



Oregon Department of Environmental Quality

# Proposed Approach to Waste Tire Rules

## Waste Tire 2022 Rulemaking

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The Oregon Department of Environmental Quality is conducting a rulemaking process to update waste tire rules, currently in Oregon Administrative Rules Chapter 340, Division 64, [Waste Tire Program: Waste Tire Storage Site and Waste Tire Carrier Permits](#).

Statutory changes made in the early 1990s and from [legislation in 2019](#) have made many of the waste tire rules in Division 64 obsolete. DEQ also wants to ensure permitting and enforcement standards are consistent with current Oregon fire code and Oregon Department of Transportation practices. This effort will align and consolidate the permitting standards for waste tire storage sites and waste tire carriers with similar requirements in OAR 340, Divisions 93, 96 and 97.

## Rulemaking process

As part of a public process, a Rules Advisory Committee will review and provide feedback on the proposed rule approach, equity impact statement and fiscal impact statement. DEQ will then draft the rules, hold a public hearing and place the proposed rules on public notice for comment. DEQ may revise the rules based on the comments. DEQ will present its recommendations for the proposed rules at the Oregon Environmental Quality Commission (DEQ's citizen advisory board) meeting in early 2023. More information can be found at [Oregon.gov/deq/rulemaking/Pages/WasteTire2022.aspx](https://Oregon.gov/deq/rulemaking/Pages/WasteTire2022.aspx).

## Waste tire regulation

The 1987 Oregon Legislature passed a law regulating storage, transportation, and disposal of waste tires and established a \$1 fee on the sale of new replacement tires. The fee was extended until 1992, after which it no longer applied and funds were no longer provided to DEQ.

The waste tire law was placed in [Oregon Revised Statutes 459](#), Sections 705 to 790. Among other things, these statutes authorize the EQC to adopt rules. Rules are drafted through a public process and can include the management of solid waste including waste tires. The statutes require DEQ-issued permits for waste tire carriers and waste tire storage sites. Under the statutes, tires disposed of in Oregon are only allowed to be disposed of at DEQ-permitted facilities.

In 1988, the EQC adopted supporting rules in [OAR 340, Division 64](#) to manage waste tires, including requiring a permit for people transporting and storing waste tires. Waste tire rules clarify statute, provide details and criteria for permit application, issuance, compliance, public notice and enforcement as well as landfill disposal requirements for waste tires. The rules have only been modified once, in 1992, to incorporate a slight modification to the waste tire carrier rules.

## Overview of changes

DEQ is proposing moving rules from OAR 340, Division 64 to [OAR 340, Division 93, Solid Waste: General Provisions](#) to use existing solid waste permitting criteria and procedures for waste tire rules. Division 93 rules describe procedures for solid waste permit application, public notice, permit issuance, compliance and enforcement. Landfill disposal requirements for waste tires would also be incorporated within Division 93 under wastes requiring special management. Some duplicate rules will be eliminated as part of the move.

DEQ is also proposing moving rules for waste tire storage sites and waste tire carriers from Division 64 to [Division 96, Solid Waste: Special Rules for Selected Solid Waste Disposal Sites](#), which describes solid waste permitting requirements.

DEQ's proposal also includes moving permit fees from Division 64 to [Division 97, Solid Waste: Permit Fees](#). Language would be added to Division 97 making the requirements applicable to waste tire storage sites and waste tire carriers. The fees would include permit application and compliance fees for waste tire storage sites and waste tire carriers. DEQ is not proposing to increase the fees but is proposing to eliminate the waste tire carrier per vehicle fees.

## **Proposed waste tire storage site requirements**

DEQ is looking to align and consolidate the waste tire storage site permitting standards for waste tire storage sites with similar requirements in OAR 340, Divisions 93, 96 and 97. Waste tire storage site permits are required for persons storing more than 100 waste tires, except if exempted in rule. Waste tire storage permits are intended to ensure storage sites are designed and operated in a manner that is protective of the environment and public health. Waste tire storage site permit requirements are currently in [OAR 340-064-0015 through 0052](#).

The proposed waste tire rules would simplify and consolidate waste tire storage site requirements into Division 96, allowing access to the permitting framework and procedures used for all other solid waste facilities. DEQ is proposing to apply the same set of rules as all other solid waste facilities identified in Division 93 for waste tire storage site permit applications, issuance, compliance, public notice and enforcement procedures. The proposed waste tire storage site rules would be in OAR 340-096-0210 through 0240.

### **Proposed changes include:**

- First and second stage permits found in Division 64 would be eliminated. The proposed rules would identify one type of waste tire storage site permit.
- Beneficial use storage site permits found in Division 64 would be eliminated. Persons are now able to apply for a beneficial use determination described in [OAR 340-093-0260 through 0290](#).
- The waste tire storage site and carrier combination permit would be eliminated. Individual permits would be issued for persons conducting waste tire storage and carrier activities separately. Fees paid by persons possessing both permits will be reduced because the per vehicle fees for waste tire carriers are proposed to be eliminated.
- Permit application and compliance fees for storage sites have been consolidated with all other solid waste fees and would be in Division 97.

## **Proposed waste tire carrier permit requirements**

DEQ is looking to align and consolidate the waste tire carrier permitting standards for waste tire storage sites with similar requirements in OAR 340, Divisions 93, 96 and 97. DEQ issues waste tire carrier permits to ensure that waste tires generated in the State of Oregon are transported for disposal only by individuals and businesses authorized to transport tires for disposal and only to facilities authorized by DEQ. Rules addressing waste tire carrier permitting are currently in [OAR 340-064-0055 through 0075](#).

