, 2015 or holds a current permit, so long as the number of scrap tires in storage does not exceed the quantity approved by the Division. The Division may grant a waiver for the enclosure requirement if the person requesting the waiver can definitively show a significant and unique economic hardship which would impair the person's ability to continue operating his or her business.

6. A farm with 100 or fewer scrap tires in storage or in use for agriculture purposes. In addition, the Division may grant waivers to allow the storage or use of more than 100 scrap tires for agricultural purposes, if such storage or use does not pose a threat to human health or the environment.

(c) Any person storing scrap tires is subject to the following requirements:

1. Unless otherwise specified in an approved plan by the Division, all scrap tires shall be stored in a manner (e.g. under roof, secured tarp, or the like to prevent water accumulation) that controls the breeding and harborage of mosquitoes, rodents and other vectors;

2. Activities involving open flames and other flammable materials (oil, gas, fuel) shall not be allowed within 25 feet of a scrap tire storage area, with the exception of maintenance activities involving torches and welding equipment, as long as a fireproof barrier is used;

3. A 50-foot wide fire lane shall be placed around the perimeter of each scrap tire pile.

4. All persons engaged in the collection, storage or processing of scrap tires, retreadable or used tires shall control the presence of vectors or other nuisance pests associated with storage of the tires. Such pests may include, but are not limited to, mosquitoes, rats, mice, snakes and other animals living in or adjacent to the tire storage. Permitted or approved facilities shall maintain records for three years that include, but are not limited to:

(i) Type of control method used;

(ii) If chemical control - the name of the chemical(s);

(iii) Dates and amounts of chemical(s) used; and

(iv) Chemical storage location.

Authority: O.C.G.A. § 12-8-20 et seq.