The proposed waste carrier rules would simplify and consolidate waste tire carrier requirements into Division 96, allowing access to the permitting framework and procedures used for all other solid waste permits. DEQ is proposing to apply the same set of rules as all other solid waste facilities identified in Division 93 for waste tire carrier permit applications, issuance, compliance, public notice and enforcement procedures. The proposed waste tire carrier permit rules would be in OAR 340-096-0250 to 0280.

## Proposed changes would:

- Require carrier permittees to identify all vehicles covered by the permit in their operational plans rather than having special decals for each vehicle.
- Eliminate vehicle decal requirements for waste tire carriers in favor of permittees carrying copies of their waste tire carrier permit in their vehicles.
- Eliminating the \$25 per vehicle application fee.
- Delete all references to types of vehicles or ownership of vehicles including common carrier, leased vehicles and private carrier. The proposal would also delete the definitions of common carrier and private carrier and eliminate per vehicle fees.
- Consolidate permit application and compliance fees for waste tire carriers with all other solid waste fees and moved to Division 97. The \$25 per vehicle annual fees would be eliminated. As a result, the annual compliance fee would change from \$175 to \$200.

## Obsolete rules

The following rules are proposed to be deleted as the supporting statute was eliminated in 2019 making them obsolete:

- 340-064-0090, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Policy on Use of Waste Tire Recycling Account Funds*
- 340-064-0100, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Reimbursement for Use of Waste Tires*
- 340-064-0110, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Uses of Waste Tires Eligible for Reimbursement*
- 340-064-0115, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Who May Apply for a Reimbursement*
- 340-064-0120, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Application for Reimbursement*
- 340-064-0130, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Basis of Reimbursement*
- 340-064-0135, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Processing and Approval of Applications*
- 340-064-0150, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Use of Waste Tire Site Cleanup Funds*
- 340-064-0155, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Criteria for Use of Funds to Clean Up Permitted Waste Tire Sites or Conclude Negotiated Settlements for Cleanups*
- 340-064-0160, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Procedure for Use of Cleanup Funds for a Permitted Waste Tire Storage Site*
- 340-064-0165, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Use of Cleanup Funds for Abatement by the Department*
- 340-064-0170, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Procedure for Use of Cleanup Funds by Negotiated Settlement*

## Other requested feedback

Although DEQ does not intend to ask for feedback for each topic individually during the Rules Advisory Committee meetings, DEQ is particularly interested in the topics listed below and encourages feedback on the following items:

### Waste tire storage site exemptions

DEQ is not proposing changing any of the exemptions from waste tire storage site permitting requirements in Division 64 waste tire rules. Statute provides some exemptions including:

- A person who stores 100 or fewer waste tires.
- A tire retailer who stores not more than 1,500 waste tires for each retail business location.
- A tire retreader who stores not more than 3,000 waste tires for each individual retread operation so long as the waste tires are of the type the retreader is actively retreading.

Are the remaining waste tire storage site permitting exemptions still appropriate? Should any exemptions be edited, added or removed? Additional exemptions include:

- A person who stores not more than 200 cubic yards of tire-derived materials.
- A person storing tire-derived materials packaged in a closed plastic bag.

### Waste tire storage site design and operational standards

Do waste tire storage site design and operational standards provide sufficient protection of public health, welfare or safety, or the environment?

- Waste tire storage sites shouldn't be in a wetland, waterway, floodway, 25-year floodplain, or any area where they may be subjected to submersion in water.
- An outdoor waste tire pile should not be bigger than 50 feet wide, 15,000 square feet in area, or higher than 6 feet nor located less than 60 feet from buildings.
- A 50-foot, unobstructed fire lane should be maintained at all times around the perimeter of each waste tire pile.
- Waste tires stored for one month or longer must be horizontally stacked securely by overlapping so that the center of a tire fits over the edge of the tire below it.
- Vector attraction and nuisance conditions should be minimized.
- No flames or blow torches shall be used within 25 feet of a waste tire pile.
- The site should be bermed or given other adequate protection to keep any liquid runoff from potential tire fires from entering waterways.
- If waste tires are stored for seasonal agricultural uses, they must follow standard storage rules when not in use.
- Waste tires must be stored in compliance with Oregon Fire Code.

Do design and operational storage standards for tire-derived materials such as shredded tires provide protection of public health, welfare or safety, or the environment?

- Product pile should not be wider than 40 yards, be larger than 6,400 cubic yards, or higher than 4 yards.
- Only four piles of product are allowed at a time onsite.
- Waste tires must be stored in compliance with the Oregon Fire Code.

## **Waste tire carrier exemptions**

The proposed rules approach exempts certain types of private carriers from permitting requirements. Statute provides some exemptions including:

- Solid waste collection service operating under a license or franchise from a local government.
- Persons transporting their own waste tires to a processor or for proper disposal.
- A person who transports fewer than five tires for disposal.

Should any of the following private carrier permit exemptions be edited, added or removed?

- Persons transporting tire-derived materials to a market.
- Persons transporting waste tires that meet the required processed standards.
- Persons possessing an automobile dismantler certificate issued under [ORS 822.110](#) and transporting only tires generated from vehicles accepted for dismantling activities.
- Tire retailer and tire retreaders transporting waste tires generated from their business operation.
- Federal, state and local governments.

## **Waste tire carrier requirements for covered containers**

Current waste tire rules allow a waste tire carrier permittee to use one or two covered containers to collect waste tires. A maximum of 2,000 tires may be collected at any one time, and for no longer than 90 days in each container, beginning with the date when a waste tire is first placed in a container. Are 2,000 tires and two covered containers reasonable? What is a normal collection practice? Are there suggestions?

## **Alternate formats**

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.oregon.gov](mailto:deqinfo@deq.oregon.gov).